

## Planning & Zoning Board Meeting

Town Hall - 8590 Park Drive Mount Pleasant, NC

Tuesday, October 29, 2019

6:00 PM

1. **Call to Order**-Chair Whit Moose
2. **Recognition of Quorum**
3. **Approval of Agenda**
4. **Approval of Minutes of Previous Meetings** (September 23, 2019)
5. **Public Comment Period**
6. **Planning and Zoning Board Cases**

### **REZ 2019-02 NC Hwy. 49 near Cold Springs Road (Public Hearing & Decision)**

At the September 9, 2019 meeting, the Town Board of Commissioners voted to annex approximately 42 acres of property into the Town limits. According to the General Statutes, the Town has 60 days to establish a zoning on this property.

Location: 5061, 5122, 5130 NC Hwy. 49 North

Cabarrus County PIN: 5559-69-1561

Previous Zoning: Cabarrus County Office & Institutional (OI), Cabarrus County General Industrial Special Use District (GI-SU), and Cabarrus County Countryside Residential (CR)

Zoning requested by property owner: Town of Mount Pleasant C-2 General Commercial and RH Residential High Density

### **TA 2019-03 Use Matrix, Supplemental Regulations, and Use Definitions (Recommendation)**

Text Amendments to begin compliance with new NCGS Chapter 160D, update Use Matrix and related supplemental requirements and definitions. Affected Sections of UDO: Article 4, Article 5, and Appendix A.

7. **Board of Adjustment Cases**  
None
8. **Reports**
  - Planning Report for September & October (to date)
9. **Planning & Zoning Board Comment Period**
10. **Adjourn**

## Planning & Zoning Board Meeting

Town Hall - 8590 Park Drive Mount Pleasant, NC

Tuesday, October 29, 2019 at 6:00 PM

**To:** Planning & Zoning Board  
**From:** Erin S. Burris, AICP – Planning & Economic Development Director  
**Date:** October 29, 2019  
**Subject:** REZ 2019-02: 5061, 5122, & 5130 NC Highway 49 North

### A. BACKGROUND

**Applicant/Owner:** Highway 49 Properties LLC  
402 N. Main Street  
Mount Pleasant, NC 28124

**Property Location:** 5061, 5122, & 5130 NC Highway 49 North

**Parcel Number(s):** 5559-69-1561

**Property Size:** approximately 41.98 acres (2 tracts)

**Current Zoning:** Cabarrus County Office & Institutional (OI), Cabarrus County General Industrial Special Use District (GI-SU), and Cabarrus County Countryside Residential (CR)

**Proposed Zoning:** C-2 General Commercial (10.83 acres), RH Residential High Density (31.15 acres)

The subject property was annexed by the Town Board of Commissioners on September 9, 2019. In accordance with North Carolina General Statute 160A-360, the Town has 60 days to establish Town of Mount Pleasant zoning designations on the property. The property owner has requested that 10.83 acres of the subject property be zoned C-2 General Commercial and 31.15 acres be zoned RH Residential High Density. The proposed districts have been provided to the Technical Review Committee for comment including the Town Engineer, Public Works Director, Fire Marshal, Fire Chief, NCDOT, Cabarrus County Schools, and the Water and Sewer Authority of Cabarrus County (WSACC).

## B. ZONING DISTRICT REVIEW CRITERIA

### **Adopted Plans**

The subject property is located in the “High Intensity” land use classification on the Future Land use Map of the Town’s Comprehensive Plan. This classification is described below:

- *High Intensity: “This land use classification is intended to accommodate high density residential uses of between 4 to 8 dwelling units an acre and a wide variety of civic, institutional, retail, service, and office uses. These areas are immediately adjacent to major transportation corridor intersections where utility infrastructure is readily available.”*

The proposed “C-2 General Commercial” and “RH Residential High Density” zoning districts are both consistent with this designation. C-2 permits a variety of civic, institutional, retail and service uses. The RH district permits residential development at a maximum of 8 dwelling units per acre.

### **Zoning District Intent**

Based on zoning district purpose statements for C-2 and RH, the proposed districts would be an appropriate to fit the description of the land use designation on the Future Land Use Map.

The Unified Development Ordinance states the intent of these districts are:

*“The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.”*

*“The RH district is established to provide areas for detached and attached single family homes, and, as a conditional use, multi-family residential. A maximum of eight (8) dwelling units per acre is permitted in areas where large-lot development is discouraged and adequate public facilities and services are available. RH supports the principles of concentrating urban growth and reinforcing existing community centers. Design controls are required for multi-family residential projects as set forth in Article 11.”*

### **Existing Zoning and Development Patterns**

	<b><i>Zoning District(s)</i></b>	<b><i>Land Use(s)</i></b>
<b><i>North</i></b>	Cabarrus County Office/Institutional (OI)	Vacant, Agriculture, Forest
<b><i>East</i></b>	Cabarrus County Countryside Residential (CR), Office/Institutional (OI)	Vacant, Forest, Single-family residential
<b><i>South</i></b>	Cabarrus County Countryside Residential (CR)	Single-family residential
<b><i>West</i></b>	City of Concord Neighborhood Business (B-1), City of Concord Residential Low Density (RL), Cabarrus County Limited Commercial (LC), Cabarrus County Countryside Residential	Convenience store (Concord City Limits), single-family residential

The property is currently mostly vacant with both agricultural and forested land. However, a small portion (approximately 3 acres) of the property on the south side of Highway 49 has several structures associated with a previous industrial use and is currently being used for storage building sales. The Cabarrus County Arena & Events Center property is located approximately 1,200 feet to the west of the subject property.

### **Utility Availability and Capacity**

Water and sewer service are available near the site. An existing 30-inch water line is located at along Highway 49. In agreement with the City of Concord, this line may be tapped on behalf of the Town of Mount Pleasant at the developer’s expense. Adequate fire flow will have to be demonstrated during construction drawing review. A 12-inch force main sewer line is located within the Highway 49 right-of-way. In agreement with WSACC, this line may be tapped on behalf of the Town of Mount Pleasant with a new pump station installed at the developer’s expense. WSACC has provided a preliminary statement of sewer capacity availability.

### **School Capacity**

The schools currently serving this site are A.T. Allen Elementary School, Mount Pleasant Middle School, and Mount Pleasant High School. A statement regarding the capacity of each of these schools has been requested from Cabarrus County Schools and will be provided at the public hearing.

### **Road Capacity and Cross Section**

The property has an existing commercial driveway on NC Highway 49, a four-lane divided state facility. When specific uses and site layout are proposed, NCDOT will determine if a Traffic Impact Analysis is required.

### **Environment and Open Space**

There is an intermittent stream approximately 340 feet from the eastern boundary of the subject property. A maximum 75-foot riparian buffer is required by Section 9.2.4 of the UDO along intermittent streams. There is a steep grade along the stream. During design of any proposed

development, this area would be recommended for designated open space in accordance with Section 6.5 of the UDO. If the property is developed for residential purposes the UDO requires dedication of 20% open space.

### **C. STAFF COMMENTS**

Staff finds the requested *C-2 General Commercial* and *RH Residential High Density* districts to be consistent with the land use designation on the *Town of Mount Pleasant Comprehensive Plan Future Land Use Map*, and utilities are available.

Any development of the property would still be subject to the review procedures set forth in the Unified Development Ordinance (UDO). For example, a proposed residential subdivision would be subject to review and approval of a Preliminary Plat by the Planning & Zoning Board. A proposed multi-family residential development would be subject to the issuance of a Special Use Permit issued by the Planning & Zoning Board acting as the Board of Adjustment. A commercial development with uses permitted by right in the C-2 district would be subject to site plan review and approval by the Administrator. All development types would require review and approval of Construction Drawings by the Technical Review Committee including the Town Engineer, Public Works Director, Fire Marshal, Fire Chief, NCDOT, Cabarrus County Schools, Water and Sewer Authority of Cabarrus County (WSACC), and North Carolina Department of Environmental Quality (for soil and erosion control, post-construction stormwater, and water and sewer utilities).

### **D. NEIGHBORHOOD MEETING**

A Neighborhood Meeting was held on October 21. There were 15 people in attendance. Questions and concerns included the following:

- Flooding concerns regarding stream on property, dam, and Highway 49
- Drain pipe from adjacent pond and pipe under Highway 49
- Claim that there are Native American remains on the property
- Prefer a larger buffer next to adjacent properties (Ordinance requires a 15 buffer for the residential uses and 20 foot buffer for commercial uses adjacent to existing single-family residential)
- Proposed density is too high
- Fire department is too far away. Concern about increased response times and effect on fire insurance rates.
- Concern about wetlands designations
- The proposed zoning does not match the existing or surrounding zoning.

## E. PROCEDURES & ACTIONS

After the public hearing, **one (1)** of the following actions are requested of the Planning & Zoning Board:

- **Approve and consistent:** The Planning & Zoning Board finds that the proposed “C-2 General Commercial” and “RH Residential High Density” districts are consistent with the High Intensity land use designation on the “Future Land Use Map” in the *Town of Mount Pleasant Comprehensive Plan*.
- **Approve and not consistent:** The Planning & Zoning Board finds that the proposed zoning district is not consistent with the *Town of Mount Pleasant Comprehensive Plan* as adopted, but finds the proposed amendments to be reasonable and in the public interest and amends the Comprehensive Plan with this action to establish consistency.
- **Deny and not consistent:** The Planning & Zoning Board finds that the proposed zoning districts are not consistent with the Comprehensive Plan and does not consider the action to reasonable and in the public interest. **Assignment of appropriate zoning district(s):** If the Planning & Zoning Board finds that the proposed C-2 and RH zoning districts are not consistent with the adopted Comprehensive Plan, then the Board may choose to assign any less intense district or districts similar to the existing districts that it finds more appropriate, providing a statement of consistency for such.

## F. ATTACHMENTS

1. Application
2. Aerial Map
3. Existing Zoning Map
4. Proposed Zoning Map
5. Notice of Public Hearing Letter
6. Notice of Public Hearing Mailing List
7. Notice of Public Hearing Advertisement



**MOUNT PLEASANT**

8590 Park Drive • PO Box 787 • Mount Pleasant, NC 28124 • 704-436-9803 • Fax 704-436-2921

**Map & Text Amendment Application**

Case #: **REZ 2019-02**

**1. Application Type**

Rezoning (Map Amendment):

Standard Rezoning   
Conditional District Rezoning

Text Amendment:

Date of Application 9-17-19

**2. Amendment Information**

For All Rezonings

Name of Rezoning Cold Springs & Hwy 49 Development  
Location 5122 NC Hwy 49 N. Mt. Pleasant Property Size (acres) 41.99  
Tax Parcel Number(s) 5559-69-1561  
Current Zoning Cab. Co. OI, GI, CU, CR Proposed Zoning RH + C-2 Current Land Use Retail with outdoor sales (portion)  
For CD Rezonings Proposed Use(s) \_\_\_\_\_  
For Text Amendments Affected Section(s) of the UDO \_\_\_\_\_

**3. Contact Information**

Hwy 49 Commercial Properties, LLC  
Applicant  
402 N. main Street Mt Pleasant NC 28124  
Applicant Address City, State Zip  
(704) 436-1104 Telephone Fax  
[Signature] Signature Tommy K. Earnhardt Print Name 9/17/19 Date

Alley Williams Carmen, King Inc.  
Agent (Engineer, Surveyor, etc. if applicable)  
120 South Main St. PO Box 1248  
Address  
Kannapolis NC 28082-1248  
City, State Zip  
(704) 305-4132 Telephone Fax  
[Signature] Signature 9-30-19 Date

Tommy K. Earnhardt  
Property Owner (if applicable)  
402 N. main Street  
Address  
Mt. Pleasant NC 28124  
City, State Zip  
(704) 436-1104 Telephone Fax  
[Signature] Signature 9/17/19 Date

**4. Description of Request**

(a) Briefly explain the nature of this request.

Establish zoning on recently annexed property to be consistent with Future Land Use Map.

b. For All Rezoning & Text Amendments: Provide a statement regarding the consistency of this request with Town Plans and the surrounding land uses.

C-2 & RH zoning districts are consistent with the High Intensity Land Use designation on the Future Land Use Map.

c. For Conditional District Rezoning: Provide a statement regarding the reasonableness of the rezoning request and any proposed conditions of approval.

**Staff Use Only:**

Date Application Received: 9-17-19

Received By: EJB

Fee Paid: \$ 700<sup>00</sup>

Case #: REZ-2019-02

Date Neighborhood Meeting Held (for rezonings): 10-21-19

Notes: Public Hearing Date: Oct. 29 (Tues.)

# Cabarrus County Property Map



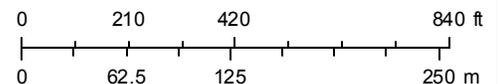
<b>Property Real ID</b>	08-022 -0062.50	<b>Parcel PIN</b>	55596915610000
<b>Physical Address:</b>	5061 NC HWY 49 N MT PLEASANT NC 28124	<b>Land Units</b>	41.994
<b>Owner Name 1:</b>	HWY 49 COMMERCIAL PROPRETIES LLC	<b>Land Units Type</b>	AC
<b>Owner Name 2:</b>		<b>Land Value</b>	501090
<b>Mailing Address:</b>	STE 205 270 COPPERFIELD BLVD NE	<b>Building Value</b>	146980
<b>Mail City:</b>	CONCORD	<b>Assessed Value</b>	663330
<b>Mail State:</b>	NC	<b>Market Value</b>	663330
<b>Mail Zip:</b>	28025		

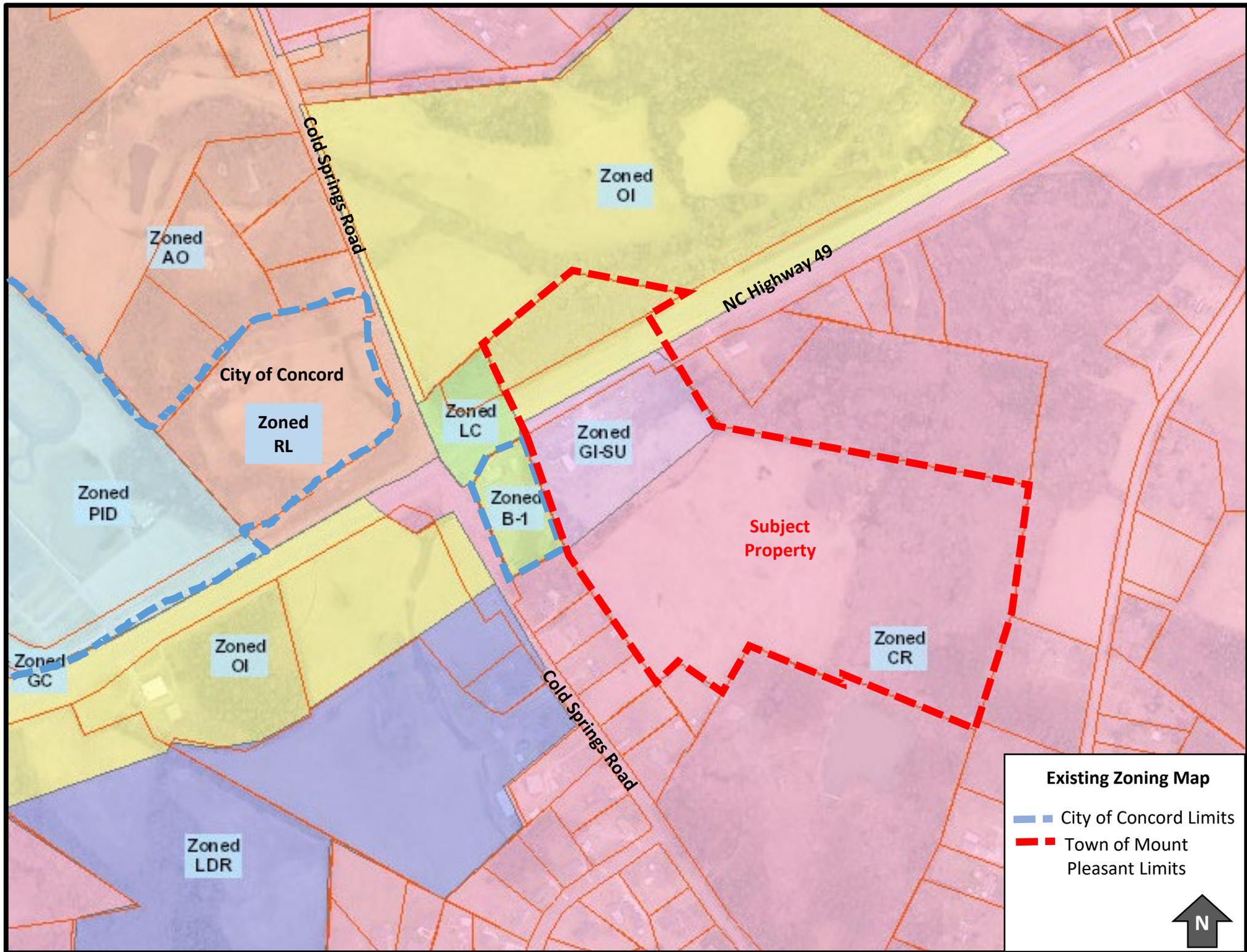
Cabarrus County shall not be held liable for any errors in the data represented on this record. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. The data cannot be construed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.

Map Created By Cabarrus County IT Department  
Data Sources: Cabarrus County Land Records

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

1:4,514

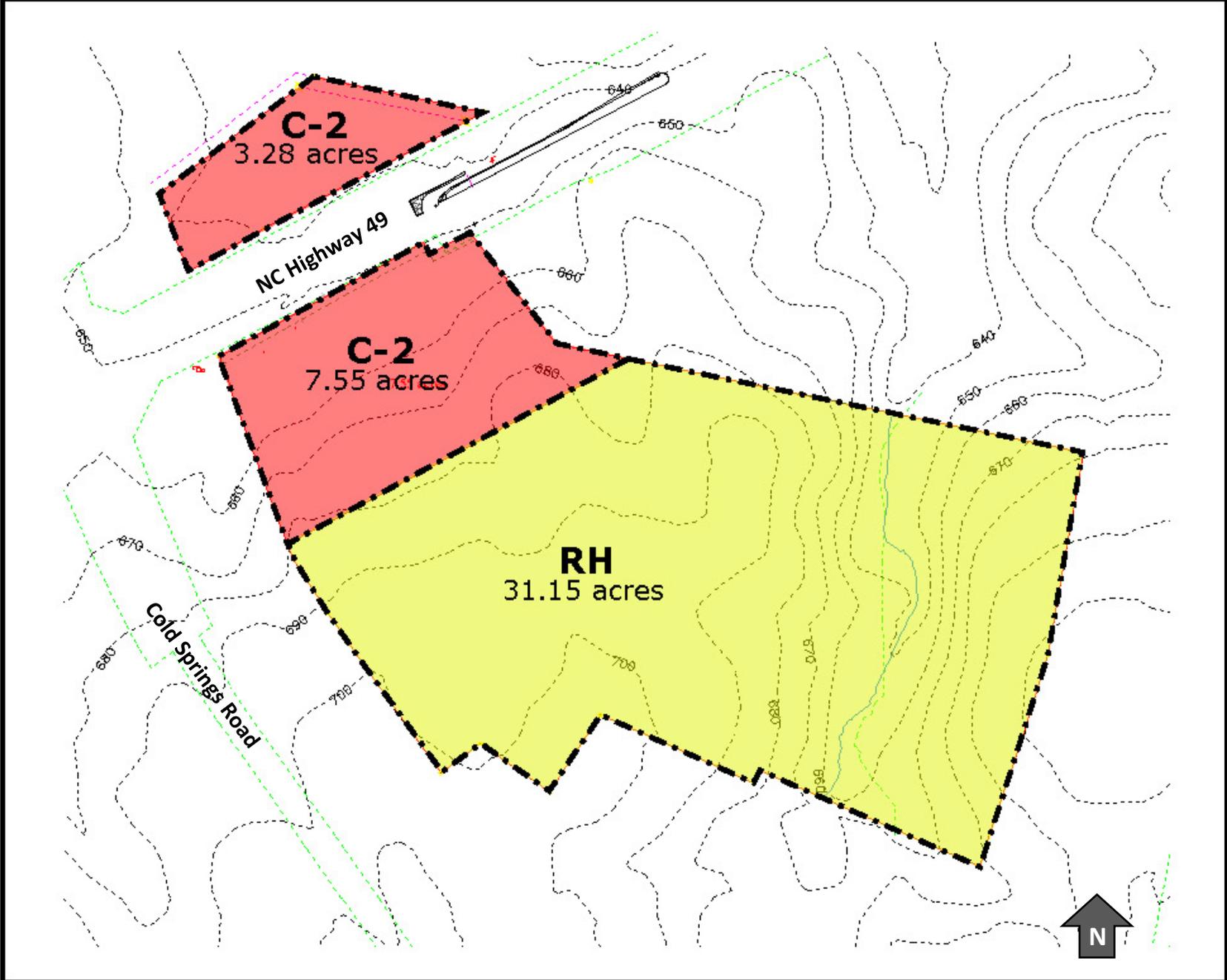




**Existing Zoning Map**

- City of Concord Limits
- Town of Mount Pleasant Limits





**JEFF YOUNG, PLA**  
LANDSCAPE ARCHITECTURE  
COMMUNITY PLANNING

Date: October 7, 2019

**TEK DEVELOPMENT**  
402 North Main Street  
Mt. Pleasant, NC 28124

**PROPOSED ZONING**  
PIN 55596915610000

*Founded in 1848*

October 8, 2019

Dear Property Owner,

Please be informed that the Town of Mount Pleasant annexed the property described below at the request of the property owner on September 9, 2019. According to North Carolina General Statute 160A-360, the Town has 60 days to establish Town of Mount Pleasant zoning designations on the property. You are receiving this letter, because property that you own is in close proximity to the subject property.

**REZ 2019-02 5061, 5122, & 5130 NC Highway 49 North**

- **Description:** Request to establish Town of Mount Pleasant zoning on recently annexed property.
- **Area:** approximately 41.994 acres (2 tracts)
- **Location:** 5061, 5122, & 5130 NC Highway 49 North
- **Cabarrus County Parcel Number:** 5559-69-1561
- **Current Zoning:** Cabarrus County Office & Institutional (OI), Cabarrus County General Industrial Special Use District (GI-SU), and Cabarrus County Countryside Residential (CR)
- **Zoning Districts requested by Property Owner:** Town of Mount Pleasant C-2 General Commercial (10.83 acres) and RH Residential High Density (31.15 acres)

Per Section 3.1.9.5 of the Town's *Unified Development Ordinance (UDO)*, a *Neighborhood Meeting* is required for any rezoning that increases the density or intensity of the subject property. The **Neighborhood Meeting to discuss the proposed districts will be held on Monday, October 21, 2019 6:00-7:00pm** in the Conference Room of the Town of Mount Pleasant Town Hall, 8590 Park Drive, Mount Pleasant, NC. The property owner will be present to answer questions and receive comments.

The **Planning & Zoning Board Public Hearing will be held on Tuesday, October 29 at 6:00pm** in the Meeting Room of the Town of Mount Pleasant Town Hall, 8590 Park Drive, Mount Pleasant, NC. If you have any questions regarding this request, you may contact me at Town Hall at 704-436-9803 or [burrise@mtpleasantnc.us](mailto:burrise@mtpleasantnc.us).

Sincerely,



Erin S. Burris, AICP  
Planning & Economic Development Director

Attachment: Existing Zoning and Proposed Zoning Maps

**REZ 2019-02 Adjacent Owners List**

Address	City	PIN14	Owner Name 1	Owner Name 2	Mail Address Line 1	Mail City	State	Zip
2257 COLD SPRINGS RD	CONCORD	55595859040000	ALLMOND RONALD G		2245 COLD SPRINGS RD	CONCORD	NC	28025
2245 COLD SPRINGS RD	CONCORD	55595930980000	ALLMOND RONALD G		2245 COLD SPRINGS RD	CONCORD	NC	28025
2407 BOYINGTON CT	CONCORD	55595823960000	ARRINGTON LINDA W		2407 BOYINGTON CT	CONCORD	NC	28025
2233 WALKER RD	MT PLEASANT	55597859320000	BARNHARDT RICKY L	BARNHARDT PATSY B WF	2233 WALKER RD	MT PLEASANT	NC	28124
5045 NC HWY 49 N	MT PLEASANT	56504091760000	BILES EARL F & MARGARET P		5170 HWY 49-E	MT PLEASANT	NC	28124
5165 NC HWY 49 N	MT PLEASANT	56506051020000	BILES EARL F & MARGARET P		5170 HWY 49-E	MT PLEASANT	NC	28124
5170 NC HWY 49 N	MT PLEASANT	56506002780000	BILES EARL F & MARGARET P		5170 HWY 49-E	MT PLEASANT	NC	28124
2000 WALKER RD	MT PLEASANT	56507062790000	BLACKWELDER JASON LLOYD		2000 WALKER ROAD	MT PLEASANT	NC	28124
2064 WALKER RD	MT PLEASANT	56506046690000	BLACKWELDER MAXINE WALKER	BLACKWELDER MAXINE W ESTATE	1865 WALKER RD	MT PLEASANT	NC	28124
2067 WALKER RD	MT PLEASANT	56506046690000	BLACKWELDER MAXINE WALKER	BLACKWELDER MAXINE W ESTATE	1865 WALKER RD	MT PLEASANT	NC	28124
5104 NC HWY 49 N	MT PLEASANT	55595916630000	CAROLINA OIL CO OF CONCORD INC		PO BOX 5010	CONCORD	NC	28027
2384 COLD SPRINGS RD	CONCORD	55595870850000	CARPENTER ROBIN L & WF DEBRA N		2384 COLD SPRINGS ROAD	CONCORD	NC	28025
2163 WALKER RD	MT PLEASANT	55597951580000	CLARK DEREK SEAN		660 BURRAGE RD NE	CONCORD	NC	28025
2320 COLD SPRINGS RD	CONCORD	55595845140000	CLARK GARY E	CLARK LESLIE B WF	2320 COLD SPRINGS RD	CONCORD	NC	28025
2175 COLD SPRINGS RD	CONCORD	55595931390000	CONFORTH JOHN	CONFORTH PATRICIA M WF	2175 COLD SPRINGS RD	CONCORD	NC	28025
2346 COLD SPRINGS RD	CONCORD	55595854110000	CULLER MICHAEL MCKENLEY	SR & CULLER JANUARY BASS/WIFE	2346 COLD SPRINGS RD	CONCORD	NC	28025
2143 COLD SPRINGS RD	CONCORD	55595922590000	FEEHAN WILLIAM D & WIFE	FEEHAN CATHERINE	2143 COLD SPRINGS ROAD	CONCORD	NC	28025
2364 WALKER RD	MT PLEASANT	55597803170000	FURR CLYDE EDWARD JR & JUDY P	FURR JUDY P	2364 WALKER ROAD	MT PLEASANT	NC	28124
2120 COLD SPRINGS RD	CONCORD	55594962190000	HARTSELL JAMES MITCHELL	HARTSELL MARY RUTH/WIFE	4166 AMARILLO DR SW	CONCORD	NC	28027
5122 NC HWY 49 N	MT PLEASANT	55596915610000	HWY 49 COMMERCIAL PROPRTIES LLC	STE 205	270 COPPERFIELD BLVD NE	CONCORD	NC	28025
5130 NC HWY 49 N	MT PLEASANT	55596915610000	HWY 49 COMMERCIAL PROPRTIES LLC	STE 205	270 COPPERFIELD BLVD NE	CONCORD	NC	28025
5061 NC HWY 49 N	MT PLEASANT	55596915610000	HWY 49 COMMERCIAL PROPRTIES LLC	STE 205	270 COPPERFIELD BLVD NE	CONCORD	NC	28025
2200 WALKER RD	MT PLEASANT	55597819950000	HYDE SUE BLACKWELDER	HYDE TED JAMES II	2200 WALKER RD	MT PLEASANT	NC	28124
2401 COLD SPRINGS RD	CONCORD	55596824570000	KINDLEY ALLEN	KINDLEY SHELLIE WF	4100 MIAMI CHURCH RD	CONCORD	NC	28025
2257 WALKER RD	MT PLEASANT	55597857460000	MILLER RICHARD WAYNE	MILLER PATRICIA ANN WF	520 CROSSWOOD FARM RD	ROCKWELL	NC	28138
2317 COLD SPRINGS RD	CONCORD	55595877100000	PLOTT STEPHEN EUGENE	PLOTT DEBRA/WIFE	2317 COLD SPRINGS ROAD	CONCORD	NC	28025
2319 COLD SPRINGS RD	CONCORD	55595889140000	PLOTT STEPHEN EUGENE	PLOTT DEBRA/WIFE	2317 COLD SPRINGS ROAD	CONCORD	NC	28025
2289 WALKER RD	MT PLEASANT	55597846850000	PRICE WANDA ELLINGTON		2289 WALKER RD	MT PLEASANT	NC	28124
2174 COLD SPRINGS RD	CONCORD	55595900720000	REED DARREN W	REED KRISTI T WF	2174 COLD SPRINGS RD E	CONCORD	NC	28025
2384 WALKER RD	MT PLEASANT	55596892100000	REED SCOTT A	REED BECKY DRAKE WF	2384 WALKER RD	MT PLEASANT	NC	28124
4976 NC HWY 49 N	CONCORD	55594976340000	SECURITY OIL CO INC		PO BOX 5028	CONCORD	NC	28027
2265 COLD SPRINGS RD	CONCORD	55595858930000	SELLERS MICHAEL RYAN		2265 COLD SPRINGS RD E	CONCORD	NC	28025
5250 NC HWY 49 N	MT PLEASANT	56506034270000	SPRING GARDENS LLC A		PO BOX 721	CONCORD	NC	28025
5300 NC HWY 49 N	MT PLEASANT	56506055400000	SPRING GARDENS LLC A		PO BOX 721	CONCORD	NC	28025
5320 NC HWY 49 N	MT PLEASANT	56506065940000	SPRING GARDENS LLC A		PO BOX 721	CONCORD	NC	28025
2406 BOYINGTON CT	CONCORD	55595851300000	STRUBE DANNY R & WF CATHY N		2406 BOYINGTON CT	CONCORD	NC	28025
2296 WALKER RD	MT PLEASANT	55597806820000	SWARINGEN SIDNEY EUGENE		3464 FARM LAKE ROAD	CONCORD	NC	28025
2358 COLD SPRINGS RD	CONCORD	55595862830000	TIPTON DAVID L		2358 COLD SPRINGS ROAD	CONCORD	NC	28025
2262 COLD SPRINGS RD	CONCORD	55595826630000	TROUTMAN GEORGE MARK		2242 COLD SPRINGS RD E	CONCORD	NC	28025
2242 COLD SPRINGS RD	CONCORD	55594866770000	TROUTMAN GEORGE MARK		2242 COLD SPRINGS RD E	CONCORD	NC	28025

## NOTICE OF PUBLIC HEARING

The Town of Mount Pleasant Planning & Zoning Board will hold a public hearing on **Tuesday, October 29, 2019 at 6:00PM** in the Meeting Chamber of Town Hall, 8590 Park Drive, Mount Pleasant, NC 28124 regarding the following item:

### **REZ 2019-02 5061, 5122, & 5130 NC Highway 49 North**

Request to establish Town of Mount Pleasant zoning on recently annexed property located at 5061, 5122, & 5130 NC Highway 49 North. Area: approximately 41.994 acres (2 tracts). Cabarrus County Parcel Number: 5559-69-1561. Current Zoning: Cabarrus County Office & Institutional (OI), Cabarrus County General Industrial Special Use District (GI-SU), and Cabarrus County Countryside Residential (CR). Zoning Districts Requested by Property Owner: Town of Mount Pleasant C-2 General Commercial (10.83 acres) and RH Residential High Density (31.15 acres).

All interested persons are invited to attend. Please call Mount Pleasant Town Hall at 704-436-9803 if you have questions or need special accommodations for the meeting. Hearing impaired persons desiring additional information or having questions regarding this subject should call the North Carolina Relay Number for the Deaf (1-800-735-8262).

\*\*\*\*\*

Publish dates: Fridays, October 18 & 25

## Planning & Zoning Board Meeting

Town Hall - 8590 Park Drive Mount Pleasant, NC

Tuesday, October 29, 2019

6:00 PM

**To:** Planning & Zoning Board

**From:** Erin S. Burris, AICP, Planning & Economic Development Director

**Date:** October 29, 2019

**Subject:** TA 2019-03 Use Matrix, Supplemental Regulations, and Use Definitions

### A. BACKGROUND

**Applicant:** Town of Mount Pleasant

**Affected Sections of UDO:** Article 4, Article 5, Appendix A

In an effort to begin compliance with newly updated North Carolina General Statute Chapter 160D, updates have been proposed for Article 4. Updates include providing a table showing which districts are consistent with which land use designations on the Future Land Use Map in the adopted Comprehensive Plan. NCGS Chapter 160D also changes the name of "Conditional Use Permits" to "Special Use Permits" to avoid confusion with "Conditional Zoning". This nomenclature is reflected in the proposed amendments and will also be updated throughout the ordinance. Town staff requests the updates to the Use Matrix table (now Table 4.6-2) in order to consolidate similar uses, add uses that did not exist at the time of ordinance adoption, and organize uses in a clearer manner. Article 5 is proposed to be reorganized using the same categories as the Use Matrix to make supplemental regulations easier to find, with redundant language to be removed. Appendix A has been revised to make definitions consistent with the Use Matrix updates and remove inconsistencies.

#### A. RELATIONSHIP TO ADOPTED PLANS & POLICIES

There are no strategies in the adopted Comprehensive Plan related to this request.

#### B. STAFF RECOMMENDATION

Staff recommends review and approval of the proposed amendment.

#### C. ACTION REQUESTED

The Planning & Zoning Board is requested to review and make a recommendation to the Town Board of Commissioners on one of the following items:

- **Recommend approval and consistent:** The Planning & Zoning Board finds that proposed amendments are not addressed by the Comprehensive Plan, but are not inconsistent with it. These amendments are intended to comply with updated General Statutes, consolidate similar uses, add uses that did not exist at the time of ordinance adoption, organize uses in a clearer manner, and reduce redundant language in the Unified Development Ordinance.
- **Recommend approval and not consistent:** The Planning & Zoning Board finds that the proposed amendments are not consistent with the Comprehensive Plan as adopted, but finds the proposed amendments to be reasonable and in the public interest and amends the Comprehensive Plan with this action to establish consistency.
- **Recommend Denial and not consistent:** The Planning & Zoning Board finds that the proposed amendment is not consistent with the Comprehensive Plan and does not consider the action to reasonable and in the public interest.
- **Defer:** The amendment needs additional consideration.

#### D. ATTACHMENTS

1. Article 4-Proposed Amendments (including Use Matrix Table 4.6-2). The attached table is proposed to replace existing Table 4.6-1.
2. Article 5-Proposed Amendments. Article reorganized with proposed regulatory changes shown in blue. Additional discussion needed for red text items.
3. Appendix A-Proposed Amendments

\*Additional discussion needed for red text items.

**ARTICLE 4  
ZONING DISTRICTS AND DIMENSIONAL REGULATIONS**

*Summary: This Article divides the Town into districts for the purpose of regulating the use of lands within the districts, as well as dimensional requirements and other standards applicable to construction, reconstruction and alterations of such uses. This Article establishes a series of basic zoning districts and overlay districts within which additional standards may apply, and “floating zones” (PUD districts) which may be designated by request. Refer to Article 5 for additional regulations applicable to particular uses.*

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## **4.1. PURPOSE STATEMENT FOR ZONING DISTRICTS**

The Town is hereby zoned and divided into districts. [In accordance with NCGS 160D-7-1 \(formerly 160A-383\)](#), the purpose of establishing these districts is:

- To implement the Comprehensive Plan;
- To promote the health, safety, morals, or the general welfare;
- To provide for the orderly growth and development of the Town and for the efficient use of our resources (land, water, roads, etc.);
- To lessen congestion in the streets;
- To secure safety from fire, panic, and other dangers.
- To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

## **4.2. ESTABLISHMENT OF ZONING DISTRICTS**

### **4.2.1. PURPOSE AND INTENT**

In accordance with the requirement of NCGS [160D-7-3 \(formerly 160A-382\)](#) that zoning regulation be by districts, the Town Board, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

- AG Agricultural District
- RE Rural Estate District
- RL Residential Low Density
- RM Residential Medium Density
- RH Residential High Density
- O-I Office-Institutional District
- CC City Center District
- C-1 Light Commercial and Office District
- C-2 General Commercial District
- CD Campus Development District
- I-1 Light Industrial District
- ~~I-2 Heavy Industrial District~~

### **4.2.2. OVERLAY DISTRICTS**

~~In accordance with the authority provided by NCGS 160A-382,~~ The Town hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts, additional requirements are imposed on certain properties within one (1) or more underlying general or conditional zoning districts. The symbol for each type of district is as follows:

- (HPO) Historic Preservation Overlay District
- (MHO) Manufactured Home Overlay Districts (MH-1 and MH-2)
- WP-O Watershed Protection Overlay (see Section 9.4)

### **4.2.3. CONDITIONAL ZONING DISTRICTS**

In addition to the base zoning districts established in Section 4.2.1, above, the following conditional zoning districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that an approval of a site plan and development conditions are required as a prerequisite to any use or development therein, as provided for in this Article and in Section 3.4 of this Ordinance.

- AG-CZ Agricultural Conditional Zoning District
- RE-CZ Rural Estate Conditional Zoning District
- RL-CZ Residential Low Density Conditional Zoning District
- RM-CZ Residential Medium Density Conditional Zoning District
- RH-CZ Residential High Density Conditional Zoning District
- CC-CZ City Center Conditional Zoning District
- C-1-CZ Light Commercial and Office District Conditional Zoning District
- C-2- CZ General Commercial District Conditional Zoning District
- CD-CZ Campus Development Conditional Zoning District
- I-1-CZ Light Industrial District Conditional Zoning District
- I-2-CZ Heavy Industrial District Conditional Zoning District
- PUD-Planned Unit Development District

**~~4.2.4. — ADDITIONAL ZONING DISTRICTS~~**

~~Additional zoning districts may be added from time to time upon the recommendation of the Planning & Zoning Board to the Town Board pursuant to Section 3.3 of this Ordinance.~~

### 4.3. ZONING DISTRICT PURPOSE STATEMENTS

#### 4.3.1. PURPOSE STATEMENT

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS [160D-7-1 \(formerly 160A-383\)](#), all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the Town Board if any, as adopted under NCGS [Chapter 160D \(formerly Article 19 of Chapter 160A\)](#). This Section describes the relationship between the various zoning districts and the Comprehensive Plan and a summary of each development district in tabular form. However, to the extent that there is any inconsistency between the tabular summary and the specific provisions of Section 4.7 et seq. of this Ordinance, the provisions of Section 4.7 et seq. shall prevail. [The table below indicates the relationship between each zoning district described in this section and each land use designation on the Future Land Use Map in the Town’s Comprehensive Plan.](#)

**Table 4.6-1: District Consistency with Future Land Use Map Designations**

<u>Future Land Use Map Designation</u>	<u>Consistent Zoning Districts</u>	<u>General Use Types</u>	<u>Maximum Residential Density (DUA)</u>
<u>Open Space/Recreation</u>	<u>All districts</u>	<ul style="list-style-type: none"> <li>• <u>Parks &amp; athletic facilities</u></li> <li>• <u>Greenways</u></li> <li>• <u>Agriculture &amp; forestry</u></li> <li>• <u>Floodplain</u></li> </ul>	<u>n/a</u>
<u>Rural</u>	<u>AG, CZ-AG CZ-RE CZ-O-I</u>	<ul style="list-style-type: none"> <li>• <u>Agriculture &amp; forestry</u></li> <li>• <u>Detached single-family residential</u></li> <li>• <u>Limited civic &amp; institutional</u></li> </ul>	<u>0.5 DUA</u>
<u>Low Intensity</u>	<u>RL, CZ-RL CZ-RM CZ-OI</u>	<ul style="list-style-type: none"> <li>• <u>Agriculture &amp; forestry</u></li> <li>• <u>Detached single-family residential</u></li> <li>• <u>Limited civic &amp; institutional</u></li> </ul>	<u>2 DUA</u>
<u>Medium Intensity</u>	<u>RM, CZ-RM CZ-RH OI, CZ-OI C-1, CZ-C-1</u>	<ul style="list-style-type: none"> <li>• <u>Detached single-family residential</u></li> <li>• <u>Civic &amp; institutional</u></li> <li>• <u>Small office, services, &amp; retail (on thoroughfares)</u></li> </ul>	<u>4 DUA</u>
<u>High Intensity</u>	<u>RH, CZ-RH OI, CZ-OI C-1, CZ-C-1 C-2, CZ-C-2 CZ-CD CZ I-1</u>	<ul style="list-style-type: none"> <li>• <u>Detached single-family residential</u></li> <li>• <u>Attached single-family residential</u></li> <li>• <u>Multi-family residential</u></li> <li>• <u>Civic &amp; institutional</u></li> <li>• <u>Office, Services, Retail</u></li> <li>• <u>Entertainment</u></li> <li>• <u>Flex-space or campus business</u></li> </ul>	<u>8 DUA</u>
<u>Employment Center</u>	<u>OI, CZ-OI C-2, CZ-C-2 CD, CZ-CD I-1, CZ-I-1 CZ-I-2</u>	<ul style="list-style-type: none"> <li>• <u>Civic &amp; institutional</u></li> <li>• <u>Office, Services, Retail</u></li> <li>• <u>Entertainment</u></li> <li>• <u>Flex-space or campus business</u></li> <li>• <u>Light industrial</u></li> <li>• <u>Limited heavy industrial</u></li> </ul>	<u>n/a</u>
<u>Downtown Core</u>	<u>CC, CZ-CC</u>	<ul style="list-style-type: none"> <li>• <u>Attached single-family residential</u></li> <li>• <u>Multi-family residential</u></li> <li>• <u>Civic &amp; institutional</u></li> <li>• <u>Office, Services, Retail</u></li> <li>• <u>Entertainment</u></li> </ul>	<u>8 DUA</u>

CZ=Conditional Zoning District    DUA=Dwelling Units per Acre

**4.3.2. PURPOSE STATEMENTS FOR **BASE** ZONING DISTRICTS**

**4.3.2.1. (AG) Agricultural District**

The AG district is established to provide areas for low intensity agricultural operations as well as agribusiness and supportive commercial uses. AG zoning protects and preserves valuable agricultural areas, implements agricultural protection zoning, establishes performance standards for rural businesses, preserves rural areas, preserves pasture land and agriculture, sets maximum permissible densities or new zoning districts, defines specific areas for rural commercial uses, and identifies areas appropriate for agricultural preservation.

**4.3.2.2. (RE) Rural Estate District**

The RE district is established to provide areas for low density single family uses, with a maximum of one (1) dwelling unit per acre. Property zoned RE should include only those tracts which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

**4.3.2.3. (RL) Residential Low Density District**

The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the Town. It includes flexible density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

**4.3.2.4. (RM) Residential Medium Density District**

The RM district is established to provide areas for medium density, single-family residential uses, with a maximum of four (4) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

**4.3.2.5. (RH) Residential High Density District**

The RH district is established to provide areas for detached and attached single family homes, and, as a special use, multi-family residential. A maximum of eight (8) dwelling units per acre is permitted in areas where large-lot development is discouraged and adequate public facilities and services are available. RH supports the principles of concentrating urban growth and reinforcing community centers. Design controls are required for multi-family residential projects as set forth in Article 11.

**4.3.2.6. (CC) City Center District**

The CC district is established to provide concentrated downtown retail, service, office and mixed uses (including residential uses) in the existing central business district. Shopping centers are permitted, but urban design standards as set forth in Article 11 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC district promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CZ District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CZ zoning district.

**4.3.2.7. (OI) Office and Institutional District**

The OI district is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

**4.3.2.8. (C-1) Light Commercial District**

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares.

**4.3.2.9. (C-2) General Commercial District**

The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.2.10. (CD) Campus Development District**

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the Town primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

**4.3.2.11. (I-1) Light Industrial District**

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park, institutional, and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

**4.3.2.12. (I-2) General Industrial District [\(Conditional Zoning Only\)](#)**

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. [These districts shall only be considered as Conditional Zoning \(CZ\) districts.](#)

**4.3.2.13. (PUD) Planned Unit Development District (Conditional Zoning Only)~~PURPOSE STATEMENTS FOR PUD ZONES~~**

PUD zones are established in order to provide design flexibility and for special design regulations for mixed use development or large uses which provide special public benefits. These districts shall only be considered as Conditional Zoning (CZ) districts. The purpose statement for the PUD zoning district is set forth in Section [4.8.1. The PUD zoning district may be considered consistent with the Medium Intensity and High Intensity land use designations on the Future Land Use Map in the Town’s Comprehensive Plan, dependent upon the mixture of uses proposed on the site-specific plan as set forth in Section 4.8.](#)

**4.3.3. STANDARDS FOR BASE DISTRICTS**

**4.3.3.1.** Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as conditional uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with Section 5.2 of this Ordinance.

**4.3.3.2.** Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in Section 4.7.

**4.3.3.3.** Standards for landscaping, screening and buffering are described in detail in Article 7.

**4.3.3.4.** Standards for off-street parking and loading facilities, and vehicular access are described in detail in Article 8.

**4.3.3.5.** Environmental control regulations, including those for watershed protection, flood damage prevention, stormwater, and soil erosion and sedimentation control are described in detail in Article 9.

**4.3.3.6.** Design and improvement standards for some types of development are regulated in accordance with Article 11. In addition, Article 11 contains specific design standards for the CC Center City District, the CD Campus Development District, and the I-1 Light Industrial District that are unique to the respective districts.

**4.3.3.7.** Sign regulations are described in detail in Article 12.

**4.3.3.8.** Adequate public facilities standards are described in detail in Article 14.

**~~4.3.4. PURPOSE STATEMENT FOR OVERLAY ZONING DISTRICTS.~~**

~~The overlay zone creates special siting, use and compatibility issues which require use development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes greater standards than those required by the base zoning district, the more restrictive standard applies.~~

## **4.4. ZONING MAP**

### **4.4.1. BOUNDARIES OF ZONING DISTRICT**

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the Town of Mount Pleasant. These maps and all references and dates shown thereon shall be certified by the Mayor.

### **4.4.2. OFFICIAL ZONING MAP**

**4.4.2.1.** Pursuant to [NCGS 160D-1-5](#), the Official Zoning Map, [in either digital or hard copy paper form](#), shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the Town Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map.

**4.4.2.2.** The Official Zoning Map shall show the effective date, shall be maintained by the Administrator and bear the seal of the Town under the words: “Official Zoning Map, Town of Mount Pleasant, North Carolina”. Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the Former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map which shall be located in the office of the Administrator shall be the final authority as to the current zoning status of land, wet areas, buildings, and other structures.

**4.4.2.3.** If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the Former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.

**4.4.2.4.** The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Article 4, Section 4.4 of the UDO.

## **4.5. DISTRICT BOUNDARIES**

### **4.5.1. ZONING DISTRICT BOUNDARIES**

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, section lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

### **4.5.2. BOUNDARY OR LOCATION DISPUTES**

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

**4.5.2.1.** When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.

**4.5.2.2.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

**4.5.2.3.** Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.

**4.5.2.4.** Boundaries indicated as separated from but approximately parallel to any of the features indicated in sections 4.5.2.1 through 4.5.2.3 above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.

**4.5.2.5.** Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

**4.5.2.6.** Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical monument or marker located on the ground shall control.

**4.5.2.7.** Where physical or cultural features, such as floodplains, vary from those shown on the Official Zoning Map, or in other circumstances not covered by subsections 4.5.2.1 through 4.5.2.6 above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Board of Adjustment, pursuant to Section 3.7 of this Ordinance.

## **4.6. USE REGULATIONS**

### **4.6.1. GENERALLY**

**4.6.1.1.** No use shall be permitted pursuant to this Ordinance, and no Zoning Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use is listed as a permitted or conditional use in this Section 4.6 and all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Matrix (Table 4.6-2) and as forth in Section 4.6.2, below.

**4.6.1.2.** Permitted Accessory Uses are set forth in Section 5.2 of this Ordinance, while permitted Temporary Uses are set forth in Section 5.22 of this Ordinance. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in Section 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

### **4.6.2. PRIMARY USES**

#### **4.6.2.1. Use Matrix**

No Zoning Permit shall be issued for a Primary use not specifically mentioned or described by category in the Use Matrix (Table 4.6-2), Evaluation of these uses shall be as set forth in Section 4.6.2.2, below. Notwithstanding any provision of this Section to the contrary, uses which are preempted by state statute are not listed in the Use Matrix, and may be permitted in accordance with state law.

#### **4.6.2.2. PUD Excluded**

Uses in the PUD districts shall be governed by Section 4.8 in this Ordinance and not be included in Table 4.6-2.

#### **4.6.2.3. Use Determinations**

The Administrator shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. It is the intent of this Article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a conditional use permit. Uses not listed as a permitted or conditional use shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Section. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the decision may be appealed to the Board of Adjustment. The Administrator may determine that a use is materially similar if it falls within the same industry classification of the latest edition of the *North American Industry Classification Manual* ("NAICS") (subject to Section 4.6.2.4, below), and if the proposed use does not generate trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the latest edition of Institute of Transportation Engineers, *Trip Generation*, which documents are hereby incorporated by this reference. The Administrator may also refer to similar studies relating to trip generation for the specific use prepared by a licensed professional engineer associated with a firm listed on the NCDOT "register of Firms" pursuant to 19A NCAC 2E.0702. In the event that the parties do not agree upon the Administrator's interpretation, the determination may be appealed to the Board of Adjustment.

**4.6.2.4. Matrix Symbols**

The use categories listed in the first column of Table 4.6-2 are defined in [Appendix A](#) of this Ordinance, the NAICS, or in other resources cross-referenced in this Ordinance.

- **Permitted Uses.** The letter “P” indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.
- **Conditional Special Uses.** The letter “~~C~~ S” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review procedures of Section 3.5 of this Ordinance. Conditional Uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Town consistent with the criteria set forth in Section 3.5 of this Ordinance and any Supplementary Use Regulations which apply to said use.
- **Prohibited Uses.** A dash (“-”) indicates that the listed use type is not allowed within the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Ordinance.
- **Permitted Uses with Supplemental Regulations.** A section number reference in the “SR” column ~~The letter “S”~~ indicates that the listed use ~~is either a use permitted by right or a conditional use within the zoning district.~~ However, the use is also subject to specific design regulations as prescribed in Article 5 and/or Article 11. ~~The specific reference is indicated in (§ \_\_\_\_ ) behind a specific use as listed in the Use column of Table 4.6-2.~~

**4.6.3. ACCESSORY USES, SIGNS, AND TEMPORARY USES**

**4.6.3.1.** Regulations pertaining to the permissible location of Accessory Uses, Signs, and Temporary Uses are set forth in the Accessory Use Regulations (Article 5, Section [5.2](#)), the Sign Regulations (Article 12), and the Temporary Uses Regulations (Article 5, Section [5.10](#)) of this Ordinance.

**4.6.3.2.** If a use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in Section 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory.

## Proposed Use Matrix (to replace previous Use Matrix)

**TABLE 4.6-2: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD	I-1	I-2	SR
<b>AGRICULTURAL USES</b>													
Agriculture, bona fide farm use	P	P	P	-	-	-	-	-	-	-	-	-	5.3.1
Equestrian uses, boarding, riding stable (commercial)	P	S	S	-	-	-	-	-	-	-	P	-	5.3.1
Farmer's market	P	-	-	-	-	P	P	P	P	P	P	-	
Farm support business	S	-	-	-	-	-	-	-	P	-	P	-	11.7
Garden supply	S	-	-	-	-	-	-	-	P	-	P	-	11.7
Greenhouses, horticultural nursery (commercial)	S	-	-	-	-	-	-	-	S	-	P	-	11.7
Produce stand	P	-	-	-	-	-	S	P	P	-	P	-	5.10.2.2.2
Swine farm	S	-	-	-	-	-	-	-	-	-	-	-	5.3.1
<b>RESIDENTIAL USES</b>													
Accessory structure	P	P	P	P	P	P	-						5.2
Boarding or rooming house	-	-	-	-	S	-	-	-	-	-	-	-	
Caretaker residence	P	P	P	P	P	P	P	P	P	P	P	P	
Dormitory (associated with school or university)	-	-	-	-	-	P	P	P	P	P	-	-	
Dwelling, accessory	P	P	P	P	P	P	-	-	-	-	-	-	5.4.1
Dwelling, duplex/two-family (2 dwelling units on same lot of record)	-	-	-	-	P	-	-	-	-	-	-	-	
Dwelling, single-family attached		-	-	-	P	S	S	-	-	-	-	-	11.2
Dwelling, single-family detached	P	P	P	P	P	S	S	-	-	-	-	-	
Dwelling, single-family manufactured home	( allowed in MH-1 and MH-2 Overlay Districts only)												
Dwelling, multi-family (3 or more dwelling units on same lot of record)	-	-	-	-	S	S	S	S	S	-	-	-	11.2
Dwelling, upper story	-	-	-	-	-	-	P	P	P	-	-	-	
Family care home (pursuant to NCGS 160D-9-6)	P	P	P	P	P	P	-	-	-	-	-	-	
Home occupation	P	P	P	P	P	P	P	P	P	-	-	-	5.4.2
Manufactured home park	-	-	-	-	-	-	-	-	-	-	-	-	
Temporary health care structure (pursuant to NCGS 160D-9-14)	P	P	P	P	P	P	-	-	-	-	-	-	
Vacation rental home (pursuant to NCGS Chapter 42A)	S	S	S	S	S	S	P	P	P	-	-	-	5.4.3

## Proposed Use Matrix (to replace previous Use Matrix)

**TABLE 4.6-2: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD	I-1	I-2	SR
<i>CIVIC, GOVERNMENT, &amp; INSTITUTIONAL USES</i>													
Animal shelter	S	S	S	-	-	-	-	-	S	-	S	P	
Cemetery, crematory, & mausoleum as principal use	S	S	S	S	S	S	S	S	P	P	P	P	5.5.1
Child care center	S	S	S	S	S	P	S	P	P	P	S	-	5.5.2
Civic, social, and fraternal organizations	S	S	S	S	S	P	P	P	P	P	P	-	
Community center	S	S	S	S	S	P	P	P	P	P	P	-	
Correctional institution	S	-	-	-	-	S	-	-	-	-	S	S	
Government building or facility (excluding correctional institutions)	S	S	S	S	S	P	P	P	P	P	P	P	
Hospital (includes accessory helipad)	-	-	-	-	-	-	-	-	P	P	-	-	
Post office	-	-	-	-	-	P	P	P	P	P	P	P	
Religious institution, up to 350 seats	S	S	S	S	S	P	P	P	P	-	-	-	
Religious institution, more than 350 seats	-	-	-	-	S	S	P	P	P	P	P	-	
Research facility	-	-	-	-	-	P	S	S	P	P	P	P	
Residential care facility	S	S	S	S	S	P	-	P	P	-	-	-	5.5.3
School, boarding	S	S	S	S	S	S	S	S	S	-	-	-	
School, elementary & secondary (public & private)	S	S	S	S	S	P	P	P	P	-	-	-	
School, university or college	-	-	-	-	-	P	P	P	P	P	-	-	
School, vocational, technical, and trade	-	-	-	-	-	P	P	P	P	P	P	P	
Social assistance (excluding child care center)	S	S	S	S	S	S	S	S	P	-	-	-	

## Proposed Use Matrix (to replace previous Use Matrix)

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\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC*	C-1	C-2	CD*	I-1*	I-2	SR
<i>RECREATION &amp; ENTERTAINMENT USES</i>													
Amusement arcade, electronic gaming	-	-	-	-	-	-	-	-	-	-	-	-	
Amusements, outdoor (water park, batting cages, miniature golf, and similar uses)	-	-	-	-	-	-	-	-	S	-	S	-	
Amusements, indoor (bowling, roller skating, trampoline park, and similar uses)	-	-	-	-	-	-	-	-	P	-	P	-	
Auditorium/indoor public assembly, up to 350 seats	S	S	S	S	S	P	P	P	P	P	P	-	
Auditorium/indoor public assembly, more than 350 seats	-	-	-	-	S	S	S	S	P	P	P	-	
Beach bingo	-	-	-	-	-	-	S	S	S	-	S	-	5.6.1
Campground, private	S	S	S	-	-	-	-	-	-	-	-	-	5.6.2
Country club	S	S	S	S	S	-	-	P	P	-	P	-	
Golf course, public or private	S	S	S	S	S	-	-	P	P	-	-	-	
Museum and art gallery	S	S	S	S	S	P	P	P	P	P	P	-	
Private club	-	-	-	-	-	-	S	-	S	-	S	-	5.6.3
Nightclub, bar, lounge	-	-	-	-	-	-	S	-	S	-	S	-	
Park, public (includes related accessory uses)	P	P	P	P	P	P	P	P	P	P	P	-	
Pool or billiard hall	-	-	-	-	-	-	S	S	S	-	-	-	
Racetrack, motorsports (includes racing test tracks)	-	-	-	-	-	-	-	-	-	-	S	S	
Reception, banquet, events facility	S	S	S	S	S	S	P	P	P	P	P	-	5.6.4
Recreational facility, accessory	P	P	P	P	P	P	P	P	P	P	P	P	
Recreational facility, indoor (excluding amusements)	-	-	-	-	-	P	P	P	P	P	P	-	
Recreational facility, outdoor (excluding public parks, amusements)	S	S	S	S	S	S	S	S	S	S	S	P	
Recreational instruction camp (sports, dance, etc.)	S	-	-	-	-	P	P	P	P	P	P	-	
Recreational outdoor sports club (hunting club, fishing club, etc.)	S	S	S	S	S	P	-	P	P	-	-	-	
Sexually-oriented business	-	-	-	-	-	-	-	-	S	-	-	-	5.6.5
Shooting/archery range, indoor (commercial or government)	-	-	-	-	-	S	-	-	S	-	P	P	
Shooting/archery ranges, outdoor (commercial or government)	S	-	-	-	-	-	-	-	-	-	S	S	
Theater, drive-in	-	-	-	-	-	-	-	-	S	-	S	-	
Theater, indoor	-	-	-	-	-	-	P	S	P	P	P	-	
Theater, outdoor (excluding drive-in)	-	-	-	-	-	P	P	S	P	P	P	-	
Zoo, public or private	S	-	-	-	-	S	-	-	S	S	S	-	

## Proposed Use Matrix (to replace previous Use Matrix)

**TABLE 4.6-2: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC	C-1	C-2	CD*	I-1*	I-2	SR
<i>OFFICE &amp; SERVICE USES</i>													
Animal services (no outdoor kennels)	S	S	S	-	-	P	P	P	P	P	P	-	5.7.1
Animal services (with outdoor kennels)	S	S	S	-	-	-	-	-	S	S	S	-	5.7.1
Automobile/boat/vehicle repair & maintenance, major	S	-	-	-	-	-	-	-	S	-	P	P	11.7
Automobile/boat/vehicle repair & maintenance, minor	S	-	-	-	-	-	-	P	P	P	P	-	11.7
Bank and/or financial services	-	-	-	-	-	P	P	P	P	P	P	-	
Bed & breakfast inn	S	S	S	S	S	S	S	S	P	-	-	-	5.7.2
Broadcasting, telecommunications office (excluding towers)	-	-	-	-	-	P	P	P	P	P	P	-	
Business and professional services (no outdoor storage)	-	-	-	-	-	P	P	P	P	P	P	-	
Business and professional services (with outdoor storage)	-	-	-	-	-	-	-	-	S	S	S	S	
Catering services	-	-	-	-	-	-	P	P	P	P	P	-	
Car wash (as a principal use)	-	-	-	-	-	-	-	P	P	-	-	-	
Contractor office (no outdoor storage)	-	-	-	-	-	P	P	P	P	P	P	P	
Contractor shop (with or without outdoor storage)	-	-	-	-	-	-	-	-	S	-	P	P	11.7
Data center/call center	-	-	-	-	-	S	S	S	P	P	P	P	
Dry cleaning	-	-	-	-	-	-	P	P	P	P	P	-	
Funeral home & services, including crematory as an accessory use	-	-	-	-	-	P	S	S	P	P	P	-	5.5.1
Gunsmith (including gun and ammunition sales)	S	S	S	-	-	-	-	P	P	P	P		
Hotel, motel, or extended stay lodging facility	-	-	-	-	-	-	P	P	P	P	S	-	
Household item repair services	-	-	-	-	-	S	S	P	P	P	P	-	11.7
Lawn and landscaping services (no outdoor storage)	S	-	-	-	-	-	-	P	P	-	P		
Lawn and landscaping services (with outdoor storage)	S	-	-	-	-	-	-	-	S	-	P		11.7
Medical, dental, chiropractic, optical, and health care offices (excluding hospitals)	-	-	-	-	-	P	P	P	P	P	P	-	
Motion picture & sound recording (excluding theaters)	-	-	-	-	-	P	P	P	P	P	P	-	
Personal care services-hair, nails, skin, tanning, massage therapy	-	-	-	-	-	P	P	P	P	P	-	-	
Pest control services	-	-	-	-	-	P	S	P	P	P	P	-	
Photography studio	-	-	-	-	-	P	P	P	P	P	P	-	
Publishing, printing services (including screen printing)	-	-	-	-	-	P	P	P	P	P	P	-	
Professional offices	-	-	-	-	-	P	P	P	P	P	P		
Services, other	-	-	-	-	-	S	S	S	S	S	P	-	11.7
Tailoring services	-	-	-	-	-	P	P	P	P	P	P	-	
Tattoo parlors, body piercing	-	-	-	-	-	-	-	-	S	-	-	-	
Taxidermy	S	S	S	-	-	-	-	-	-	-	P	-	



## Proposed Use Matrix (to replace previous Use Matrix)

**TABLE 4.6-2: PRINCIPAL USES PERMITTED IN ZONING DISTRICTS**

P - Permitted Use S - Special Use (-) Prohibited Use SR- Supplemental Requirements (refer to section number in this column)

\* All uses permitted in the CC, CD, and I-1 Districts are subject to supplemental design regulations in Article 11 of this Ordinance.

Section 11.7 shall apply to all outdoor storage or display associated with a permitted use

USE	DISTRICTS												
	AG	RE	RL	RM	RH	O-I	CC*	C-1	C-2	CD*	I-1*	I-2	SR
<i>INDUSTRIAL, WHOLESALE, TRANSPORTATION, &amp; UTILITY USES</i>													
Air transportation and support facilities	S	-	-	-	-	-	-	-	-	-	S	S	
Bus, transit terminal or charter	-	-	-	-	-	-	-	-	S	-	P	P	
Flex office/warehouse unit	-	-	-	-	-	-	-	-	S	P	P	P	
Electric power generation	S	-	-	-	-	-	-	-	-	-	S	S	5.9.1
Electric power generation (accessory to permitted use, not connected to grid)	P	P	P	P	P	P	P	P	P	P	P	P	
Industrial laundry, dry cleaning plant	-	-	-	-	-	-	-	-	-	-	S	S	
Landfill - demolition & inert debris	P	P	P	P	P	P	P	P	P	P	P	P	5.9.2
Machine, welding shop	S	-	-	-	-	-	-	-	-	-	P	P	
Manufacturing, Type A	S	-	-	-	-	-	-	-	S	P	P	P	
Manufacturing, Type B	-	-	-	-	-	-	-	-	-	S	P	P	
Manufacturing, Type C	-	-	-	-	-	-	-	-	-	-	S	P	
Mini-warehousing/self-storage	-	-	-	-	-	-	-	-	S	S	P	P	5.9.3
Mining and extraction	S	-	-	-	-	-	-	-	-	-	-	S	5.9.4
Parking lots and structures (principal use)	-	-	-	-	S	P	P	P	P	P	P	P	
Public transit system stops	P	P	P	P	P	P	P	P	P	P	P	P	
Rail transportation and support facilities	-	-	-	-	-	-	-	-	-	-	-	S	
Retail outlet accessory to manufacturing use	-	-	-	-	-	-	-	-	P	P	P	P	
Sewer/wastewater treatment plants	S	-	-	-	-	-	-	-	-	-	S	P	
Solid waste collection and/or disposal (non-hazardous)	-	-	-	-	-	-	-	-	-	-	S	S	
Solid waste collection and/or disposal (hazardous)	-	-	-	-	-	-	-	-	-	-	-	S	5.9.5
Stockyards, slaughterhouses, rendering plants	S	-	-	-	-	-	-	-	-	-	-	S	
Taxi, limousine, chauffeur services	-	-	-	-	-	-	-	S	P	P	P	-	
Truck transportation, terminal and support facilities	-	-	-	-	-	-	-	-	-	-	S	P	
Truck stop, travel plaza	-	-	-	-	-	-	-	-	S	-	S	-	
Utility distribution lines and appurtenances (water, sewer, natural gas, electric, communications)	P	P	P	P	P	P	P	P	P	P	P	P	
Warehousing and storage	S	-	-	-	-	S	S	S	S	P	P	P	
Waste remediation/recovery services (including salvage/junk yard, recycling operations)	-	-	-	-	-	-	-	-	-	-	-	S	5.9.6, 11.7
Water treatment facility	S	S	S	S	S	S	S	S	S	S	P	P	
Wholesale trade, distribution facilities	S	-	-	-	-	-	-	-	S	P	P	P	
Wireless support structures-new or substantial modification**	S	S	S	S	S	S	S	S	S	S	S	S	5.9.7
Wireless support structures - collocation	P	P	P	P	P	P	P	P	P	P	P	P	5.9.7

\*\* Wireless support structures using approved concealed (stealth) design and less than 60 feet in height are permitted by right in all districts.



## **4.7. DIMENSIONAL AND DENSITY REGULATIONS.**

### **4.7.1. PURPOSE**

**4.7.1.1.** This Section establishes minimum and maximum standards for the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings. ~~pursuant to NCGS §160A-381(a).~~

**4.7.1.2.** Developments in PUD zones shall be governed by Section 4.8 and not be subject to the dimensional and density regulations of this Section 4.7 or Table 4.7-1.

### **4.7.2. DENSITY IN RESIDENTIAL DISTRICTS**

**4.7.2.1.** This Section is applicable only to districts in which residential dwelling units are permitted, as listed in Table 4.6-2. For conventional developments, density shall be regulated by the minimum lot area in accordance with Table 4.7-1. For cluster developments, see Section 4.8.

**4.7.2.2.** Every single-family dwelling unit shall be located on an individual lot of record, except as otherwise provided for in this ordinance.

### **4.7.3. LOT COVERAGE IN NONRESIDENTIAL DISTRICTS.**

Unless otherwise stated, all references to non-residential lot coverage shall refer to the impervious surface ratio set forth in Table 4.7-1.

### **4.7.4. DIMENSIONAL STANDARDS FOR LOTS.**

No permit for development shall be issued for a lot that does not meet the lot area requirements of Table 4.7-1 of this Ordinance except in the following instances:

**4.7.4.1.** Lots for public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards. Exempted utility lots which exceed 2,500 square feet may be permitted subject to review and approval by the Administrator.

**4.7.4.2.** Nonconforming Lots of Record as defined in Section 13.1.2 are exempt from minimum lot standards. Permits may be granted for structures to be built on a nonconforming lot, except that such structure shall conform to all dimensional setbacks as required in Table 4.7-1 and as set forth in Section 4.7.5.1, below.

**4.7.4.3.** Conservation developments designed in accordance with Section 6.7.

### **4.7.5. DIMENSIONAL STANDARDS FOR STRUCTURES**

#### **4.7.5.1. Setbacks**

**4.7.5.1.1.** Setbacks for buildings or structures are measured as the area between the furthestmost projection of a principal structure and the property line of the lot on which the structure is located, except as modified by the standards of this Section. Setbacks shall be unobstructed from the ground to the sky except as specified in this Section. Building setbacks for each zoning district are set forth in Table 4.7-1.

**4.7.5.1.2.** The following features may encroach into a required building setback:

- Bay windows or other structural overhang, not to exceed three (3) feet;
- Chimneys, not to exceed two (2) feet;
- Heating and cooling units, not to exceed (3) feet;
- Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed two (2) feet;
- Steps, stairs or fire escapes (non-enclosed), not to exceed six (6) feet;
- Uncovered, unenclosed decks, terraces, stoops or porches, but in no case closer than five (5) feet to any property line;
- Fences and garden/yard walls and retaining walls of less than six (6) feet in height;
- Any accessory building or use customarily incidental to the permitted primary use or building as allowed in accordance with Section 5.2 “Accessory Uses and Structures”; and
- Other minor encroachments of less than one (1) foot for field adjustments made during construction, as determined necessary by the Administrator.

**4.7.5.1.3. Setbacks for lots with more than One Street Frontage**

Structures shall meet the front yard setback from all abutting street rights-of-way unless otherwise provided in Table 4.7-1 for street sideyard setback. For undeveloped lots, the developer has the option to determine which yard shall be considered the “front” so long as the structure to be constructed on said lot shall have its front facing the same yard. For the purposes of applying setbacks to existing developed lots, the front yard setback shall be defined as the yard with the shortest amount of street frontage. All other frontages shall be considered street side yards.

**4.7.5.1.4. Provisions for Reduced Front Yard Setback in Developed Areas**

The minimum front yard setback may be reduced for any lot where the average established front setback on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the front setback on such a lot may be less than the required front setback but not less than the average of the existing front setbacks on the developed lots within 300 feet of each side.

**4.7.5.2. Height regulations**

**4.7.5.2.1.** Building height is measured as the vertical distance between the average natural grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof. (See Figure 4.7-1)

**4.7.5.2.2.** The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower or other structure or appurtenances thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited.

**4.7.5.2.3.** Zoning district height limits shall not apply to belfries, cupolas, spires, domes, monuments, airway beacons, structures for essential services, windmills, flagpoles, chimneys, or chimney flues. Height limits shall not apply to any bulkhead, elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than thirty-three percent (33%) of the area of the roof.

**TOWN OF MT PLEASANT UNIFIED DEVELOPMENT ORDINANCE**

**Table 4.7-1 Dimensional and Density Standards**

Zoning District	A	B	C	D	E	G
	Min. Lot Size (sq. ft.)	Max. Density (per acre)	Impervious Surface Ratio	Min. Public Street Frontage (feet)	Min. Lot Width (feet)	Max. Building Height (feet)
AG	87,120	0.5	-	30^	200	35
RE	43,560	1	-	30^	150	35
RL	20,000	2	-	15^	100	35
RM	10,000	4	-	15^	75	35
RH*	7,500	8	0.7	15^	50	35
CC	-	-	-	-	-	72
O-I	-	-	0.7	-	-	35
C-1	-	-	0.7	-	-	48
C-2	-	-	0.8	30^	50	48
CD	-	-	0.8	30^	100	72
I-1	-	-	0.8	30^	50	72
I-2	-	-	0.9	30^	50	72

**Notes:**

Residences permitted in non-residential districts shall conform to the dimensional standards of the RH district.

In the districts where permitted, multi-family and/or single-family attached developments shall only be subject to Columns B, C, D, and G. Setbacks for Multi-family and Single-family attached developments are set forth in Section 11.2

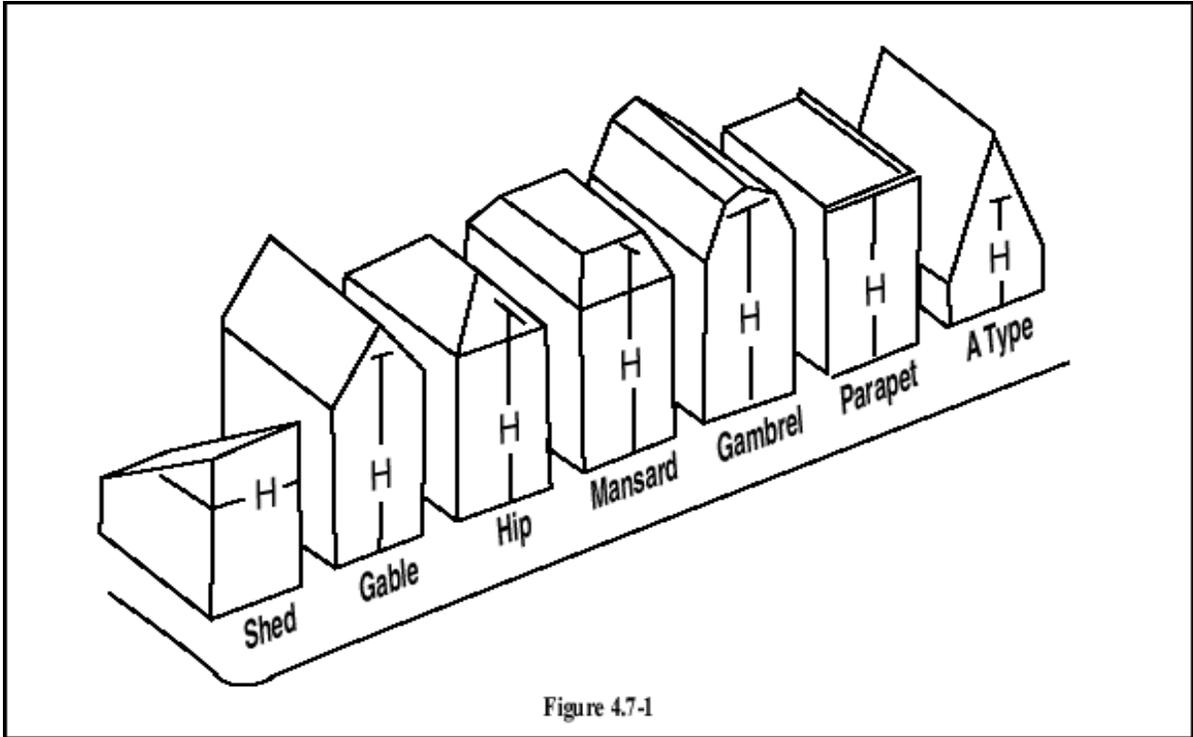
The values in Columns A & E and all setbacks may be reduced by up to 50% for Conservation Developments subject to Section 6.7, and provided that no front setback is less than 20 ft. and no side or rear setback is less than 5 ft.

Where minimum bufferyard width (subject to Section 7.4) exceeds the minimum structure setbacks, the bufferyard requirements shall prevail.

**Building Setbacks**

Zoning District	PRINCIPAL STRUCTURES					ACCESSORY STRUCTURES		
	Min. Front Setback (feet)	Max. Front Setback (feet)	Min. Street Sideyard Setback (feet)	Min. Interior Sideyard Setback (feet)	Min. Rear Setback (feet)	Min. Street Sideyard Setback (feet)	Min. Interior Sideyard Setback (feet)	Min. Rear Setback (feet)
AG	50	-	35	20	30	35	10	10
RE	45	-	30	20	30	30	5	5
RL	35	-	25	15	30	25	5	5
RM	25	-	18	10	25	18	5	5
RH	20	35	15	7	5	15	5	5
CC	-	10	-	-	-	-	-	-
O-I	10	-	10	-	-	10	5	5
C-1	10	-	10	-	-	10	5	5
C-2	10	-	10	-	-	10	5	5
CD	15	-	15	-	-	15	5	5
I-1	15	-	15	-	-	15	5	5
I-2	30	-	20	-	-	20	15	15

\*Duplexes and triplexes shall exceed the dimensional standards shown in columns A and E this table by 1.25 times.



## **4.8. PLANNED UNIT DEVELOPMENT (PUD)**

### **4.8.1. PURPOSE**

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensity. PUD zoning is intended to permit flexibility in the design, construction and processing of residential and non-residential developments of a quality that could not be achieved under conventional zoning approaches. While the conventional zoning districts and the requirements of those districts set forth in the UDO are reasonable, there may be circumstances in which it is in the community's best interests to allow unique and/or creative designs and techniques that:

- promote the most appropriate use of a parcel,
- allow diversification of use,
- facilitate the adequate and economical provision of streets, parks, open space, schools, storm drainage and sewer and water utilities,
- preserve and utilize open space,
- offer recreational opportunities close to residential uses, and
- enhance neighborhood appearance.

### **4.8.2. PROCESSING PROCEDURES**

A PUD shall be considered a conditional zoning district and shall be processed in accordance with Section 3.4 of this Ordinance. Applications for PUD are also eligible for the expedited rezoning process as prescribed in Section 3.3.

### **4.8.3. PERMITTED USES**

**4.8.3.1.** The uses permitted in a PUD district shall be the permitted uses as set forth in the approved site plan.

**4.8.3.2.** The site plan shall designate land use categories consistent with the zoning district classifications of this Ordinance. Within each land use category, proposed uses shall be subject only to the permitted uses in Tables 4.6-2 for each land use category and the maximum density for each land use category in Table 4.7-1. No conditional use permit shall be required for any conditional use listed for said land use category in Tables 4.6-2.

### **4.8.4. LAND USE COMPOSITION**

**4.8.4.1.** No site plan for a PUD district shall be approved unless the following minimum percentages of land uses are provided for within the boundaries of the district.

**4.8.4.1.1.** ~~moderate~~ medium density residential (~~4-7~~ 2-4 units per acre) = 20%

**4.8.4.1.2.** high density residential (~~4-8~~ or more units per acre) = 10%

**4.8.4.1.3.** commercial uses as permitted in the C-1 or C-2 zones = 10%

**4.8.4.2.** Open space shall be required in accordance with Section 6.5 of this Ordinance.

**4.8.5. DESIGN STANDARDS**

**4.8.5.1.** The land uses within a PUD shall not be subject to any of the dimension and density provision of Section 4.7, except that a perimeter setback of 25 feet shall be maintained.

**4.8.5.2.** PUD designs shall be subject to the recommended design elements for Table 4.8-1. The design elements in Table 4.8-1 are for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the design elements of Table 4.8-1 shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

**4.8.6. PROFESSIONAL DESIGN TEAM REQUIRED**

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of each of the following professions will be used in the planning and design process for the proposed development:

**4.8.6.1.** Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect planner certified by the American Institute of Certified Planners (AICP), or a registered land surveyor;

**4.8.6.2.** Landscaping design by a certified nurseryman or licensed North Carolina landscape architect; and,

**4.8.6.3.** Site engineering by a North Carolina Registered Engineer.

**4.8.7. MODIFICATION OF APPROVED FINAL SITE PLAN.**

Following approval of the Conditional Zoning District rezoning no modification of the land use category designations, design standards, uses, densities or any other condition of the site plan shall be permitted unless the Conditional District is modified through the procedure by which it was initially approved. However, the Administrator may approve the following modifications in writing without a new site plan:

**4.8.7.1.** A change in the location of not more than ten percent (10%) of the dwelling units or floor area;

**4.8.7.2.** A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage;

**4.8.7.3.** A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage;

**4.8.7.4.** An increase or decrease of any setback by not more than five (5) feet for setbacks of less than fifty (50) feet, or ten percent (10%) for setbacks exceeding fifty (50) feet

**4.8.8. Table 4.8-1. - Recommended Design Elements for a PUD Planned Unit Development**

As indicated in Section 4.8.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. Therefore, the following elements are recommended for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

**4.8.8.1. Architectural elements**

- Building height, rhythm, articulation, massing and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Not more than three (3) adjacent homes should contain the same front facade, and not more than three (3) adjacent homes should contain the same rear facade visible from arterial street view, on any block front. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include: variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house. This should be accomplished by providing side access garages, detached “in-line” garages, and/or L-shaped floor plans on not less than fifty percent (50%) of the lots. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front facades.

**4.8.8.2. Recreation elements**

- Not less than 20 percent (20%) of the residential units are located within 660 feet of a pedestrian, equestrian and bicycle trail.
- Recreation and open space facilities should be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans.
- Neighborhood scale recreation facilities and amenities should be provided which are functional, not retention/detention or basin-like in design. Retention basins used in conjunction with recreational facilities or amenities should be designed in accordance with the Stormwater Management Standards of this Ordinance. Such areas should include turf or landscaping within all areas not permanently covered with standing water.
- Gateway treatments may be incorporated at appropriate locations along an open space network.

**4.8.8.3. Transportation elements**

- Park-and-ride lots may be incorporated with planned facilities.
- Bicycle lanes should be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.
- Bicycle parking facilities should be provided for all uses except single family detached and duplex residences.
- A customized entrance may be provided at the entry street intersecting a thoroughfare or collector which features a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence wall details, boulevard median or other similar treatment.

**4.8.8.4. Landscaping and Buffering elements**

- Higher density or intensity developments abutting lower density or intensity areas include buffering and should substantially mitigate any negative impacts consistent with the Landscaping Standards of this Ordinance.

**4.8.8.5. Other design considerations**

- Homeowner or property owners associations should be required to maintain all roadway/right-of-way landscaping, pedestrian-bicycle, and equestrian paths (arterial, collector and local as proposed) to the standards of this Ordinance.
- Areas designated for industrial land uses should be designed to create a campus-style environment.

## **4.9. HISTORIC PRESERVATION OVERLAY (HPO) DISTRICTS**

### **4.9.1. PURPOSE**

Mount Pleasant’s designated historic districts, hereinafter referred to as the “districts,” and historic landmarks, hereinafter referred to as “landmarks” are some of the most valued and important assets of the Town of Mount Pleasant. They are established for the purpose of protecting and conserving the heritage of the Town of Mount Pleasant, County and State; for the purpose of safeguarding the character and heritage of the districts by preserving the districts as a whole and any property therein that embodies important elements of their social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of such districts or landmarks for the education, pleasure and enrichment of residents of the districts and the Town of Mount Pleasant, County and State as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the districts as a whole, thus contributing to the improvement of the general health and welfare of the Town of Mount Pleasant and the residents of the districts.

### **4.9.2. HISTORIC DISTRICT ESTABLISHMENT**

**4.9.2.1.** The historic districts are hereby established as districts which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the Town of Mount Pleasant. The boundaries of the districts are as shown on the Official Zoning Map of the Town of Mount Pleasant.

**4.9.2.2.** Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance. Such districts must also possess integrity of design, setting, workmanship, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:

**4.9.2.2.1.** An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and;

**4.9.2.2.2.** The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Town Board within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Town Board of any responsibility for awaiting such analysis, and the Town Board may at any time thereafter take any necessary action to adopt or amend its Zoning Ordinance.

**4.9.2.3.** The Town Board may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the Zoning Ordinance.

**4.9.2.4.** With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) of this section shall be prepared by the Commission and shall be referred to the Planning & Zoning Board for its review and comment according to the procedures set forth in the Zoning Ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of subsection (2) of this section.

**4.9.2.5.** Upon receipt of these reports and recommendations, the Town Board may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate Zoning Ordinance provisions.

**4.9.3. HISTORIC LANDMARK ESTABLISHMENT**

**4.9.3.1.** Upon complying with the required landmark designation procedures set forth herein, the Town Board may adopt and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

**4.9.3.2.** The ordinance shall describe each property designated in the Ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

**4.9.3.3.** No property shall be designated as a landmark until the following steps have been taken:

**4.9.3.3.1.** As a guide for the identification and evaluation of landmarks, the Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical architectural, prehistorical, and cultural significance with Board.

**4.9.3.3.2.** The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

**4.9.3.3.3.** The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his/her designee, shall either upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Commission and the Town Board shall be relieved of any responsibility to consider such comments.

**4.9.3.3.4.** The Commission and the Town Board shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

**4.9.3.3.5.** Following the public hearings(s), the Town Board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

**4.9.3.3.6.** Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the Commission in the office of the Register of Deeds of Cabarrus County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Concord Town Clerk and be made available for public inspection at any reasonable time. A third copy

of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Cabarrus County for such period as the designation remains in effect.

**4.9.3.3.7.** Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Cabarrus County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

**4.9.4. PERMITTED USES**

The districts contain several zoning classifications. All uses permitted in any such district, whether by right or as a special exception, shall be permitted in the historic districts according to the procedures established for such uses.

**4.9.5. DIMENSIONAL REGULATIONS**

**4.9.5.1.** Structures within the historic districts shall observe the dimensions and other regulations of this Ordinance, except as follows:

**4.9.5.2.** No structures or part thereof shall extend nearer to or be required to be set back further from the front lot line than the average distance of the setbacks of the nearest principal buildings within 300 feet on each side of such building and fronting on the same side of the street.

**4.9.5.3.** No building shall exceed a height of 35 feet.

**4.9.5.4.** The minimum side yard setback shall be 15 feet.

**4.9.5.5.** The minimum new side yard setback shall be 10 feet.

**4.9.5.6.** It is the intent of this section to supersede, within the historic districts, the dimensional regulations of the basic districts applying to the property.

**4.9.6. AUTHENTIC RESTORATION OR RECONSTRUCTION**

**4.9.6.1. Permitted Subject to Approval of Historic Preservation Commission and Planning & Zoning Board, Although Not Complying with Dimensional Regulations**

Where it is found by the Historic Preservation Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of a structure of historic and/or architectural significance to the historic district, such activity may be approved by the Planning & Zoning Board, following the approval by the Historic Preservation Commission.

**4.9.6.2. Approval Subject to Conditions**

The Planning & Zoning Board, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

**4.9.6.3. Limitation on Approval**

The Planning & Zoning Board shall not be authorized, in action undertaken by this section, to approve a use of property

which is not a use permitted by right or as a special exception use within the district in which the property is located. In addition to any other condition the Planning & Zoning Board may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the Town of Mount Pleasant blameless against any and all liability, cost, damage, or expense suffered by the Town of Mount Pleasant as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the vehicular truck way of a street or alley shall be, at its lowest point, 10 feet above the travel way.

**4.9.7. PARKING WAIVER**

Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces required by the zoning regulations for a building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the district, it shall recommend to the Planning & Zoning Commission a waiver, in part or in whole, of the off-street parking requirements. The Planning & Zoning Board may authorize a lesser number of off-street parking spaces, provided: (1) the Board finds that the lesser number of off-street parking spaces will not create problems due to increased on-street parking, and (2) will not constitute a threat to the public safety.

**4.9.8. RECOMMENDATIONS ON SPECIAL EXCEPTION APPLICATIONS**

All special exception applications within the historic districts shall be reviewed by the Historic Preservation Commission at its next regular meeting after the application has been submitted in accordance with the requirements of this Ordinance. The Historic Preservation Commission shall forward its comments and recommendations within 45 days of the filing of the application. The recommendations shall be presented to the Planning & Zoning Board which has final decision responsibility on applications for special exceptions.

**4.9.9. HISTORIC PRESERVATION COMMISSION**

Refer to Section 2.5 of this Ordinance.

**4.9.10. CERTIFICATE OF APPROPRIATENESS**

**4.9.10.1. Required**

**4.9.10.1.1.** From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, and pavement, or other appurtenant features) no above-ground utility structure nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished on such landmark or within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. The municipality shall require such a certificate to be issued by the Commission prior to the issuance of a compliance permit or building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purpose of this part. A Certificate of Appropriateness shall be required whether or not a building permit or compliance permit is required. Any building permit or such other permit not issued in conformity with this section shall be invalid.

**4.9.10.1.2.** The Town of Mount Pleasant and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks,

trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Town of Mount Pleasant or public utility companies.

**4.9.10.2. Procedures**

**4.9.10.2.1.** An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Planning Services Director. Applications for Certificates of Appropriateness shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been filed, complete in form and content, at least 28 days prior to the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting.

**4.9.10.2.2.** The Commission shall, by uniform rule in its Rules of Procedure, require data as are reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required data have been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

**4.9.10.2.3.** Upon receipt of an application, the Administrator shall notify the Historic Preservation Commission at least seven calendar days before its regularly scheduled meeting.

**4.9.10.2.4.** Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall conduct a public hearing in accordance with Section 3.1.7 of this Ordinance. The Administrator shall be responsible for notifying the affected parties per section 3.1.5 or this Ordinance.

**4.9.10.2.5.** The Commission shall take action on the application and in doing so shall apply the Review Criteria, contained in Section 4.9.11 of this Ordinance.

**4.9.10.2.6.** The Commission's action on the application shall be approval, approval with modifications, or disapproval.

**4.9.10.2.7.** Prior to final action on an application, the Commission, using the guidelines in Section 4.9.11, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district.

**4.9.10.2.8.** The Commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it be approval, approval with modifications, or denial.

**4.9.10.2.9.** If the Commission fails to take final action upon any application within 60 days after the complete application is submitted to the Planning Services Director, the application shall be deemed to be approved.

**4.9.10.2.10.** If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

**4.9.11. Review Criteria**

**4.9.11.1. Intent**

**4.9.11.1.1.** It is the intention of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district or of landmarks shall be harmonious

with the special character of the district or landmark. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction, the Commission shall encourage contemporary design which is harmonious with the character of the district.

**4.9.11.1.2.** In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity.

**4.9.11.1.3.** The Commission shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of the historic district or landmark.

**4.9.11.2. Exterior Form and Appearance**

**4.9.11.2.1.** The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:

- lot coverage, defined as the percentage of lot area covered by primary structures;
- setback, defined as the distance from the lot lines to the building(s);
- building height;
- spacing of buildings, defined as the distance between adjacent buildings;
- exterior building materials;
- proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- surface textures;
- roof shapes, forms and materials;
- use of local or regional architectural traditions;
- general form and proportions of buildings and structures, and relationship of any additions to the main structure;
- expression of architectural detailing, such as lintels, cornices, brick bond, and foundation materials;
- orientation of the building to the street;
- scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space and nearby buildings

and structures;

- proportion of width to height of the total building facade;
- archaeological sites and resources associated with standing structures;
- appurtenant fixtures and other features such as lighting;
- structural condition and soundness;
- walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
- ground cover or paving;
- maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement;
- color (new construction only and not for existing residences); and
- effect of trees and other landscape elements.

**4.9.11.2.2.** The Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for Certificates of Appropriateness.

**4.9.11.2.3.** Interior arrangement or design shall be exempt from review by the Historic Preservation Commission. Interior construction and/or reconstruction shall not require a Certificate of Appropriateness.

**4.9.12. CERTAIN CHANGES NOT PROHIBITED**

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, alteration, restoration, or demolition of any such feature which the Building Inspector, Zoning Enforcement Officer or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure with approval by the Commission.

**4.9.13. DELAY IN DEMOLITION**

**4.9.13.1.** An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building structure or site within a historic district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner should suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure, or site. If the Commission finds that a building, structure, or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

**4.9.13.2.** In the case of action initiated by the Town, the application for such a certificate will first be reviewed by the Commission and secondly by the Town Board for final order of demolition or removal. The Commission shall consider the Housing Code Officer's inspections and recommendations for demolition or removal of the building or structure.

**4.9.13.3.** If the Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district and the final designation has not been made by the Town Board, the demolition or destruction of any building, structure, or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Town Board takes final action on the designation, whichever occurs first.

**4.9.14. APPLICATION REVIEW BY COMMISSION**

As part of its review procedure, the Commission may view the premises and seek the advice of the Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

**4.9.15. APPEAL OF DECISION**

**4.9.15.1.** In any action granting or denying a Certificate of Appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.

**4.9.15.2.** Written notice of the intent to appeal must be sent to the Commission, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Cabarrus County.

**4.9.15.3.** The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision with 30 days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

**4.9.16. COMPLIANCE**

**4.9.16.1.** Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Development Services Director. Failure to comply with a Certificate of Appropriateness shall be a violation of the Zoning Ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of six months shall be considered as a failure to comply with a Certificate of Appropriateness.

**4.9.16.2.** Nothing contained in this Ordinance shall prohibit, impair, or limit in any way the power of the Town Board to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic Districts in violation of the provisions of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (See General Statute 160A-175 and 160A-389.)

**4.9.17. STATE RECOMMENDATIONS**

The districts shall not be established or the authority and powers of Section 2.5 Commission Powers be implemented until the Department of Cultural Resources shall have been given an opportunity, in accordance with the provisions of North Carolina General Statute 160A-400.4 (2), to make recommendations with respect to the establishment of the districts.

## **4.10. MANUFACTURED HOME OVERLAY (MHOD) DISTRICT**

### **4.10.1. PURPOSE**

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in order to implement NCGS 160A-383.1 and to provide affordable housing opportunities for low and moderate income persons. A manufactured home is defined as structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

### **4.10.2. MODULAR HOMES EXEMPTED**

Manufactured (or Modular) Housing constructed to meet the N.C. State Building Code shall be exempt from the restrictions of this Section and shall be permitted in any single-family detached dwelling zoning district subject to any other provisions of this Ordinance.

### **4.10.3. ESTABLISHMENT**

This Section establishes two (2) Manufactured Home Overlay Districts in order to provide flexibility with regard to various manufactured home products:

- MH-1 Manufactured Home Overlay District
- MH-2 Manufactured Home Overlay District

### **4.10.4. CLASSIFICATION OF MANUFACTURED HOMES**

**4.10.4.1.** The following classification system is hereby adopted for purposes of this Section:

- MANUFACTURED HOME - TYPE I. A single-section manufactured home less than seventeen (17) feet in width.
- MANUFACTURED HOME - TYPE II. A multi-section manufactured home greater than or equal to seventeen (17) feet in width.

**4.10.4.2.** The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

**4.10.5. (MH-1) MANUFACTURED HOME OVERLAY DISTRICT**

**4.10.5.1. Purpose**

The purpose of the MH-1, Manufactured Home Overlay District, is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in Section 4.13.7 herein are met.

**4.10.5.2. Uses Permitted**

Use permitted as of right within the MH-1 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Use Matrix, Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type I (permanent installations only)
- Manufactured Homes - Type II (permanent installations only)

**4.10.5.3. Design Standard**

Refer to Section 4.10.7 herein.

**4.10.6. MH-2, MANUFACTURED HOME OVERLAY DISTRICT.**

**4.10.6.1. Purpose**

The purpose of the MH-2, Manufactured Home Overlay District, is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in Section 4.10.7 herein are met.

**4.10.6.2. Uses Permitted**

Use permitted as of right within the MH-2 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table 4.6-2 of this Ordinance).
- Manufactured Homes - Type II (permanent installations only)

**4.10.6.3. Design Standards**

Refer to Section 4.10.7 herein.

**4.10.7. DESIGN STANDARDS**

All individual manufactured homes within an MH-1, MH-2 or Overlay District shall comply with the following design and installation standards:

**4.10.7.1.** Any manufactured home on an individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square footage standards and requirements to which a conventional single-family residential dwelling on the same lot would be subject.

**4.10.7.2.** All manufactured homes on individual lots shall be oriented so that the side having the front (main) entrance shall be no more than 20 degrees from parallel to the front property line. This does not apply to manufactured homes that are at least 200 feet from the right of way.

**4.10.7.3.** The roof on Type II manufactured homes shall have a minimum pitch of 3:12 (a rise of a nominal three (3) feet for each 12 feet of horizontal run or portion thereof). The roof shall be finished with a type of shingle that is

commonly used in standard residential construction with a class C or better fire rating. All roof structures on Type II manufactured homes shall provide eaves and raker projections of no less than six (6) inches, excluding guttering.

**4.10.7.4.** The exterior siding on manufactured homes shall consist of non-reflective vinyl or aluminum lap siding, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

**4.10.7.5.** A continuous masonry (brick, stone or decorative block) curtain wall or foundation, unpierced except for ventilation and access, shall be installed under the outer perimeter of the dwelling from its base to the ground so as to be compatible with surrounding residential land uses.

**4.10.7.6.** The dwelling shall be attached to a permanent foundation system in compliance with the N.C. State Building Code as may be amended.

**4.10.7.7.** All wheels, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit.

**4.10.7.8.** The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas except vents and crawl spaces. The foundation shall be exposed no more than 12 inches above grade.

**4.10.7.9.** All manufactured homes shall have a deck or porch, at least 32 square feet in area, at each entrance.

# **ARTICLE 5**

## **SUPPLEMENTAL USE REGULATIONS**

*Summary: This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a conditional use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for Conditional Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.*

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## **5.1. GENERAL PROVISIONS**

### **5.1.1. APPLICABILITY**

The provisions of Article 5 are supplemental to the general provisions of the other Articles of the Unified Development Ordinances. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

### **5.1.2. CONFLICT WITH OTHER REGULATIONS**

If there is a conflict between standards of Article 5 and any other requirements of this Ordinance, the standards of this Article 5 shall control, except as set forth in section 5.1.3, below.

### **5.1.3. RELATIONSHIP TO USE TABLE**

The zoning district in which a particular use is permitted is controlled by Table 4.6-2, and in the event of any inconsistency between the provisions of this Article 5 and the Use Matrix (Table 4.6-2), the provisions of the Use Matrix shall control.

**5.2. ACCESSORY USES & STRUCTURES**

**5.2.1. PERMITTED ACCESSORY USES AND STRUCTURES**

The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to the provision of Section 5.4.1)	see Table 4.6-2 in Article 4
Garages or Carports (noncommercial) (subject to this Section)	All Residential Zoning Districts
Greenhouses (noncommercial) (subject to this Section)	All Residential Zoning Districts
Home Occupations (subject to Section 5.4.2)	All Residential Zoning Districts
Off-Street Parking and Driveways (subject to Article 8)	All districts.
Wireless Support Structures and Antennas (subject to Section 5.9.7)	see Table 4.6-2 in Article 4
Other Telecommunication Antennas or Towers	see Table 4.6-2 in Article 4
Satellite Dishes and Antennas (subject to Section 5.2.9)	All Zoning Districts
Signs (see Article 12)	All Zoning Districts
Storage Buildings (residential) (subject to this Section)	All Residential Zoning Districts.
Swimming Pools (subject to the provisions of Section 5.2.5)	All Residential Zoning Districts.
Stables/Private (see Section 5.5)	see Table 4.6-2 in Article 4
Tennis Courts (subject to the provisions of this Section)	All Residential Zoning Districts.
Nonresidential Accessory Structure (subject to Section 5.2.7)	All Zoning Districts on lots with an approved nonresidential principal use.
Parking of Vehicles (subject to Section 5.2.10 and Article 8)	All Zoning Districts
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to the location standards of Section 5.2.3) as long as the use is permitted in the zoning district in which it is located.	All Zoning Districts. See Table 4.6-2 in Article 4.

**5.2.2. ESTABLISHMENT AND USE**

**5.2.2.1.** Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in Section 5.2.3.

**5.2.2.2.** Accessory buildings shall not be used for dwelling purposes, except as provided in Section 5.3.

**5.2.2.3.** No vehicle, tractor trailer, shipping container, manufactured home, recreational vehicle, POD or similar container shall be used as an accessory building on any property in any zoning district. Properties zoned I-1 and public recreational uses may utilize shipping containers for storage if the containers are located in the side or rear yard of a principal structure and more than 150 feet from any street right-of-way or adjacent property.

**5.2.3. LOCATION**

**5.2.3.1.** Accessory structures shall be required meet the setback standards for accessory structures as set forth in Table 4.7-1 Dimensional and Density Standards. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure shall be located less than 36 inches from the exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

**5.2.3.2.** For residential lots not exceeding two (2) acres, detached accessory buildings shall not be located in the front yard. Detached accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the required rear yard and shall not be closer than five feet to any side or rear lot line or setback line.

**5.2.3.3.** For residential lots exceeding two (2) acres, detached accessory buildings may be located in the front yard but not closer than 75 feet from the front property line/street right-of-way. Detached accessory buildings may be closer than the distance specified above if they are not visible from a public street.

**5.2.3.4.** Enclosed nonresidential accessory structures may only be located in the rear yard of a lot, behind the rear building line of the principle structure.

**5.2.3.5.** Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.

**5.2.4. HEIGHT**

Accessory structures shall not exceed:

**5.2.4.1.** the standard height regulations of the zoning district as set forth in Table 4.7-1 where accessory structure is located within the buildable lot area;

**5.2.4.2.** 15 feet in height, where accessory structure is located within a principal structure setback yard.

**5.2.4.3.** the height of the principle structure(s) on the lot.

**5.2.5. SWIMMING POOLS**

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district provided:

**5.2.5.1.** The swimming pool and incidental installations are located in other than the front yard.

**5.2.5.2.** If any pool contains at least 450 square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a pool cover shall be provided and shall be installed whenever the pool is not in use.

**5.2.5.3.** The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

**5.2.6. LIGHTING**

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon adjoining land.

**5.2.7. ADDITIONAL STANDARDS FOR NONRESIDENTIAL ACCESSORY STRUCTURES**

**5.2.7.1.** The size of enclosed nonresidential accessory structures is limited to 30% of the gross floor area of the principle structure, not to exceed 1,000 square feet.

**5.2.7.2.** Only one (1) nonresidential accessory structure may be established per lot.

**5.2.7.3.** Nonresidential accessory structures may not be used for retail sales or customer contact areas.

**5.2.7.4.** No temporary or permanent signs may be placed on nonresidential accessory structures.

**5.2.7.5.** Nonresidential accessory structures shall comply with all design standards set forth in the Ordinance, including the Nonresidential Building Design Standards in Section 11.3 and Landscaping and Buffering Standards in Article 7.

**5.2.8. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS.**

The following uses/structures shall be exempt from the provisions of this Section:

**5.2.8.1.** Fencing and walls;

**5.2.8.2.** mailboxes;

**5.2.8.3.** plant materials;

**5.2.8.4.** any structure or improvement, once installed, is at grade or less than one (1) feet above grade.

**5.2.9. STANDARDS FOR ANTENNA DEVICES/SATELLITE DISHES**

The following rules shall apply to devices covered by Section 207 of the [Telecommunications] Act [of 1996] in the interest of promoting the safety and welfare of the Town:

**5.2.9.1. Type of Mountings Permitted/Prohibited**

- Free standing on patio or deck – prohibited
- Fence/railing – prohibited
- Siding mounted – permitted
- Roof mounts – permitted
- Fireplace chimney mounted – permitted on stone/brick chimneys or other materials approved by the zoning administrator
- Balcony mounts on railing or deck – permitted
- Pole mounted on detached footing – permitted (see #2 Height Restriction, E.)

**5.2.9.2. Height Restrictions**

- DBS (Direct Broadcast Satellite) – Not more than 12 feet above roof level.
- MMDS (Multichannel Multipoint Distribution Services) – Not more than 12 feet above roof level.
- TVBS (Television Broadcast Signals) – Not more than height limitations above roof level as specified in local IBC Code (International Building Code with North Carolina Amendments).
- Devices are to generally be mounted so they are not visible from front of unit.
- Mounted devices shall only be as high as necessary above a structure surface to give the device the required clear view of the transmitting signal antenna/satellite.

**5.2.9.3. Size Restrictions**

- DBS – Dish shall not exceed 1 meter (39.37 inches) in diameter.
- MMDS – Dish shall not exceed 1 meter (39.37 inches) in diameter or diagonally.
- TVBS – Antennas shall be limited in size pursuant to local IBC Code.

**5.2.9.4. Location of Device**

- Rear of dwelling unit unless signal would be impaired.
- Device may be mounted on owner’s side of firewall toward rear of unit.
- If rear of unit is not suitable, device shall only then be permitted in front of dwelling unit in a location as inconspicuous as possible.
- If rear and side of dwelling is not suitable, device shall only then be permitted in front of dwelling unit in a location as inconspicuous as possible.
- Device shall not interfere nor obstruct the exterior maintenance responsibilities of the Town and/or utility providers.
- Device shall not be located near power lines or other utilities, e.g. gas, water, phone, etc.
- Device shall not extend beyond unit lot lines.
- Devices are prohibited on Town common property.

**5.2.9.5. Installation**

- Device shall be grounded in accordance with N.E.C. (National Electric Code) and local codes.
- Device shall be installed in complete accordance with local codes:
  1. Siding mounted devices shall be anchored securely to a wall with corrosive resistant fasteners.
  2. Mounting brackets and corrosive resistant fasteners (except those furnished with the antenna by its manufacturer) shall be painted to match the unit siding color. If desired the antenna and its factory furnished mounting materials (usually a medium gray color) may be painted to match the unit siding color.

3. All devices shall be able to withstand 50 mph winds without failure.
4. All devices shall exhibit UL (Underwriters Laboratory) label or equivalent.
5. All devices shall comply with all ordinances, laws, regulations and industry standards.
6. All energy needed to operate said device shall be at owner's expense.
7. No device shall impair the signals of other devices or any other type of signal.
8. Owner is responsible for maintaining the paint or other finishes on the device and its brackets, fasteners, or other associated hardware so they do not rust and weaken over time.
9. For safety, all exterior wiring shall be neatly attached to the device and building structure and hidden from view as much as possible to prevent such wiring from coming loose and causing bodily injury or property damage. If practical, wiring shall be run internally to prevent U.V. (Ultra Violet) deterioration and wind damage.
10. Any persons or individuals, who install antenna/satellite dishes, must contact the local service providers for that jurisdiction before installation begins. (i.e. Power, cable, sewer, water, gas, etc.)

**5.2.9.6. Removal**

Should the device be removed, owner shall restore premises to condition it was in prior to installation, wear and tear excepted.

**5.2.9.7. Damage**

Owner is responsible for any damage caused directly or indirectly by the device or installation or removal thereof.

**5.2.9.8. Acronyms**

- DBS- Direct Broadcast Satellite
- MMDS- Multichannel Multipoint Distribution Services
- TVBS- Television Broadcast Signals (Commonly referred to as antennas)
- IBC- International Building Code with North Carolina Amendments
- N.E.C.- National Electric Code
- U.V. Ultra Violet

**5.2.10. PARKING OF VEHICLES**

**5.2.10.1. Vehicle Parking on Residential Properties**

**5.2.10.1.1.** No more than one (1) junked or inoperable vehicle may be parked on residentially-zoned or used property. In accordance with North Carolina General Statute 160A-303, junked vehicle shall mean a vehicle that is partially dismantled or wrecked, cannot be self-propelled or moved in a manner in which it was originally intended to move, or is more than five (5) years old and appears to be worth less than \$100.00. Such vehicle shall be located in the rear yard and shall be concealed from public street rights-of-way and adjacent properties for up to 60 calendar days. Such vehicles located on the premises for more than 60 calendar days shall be stored inside an approved completely enclosed accessory structure.

**5.2.10.1.2.** All operable vehicles shall be parked on a paved or gravel driveway, in the side or rear yard of the principal structure, or inside of an approved accessory structure. This excludes occasional gatherings of not more than one day per month.

**5.2.10.2. Commercial Vehicle Parking on Residential Properties**

On any residentially-zoned or used lot of less than two (2) acres in size, no commercial vehicle with more than two (2) axles may be parked on the property for longer than is necessary to make deliveries or perform construction work on the property. No residentially-developed lot may be used as the base of operation for any freight hauling truck.

**5.2.10.3. Recreational Vehicles and Boat Parking**

**5.2.10.3.1.** No more than one (1) recreational vehicle and no more than two (2) motorized boats may be parked on a property used for single-family or two-family residential purposes.

**5.2.10.3.2.** Recreational vehicles and boats of greater than 30 feet in length shall not be parked on lots of less than 20,000 square feet which are residentially-zoned or used for single-family or two-family residential purposes. All recreational vehicles and boats shall be parked on a paved or gravel driveway, in the side or rear yard of the principal structure, or inside of an approved accessory structure.

**5.2.10.3.3.** Recreational vehicles and boats shall not be parked on any multi-family residential or non-residential property for greater than 24 hours unless there is a designated area on an approved site plan for such storage that is screened in accordance with Section 11.7.

**5.2.10.3.4.** Recreational vehicles shall only be used for recreational travel purposes. A recreational vehicle shall not be used as a dwelling at any time or for visiting guests for more than 14 days per calendar year. The usage of a recreational vehicle for living, sleeping, housekeeping, storage, or commercial purposes or the connection of such vehicle to electric or wastewater disposal (other than for periodic maintenance and/or repair purposes) shall be prohibited. Any slide-outs shall not be extended for a period of greater than 24 hours for periodic maintenance, repair, loading and unloading.

### **5.3. AGRICULTURAL USES**

#### **5.3.1. AGRICULTURAL ANIMALS**

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, ~~pot-bellied pigs~~, or other similar household pets. The provisions of this Section shall not apply to the AG Agriculture District or to any bona fide farm within the extraterritorial jurisdiction (ETJ). In addition to the provisions of this Section, the Animal Regulations of within the Town of Mount Pleasant Code of Ordinances apply.

- A. Livestock and fowl shall be contained within an enclosed area on the property and not permitted to roam at large.
- ~~B. No livestock shall be kept, maintained or stabled within any residential zoning district on any lot not exceeding two (2) acres. Livestock shall be permitted on parcels of two (2) acres or more and as set forth in Table 4.6.2 (see Article 4), certain livestock shall be permitted subject to the following provisions:~~
- C. All enclosures, buildings, or structures (~~excluding fences~~) used to house livestock shall be located so that they are no closer than 150 feet from a dwelling unit. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such livestock use may no longer expand towards a newly established residential use.
- D. All enclosures, buildings, or structure used to house fowl shall be located so that they are no closer than 150 feet from an adjacent dwelling unit or 40 feet from any property line. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing fowl use, except that such fowl use may no longer expand towards a newly established residential use.
- E. Not more than one (1) Animal Unit shall be shall be kept, maintained or stabled per ~~6,000-20,000~~ 20,000 square feet of land.

## **5.4. RESIDENTIAL USES**

### **5.4.1. ACCESSORY DWELLINGS UNITS**

- A. Accessory dwellings shall be built to NC Building Code. Manufactured homes and recreational vehicles shall not be used as accessory dwellings.
- B. Only one (1) accessory dwelling or accessory apartment shall be permitted per lot. The accessory dwelling or accessory apartment shall not exceed 50 percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.
- C. An accessory dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the accessory dwelling unit may be sited to the side of the principal building only if the lot exceeds 10 acres in size.
- D. The accessory dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.
- E. ~~The exterior of the accessory dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance.~~ Manufactured homes shall not be used as accessory dwellings or be pulled up to or attached to a primary residence and considered an accessory apartment or accessory dwelling unit. ~~Manufactured homes, as a principal or accessory dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.~~
- F. ~~A minimum of one (1) additional parking space shall be required for an accessory dwelling. Adequate off-street parking shall be provided for any vehicles owned by occupants of the accessory Dwelling or accessory apartment.~~
- G. Where there is no public sanitary sewer service to the accessory dwelling unit, County Health Department shall approve sanitary sewer services provided to such accessory dwelling unit prior to its construction.

**5.4.2. HOME OCCUPATIONS**

**5.4.2.1. Purpose**

A home occupation is permitted as an accessory use in the districts shown in Table 4.6-2 (see Article 4) and in the PUD Districts. The purpose of the home occupation regulations and performance standards are:

- to establish criteria for operation of home occupations in dwelling units within residential districts;
- to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;
- to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;
- to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;
- to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;
- to enable the fair and consistent enforcement of these home occupation regulations; and
- to promote and protect the public health, safety and general welfare.
- No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

**5.4.2.2. List of Home Occupations**

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

- Accounting, bookkeeping
- Appraisal
- [Low volume baking and canning](#)
- [Catering](#)
- Lawn care services
- Legal services
- Real estate sales
- Insurance sales
- Childcare (see Section 5.5.2)
- Drafting services
- Tailoring (dressmaking, alterations, etc.) services
- Catering and baking (subject to health department and/or department of agriculture approval)
- Engineering, architecture and landscape architecture
- Financial planning & investment services
- Fine arts studio (creation of individual works only, no mass production)
- Interior decoration (no studio permitted)
- [Low volume mail order or internet-based business \(order taking only, no stock in trade\)](#)
- Musical instruction, voice or instrument
- Tutoring
- Office work
- Similar, low impact endeavor as determined by the Administrator

**5.4.2.3. Home Occupations Not Permitted**

The following Uses shall not be permitted as home occupations in Residential Zoning Districts: medical/dental office, motor vehicle repair or similar uses, temporary or permanent motor vehicle display for purposes of sale or lease,

restoration or conversion, engine repair, furniture refinishing, gymnastic facilities, studios or outdoor recreation activities, medical/cosmetic facilities for animals including animal care or boarding facilities, machine shop/metal working, retail sales, contractors shops, mortuaries, medical procedures, body piercing and/or painting, tattoos, or any type of physical or psycho-therapy, or any other use not allowed in accordance with 5.12.2.

**5.4.2.4. Rural Home Occupations**

- A. The following home occupations shall be permitted in the AG (Agriculture) zoning district in addition to those specified in Section 5.4.2.2 herein:
  - 1. Auto repair work (storage of six (6) vehicles or less)
  - 2. Contractor’s and trade shops, indoor operations only, including electrical, plumbing, and mechanical
  - 3. Machine welding shops
  - 4. All home occupations permitted in the AG (Agriculture) District shall comply with the criteria of Table 5.4-1 not inconsistent with this section. In the event of an inconsistency between Table 5.12-1 and the provisions of this Section 5.12.5.2.
  
- B. Outdoor storage shall comply with the following standards:
  - 1. Storage shall be limited to materials related to the business and shall not involve any hazardous materials;
  - 2. Outdoor storage areas shall comply with Section 11.7 of this Ordinance and shall not occupy an area of land exceeding 80 square feet.
  - 3. Materials shall not be stacked to a height exceeding four (4) feet and shall not be visible from the public right-of-way or an adjacent lot or parcel zoned or occupied for residential use. Any screening required to comply with this subsection shall be accomplished by using wood or masonry fencing or a vegetative hedge.
  
- C. Where a home occupation is conducted in an accessory building, such accessory building shall not exceed the lesser of the following:
  - 1. The square footage of the footprint of the dwelling, or
  - 2. 2,000 square feet.
  
- D. Nonresident employees may work in the home occupation as follows:
  - 1. Up to 1,000 square feet of floor area - one nonresidential employee
  - 2. 1,000 and over square feet of floor area - two nonresident employees

For the purpose of this subsection, “floor area” refers to the gross floor area of the entire Dwelling Unit, and not the floor area devoted to the Home Occupation.
  
- E. The rural home occupation shall not create any smoke, odors, dust, or noise at a level discernable at any of its lot lines.

**5.4.2.5. Exempt Home Occupations**

The following uses are exempt home occupations and do not require a Zoning Permit:

- Artists, sculptors, composers not selling their artistic product to the public on the premises;
- Craft work, such as jewelry-making and pottery with no sales permitted on the premises;
- Home offices with no client visits to the home permitted;
- Telephone answering and message services

**5.4.2.6. Unsafe Home Occupations**

If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to Section 1.6 of this Ordinance.

**5.4.2.7. Expiration of Home Occupation Permit**

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within 30 days after written notice from the Administrator.

**5.4.2.8. Performance Standards**

Home occupations are authorized if they comply with the performance standards set forth in Table 5.4-1. A check mark “✓” indicates that the performance standard applies in the applicable district.

**Table 5.4-1: Home Occupation Performance Standards by Zoning District**

PERFORMANCE STANDARDS	AG	All other districts
The use shall be clearly incidental and secondary to residential occupancy, shall not change the residential character of the dwelling, and shall conform with all applicable local, state, and federal regulations.	✓	✓
The use shall be conducted entirely within the interior of the residence and shall not be located in an accessory structure.		✓
A full-time resident operator shall be employed.	✓	✓
Obtain permits before operating home occupation, except those exempted under Section 5.4.2.5.	✓	✓
No more than one (1) non-resident employee shall be permitted.		✓
Not more than 6 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.	✓	✓
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.	✓	✓
Music, <sup>1</sup> art, craft or similar lessons: (12 or fewer clients per day)	✓	✓
Childcare (maximum of 6 or fewer children); see Section 5.16	✓	✓
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation	✓	✓
Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials	✓	✓
Parking shall be provided only in driveway and shall not create hazards or street congestion	✓	✓
Outside storage of heavy equipment or material shall be prohibited.		✓
No more than three (3) commercial vehicles are to be stored on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned by persons residing on the premises.		✓
Mechanized equipment shall be used only in a completely enclosed building		✓
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.	✓	✓
Deliveries and pickups shall be those normally associated with residential services and shall not block traffic circulation and occur only between 8:00am and 8:00pm Monday-Saturday	✓	✓

<sup>1</sup> provided all electronically amplified sound is not audible from adjacent properties or public streets.

**5.4.3. Vacation Rental Homes**

- A. Vacation rental homes shall be subject to the provisions set forth in North Carolina General Statutes Chapter 42A.
- B. As required for the establishment of all other uses permitted within this Ordinance, all vacation or short-term rental homes shall have obtained a Zoning Permit. The Zoning Permit shall be renewed annually upon determining compliance with the requirements of this section. In the AG, RE, RL, RM, RH, and O-I districts, vacation rental homes shall first obtain a Special Use Permit from the Board of Adjustment.
- C. All properties shall have conspicuously posted two (2) local contact persons who will be responsible for handling any problems that arise with the property. These contact persons shall also be provided Town of Mount Pleasant upon application for a Zoning Permit to establish such use, and updated as changes occur.
- D. A minimum of one (1) parking space for every bedroom shall be provided.
- E. There shall be no sound amplification devices located outside.
- F. More than three (3) visits by the Cabarrus County Sheriff's Department for noise or disturbances within one (1) year may result in revocation of the Zoning Permit.
- G. Garbage and recycling receptacles shall be provided and emptied at a minimum of once a week. Garbage and recycling receptacles shall be stored in a screened area to the side or rear of the house except on collection day. No garbage or refuse shall be located outside of the garbage receptacle.
- H. Vacation rental homes shall not be occupied at a rate of not more than two (2) persons per bedroom.
- I. Vacation rental homes shall be inspected by the Fire Marshal prior to initial use and a minimum of once per calendar year. Proof of compliance shall be provided to the Town of Mount Pleasant.
- J. Tourist homes shall not be rented to more than five (5) different occupants within a 30-day period. Rental records shall be provided annually to the Town of Mount Pleasant to ensure compliance.

## **5.5. CIVIC, GOVERNMENT, & INSTITUTIONAL USES**

### **5.5.1. CEMETERIES AND CREMATORIES**

- A. Crematories are subject to the regulations of Chapter 90, Article 13F of the North Carolina General Statutes. Pursuant to NCGS 90-210.123(b), any crematories may be established by right in commercial or industrial zoned district so long as it is located on the same property or adjacent to a funeral establishment.
- B. Minimum setback for all crematories is 100 feet from any residential structure.
- C. Minimum setback for any grave, burial plot, columbarium, or mausoleum from any exterior property line is the minimum accessory structure setback for the zoning district in which it is located, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery, and any buffer yard required by Section 7.4 shall be observed.

### **5.5.2. CHILD CARE FACILITIES**

- A. Child care facilities shall comply with all applicable North Carolina Department of Health and Human Services (NCDHHS) regulations. A copy of the state license shall be submitted to the Administrator prior to the issuance of a Certificate of Compliance.
- B. Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children. Standards for access and off-street parking/loading are set forth in Article 8 of this Ordinance. The use shall front a street classified as a collector or a thoroughfare. The provisions of this subsection shall not apply to child care facilities as Home Occupations.

~~The following shall be submitted with the application for a zoning compliance permit or certificate of zoning compliance:~~

- ~~• A copy of the N.C. state license issued to the facility.~~
- ~~• Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).~~

~~Such areas shall be located not less than 1,000 feet from any Hazardous Waste Facility; and shall be enclosed with a fence, with a minimum height of five (5) feet.~~

### **5.5.3. RESIDENTIAL CARE FACILITIES**

Residential care facilities shall comply with all applicable North Carolina Department of Health and Human Services (NCDHHS) regulations. A copy of the state license shall be submitted to the Administrator prior to the issuance of a Certificate of Compliance.

~~The provisions of this Section apply to any nursing home or residential care facility. The provisions of this section shall not apply to a family care home as defined in Appendix A.~~

~~Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for the operation of such a facility.~~

~~No residential care facility shall be located within 1,000 feet from any Hazardous Waste Facility.~~

~~Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.~~

## **5.6. RECREATION & ENTERTAINMENT USES**

### **5.6.1. BEACH BINGO ESTABLISHMENTS**

In addition to the provisions of NCGS 14-309.14, the following requirements shall apply to Beach Bingo establishments:

- A. Beach Bingo establishments shall be located no closer than 100 feet from the closest school, daycare facility or religious institution.
- B. Beach Bingo establishments shall have one parking space for every 3 seats.
- C. It is unlawful to permit patrons or employees under the age of 21 in a structure occupied by a gaming facility, except for restrooms or rooms for recreation or entertainment.
- D. The Beach Bingo establishment entrance shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are prohibited from entering the premises, except for use of restrooms and separate rooms for recreation or entertainment. This sign shall comply with the Sign Standards in Article 12 of this Ordinance.
- E. The Beach Bingo establishment entrance shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are prohibited from entering the premises, except for use of restrooms and separate rooms for recreation or entertainment. This sign shall comply with the Sign Standards in Article 12 of this Ordinance.
- F. Storage of merchandise, displays, equipment, devices or other items in open areas of the site for over 24 hours shall not be allowed.
- G. All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the Beach Bingo Establishment is located. Lighting and glare must be deflected, shaded and focus away from any adjoining residential property. All outdoor lighting shall comply with the Outdoor Lighting Ordinance in Appendix F of the Mt. Pleasant UDO.
- H. The hours of operation of Beach Bingo games shall be restricted to 12:00 p.m. to 12:00 a.m. on Sunday; and 10:00 a.m. to 12:00 a.m. Monday through Saturday.
- I. No loudspeakers or sound equipment shall be used by a Beach Bingo Establishment for the amplification of sound to a level discernible by the public beyond the walls of the building or portion of the building in which such use is conducted or which violates **Chapter 6, Section 8-6001 and Section 8-6002** of the Town of Mt. Pleasant Code of Ordinances.

Any new Beach Bingo Establishments or expanding existing Beach Bingo Establishments shall submit an application for a Use Permit as illustrated in Figure 3.5 1 of the Mt. Pleasant UDO. Any new Beach Bingo Establishments or expanding existing Beach Bingo establishments shall undergo a Major Site Plan Review in accordance with Section 3.6, Site Plan Review as illustrated in Figure 3.6 2. The Site Plan submittal shall comply with Appendix B, Section B.4, Major Site Plans of the Mt. Pleasant UDO.

**5.6.2. CAMPGROUNDS**

- A. Campgrounds shall not be used as permanent residences except for one (1) owner or manager and up to three (3) permanent maintenance personnel.
- B. Towed vehicles within the campground shall not exceed eight (8) feet in width.
- C. No person, other than the owner or operator shall stay in any Campground more than 90 days per calendar year.
- D. Camp sites shall be a minimum of 1,250 square feet and at least 25 feet in width.
- E. Camp sites shall be spaced so that there is at least: 10 feet between sites; eight (8) feet from the interior roadways; 50 feet from exterior roadways; and 15 feet from property lines.
- F. Parking spaces and interior roadways shall be paved or treated to reduce dust.
- G. Sewage facilities, if provided, shall be connected to a public sewer collection and treatment system, unless alternative systems are permitted by state law.
- H. All utilities shall be located underground.
- I. At least one public telephone shall be provided.
- J. Walkways to concentrated activity areas (such as bathhouse, restrooms, etc.) within the campground area shall be at least four (4) feet wide with an all-weather surface.
- K. All unpaved areas within the campground must have vegetative ground cover which is adequate to prevent erosion and blowing dust.
- L. One tree of a species identified in the Suggested Plant List shall be provided for each two camping spaces. Such trees shall be located in front of those spaces. The Applicant shall comply with the Tree Protection and Preservation requirements of the Landscaping Standards.
- M. All trash collection areas shall be completely screened from view at any public right-of-way or property line.
- N. Adjoining residential zoned or developed areas shall be screened by a minimum Class “C” buffer yard as described in Landscaping Standards of this Ordinance.
- O. Each campground shall provide at least one (1) full-time attendant.

**5.6.3. PRIVATE CLUBS**

**5.6.3.1. Purpose & Applicability**

- A. Regulations for private clubs are developed to establish consistent guidelines covering review of such uses, which because of their nature, may be objectionable to nearby residential uses. Special regulations and review of individual cases are necessary to determine if these establishments are located in areas where traffic and noise impacts are minimized. It is not the purpose of these regulations to regulate activities controlled by the North Carolina Alcoholic Beverage Control Commission pursuant to NCGS 18B-901.
- B. The provisions of this section shall apply to any private club to the extent not preempted by NCGS 18B-901. Private clubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel. Sexually Oriented Businesses shall be regulated by Section 5.6.5.

**5.6.3.2. Spacing Requirements**

No private club shall be established within 1,000 feet of any of the following:

- Residential Zoning District, any Elementary School, Middle School, or High School;
- Child care center
- Religious institution;
- Other existing private club

~~In addition to the requirements of Appendix B to this Ordinance, an Application for Development Approval for a private club shall include a Floor Plan of the Building or Structure in which the private club is located. Said Floor Plan shall delineate separately the areas of the Building Structure which are used for dispensing of food and beverages, entertainment, and dancing.~~

**5.6.4. RECEPTION, BANQUET, & EVENTS FACILITIES**

- A. The lot size for reception, banquet, and events facilities shall be a minimum size of five (5) acres.
- B. The parcel must have frontage on a major or minor thoroughfare.
- C. A residential structure that is used for a reception, banquet, or event facility shall not be altered in any way that changes its general residential appearance.
- D. Two (2) parking spaces for owner/operator, plus one for every four (4) persons of permitted occupancy. No on-street parking is permitted.
- E. All activities and event occurring on the property of the reception center shall meet the required noise control ordinance as stated in the Town of Mount Pleasant Code of Ordinances.

**5.6.5. SEXUALLY ORIENTED BUSINESSES**

**5.6.5.1. Purpose & Findings**

- A. The Town Board of the Town of Mount Pleasant finds that this Ordinance is necessary in order to protect the Town from the potential secondary effects of sexually oriented businesses including crime, the protection of the Town's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the Town's neighborhoods and the Town's commercial districts, the protection of the Town's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this Town as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The Town recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986); (9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).
- B. The Town Board believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified:
1. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;
  2. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;
  3. Sexually oriented businesses should be located in specific areas of the Town which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the Town and sexually oriented business operators with respect to potential adult use sites.
  4. The image of the Town as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;
  5. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

6. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the Town; and
  7. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.
- C. The Town Board recognizes and relies on the findings set forth in the 1986 N.C. Attorney General's Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.
- D. The Town Board finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:
1. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as "performers") have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;
  2. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;
  3. Evidence indicates that performers at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;
  4. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the Town has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.
  5. The Town Board has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:
  6. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;
  7. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and
  8. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.
- E. It is not the intent of the Town Board in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the Town.

- F. The Town Board desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the Town and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.
- G. The Town Board and Planning and Zoning Board have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.
- H. These regulations are authorized by NCGS [160D-9-2 \(formerly 160A-181.1\)](#).

**5.6.5.2. Definitions**

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

**Adult Bookstore** - A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Establishment** - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

**Adult Live Entertainment Business** - Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Motion Picture Theater** - An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.

**Adult Mini-Motion Picture Theater** - An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

**Massage** - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

**Massage Business** - Any establishment or business wherein massage is practiced including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage Therapy offices shall be excluded from these provisions provided the applicant is a licensed therapist by the State of North Carolina.

**Sexually Oriented Business** – Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical

areas and sexual activities as specified in NCGS 14-202.10. A “Sexually-Oriented Business” includes any Adult Establishment as defined in this Section.

**Sexually Oriented Devices** - Without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

**Specified Anatomical Areas** - Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

**Specified Sexual Activities** - Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touchings of human genitals, pubic regions, buttocks, or female breasts.

**5.6.5.3. Locational Standards**

- A. No sexually-oriented business shall be located within 2,000 feet of any other sexually-oriented business.
- B. No sexually-oriented business shall be located within 2,000 feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.
- C. No sexually-oriented business shall be located within 2,000 feet of any Residential Zoning District.

**5.6.5.4. Signs And Displays**

Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

## **5.7. OFFICE & SERVICE USES**

### **5.7.1. ANIMAL SERVICES**

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels:

- A. Facilities for the boarding of all dogs and other household pets shall conform to the following:
- B. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.
- C. Animal wastes shall not be stored any closer than 50 feet from any property line or surface waters.
- D. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.
- E. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height and meet the screening

### **5.7.2. BED AND BREAKFAST INNS**

- A. Bed and breakfast inns shall only be established in accordance with Table 4.6-2 (see Article 4) subject to the following location limitations:
  - a Historic Preservation Overlay District or;
  - on a parcel with frontage on a major or minor thoroughfare or;
  - within a PUD Planned Unit Development.
- B. A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance. All guest rooms shall be located within the principal structure.
- C. Accessory uses associated with a bed and breakfast inn include those as set forth in Section 5.2. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Special Use Permit or Site Plan application, subject to the requirements of Section 5.6.4. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.
- D. No long-term rental of rooms shall be permitted. The maximum length of stay shall be 30 days.
- E. The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.
- F. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

## **5.8. RETAIL USES**

### **5.8.1. MOTOR VEHICLE SALES OR RENTAL**

- A. The provisions of this Section shall apply to any automobile, motorcycle, boat, and recreational vehicle sales or rental establishment as allowed by Table 4.6-2 (see Article 4).
- B. In addition to the accessory uses set forth in Section 5.2.1 of this Article, the following accessory uses are permitted for any automobile sales Establishment:
  - C. Sales, office, parts, service, storage, and body shop facilities accessory to new automobile sales establishments.
  - D. Storage, body shop, washing, fueling, painting facilities, and air quality certification.
- E. The outdoor vehicle display area shall not exceed 60,000 square feet of continuous paved surface. For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 7) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than 12 or more than 18 feet in width for every 150 feet in buffer yard length.
- F. No vehicles may be displayed or stored on or within required buffer yards, including required street yards.
- G. Paved areas reserved for the storage or display of vehicles for sale shall not be required to be striped for individual vehicle spaces. However, off-street parking for employees and patrons shall be required to conform to the design provisions of Article 8.

~~Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two (2) years from the date approved by the Town. The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two year period but not yet complete.~~

**5.8.2. CONVENIENCE STORES (with or without gasoline sales)**

- A. The following uses shall be considered accessory to Convenience Stores or Gas Stations:
  - Car washes
  - Gasoline pumps and canopies.
  - Automatic teller machines (ATM's).
  - Restaurants located within the primary building
- B. Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and movie rental.
- C. The site shall have frontage on a thoroughfare or collector road.
- D. No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.
- E. In all other districts other than C-2 that allow convenience stores: 2,000 leasable square feet for enclosed structure.
- F. All exterior lights must be shielded to direct light and glare only onto the lot or parcel where the convenience store is located, and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.
- G. Pumps and fuel station canopies shall meet the design standards of Section 11.3.12.

**5.8.3. MANUFACTURED/MODULAR HOME AND ~~STORAGE~~ ACCESSORY BUILDING SALES**

- A. The provisions of this Section shall apply to any tract of land designed for the display and sale of bulky items including manufactured homes, modular homes, and/or ~~enclosed storage~~ accessory buildings. ~~and boats~~
- B. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.
- C. All display pads shall be located at least 30 feet from any property line or public street right of way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district.
- D. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.
- E. All travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage, repair areas, and display pads for all model manufactured or modular homes and storage buildings may be gravel.
- F. Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts and accessories shall also be screened from off-site views.
- G. Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian

connections from the parking area to each displayed item (pad) and the office.

- H. Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.
- I. All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120% of the structure's footprint. Display pads may be gravel.
- J. For manufactured or modular home sales, display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.
- K. For storage building sales, a minimum separation of at least five (5) feet shall be maintained between display pads.
- L. In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one (1) ornamental tree or shade tree, two (2) medium shrubs and six (6) small shrubs per display pad. The location of the plantings shall be determined by the Administrator but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped. No display area may be entirely paved.

**5.8.4. RETAIL SALES OUTSIDE A FULLY ENCLOSED BUILDING (moved from Article 11)**

- A. The provisions of this section shall apply to any retail use that includes the sale or storage of merchandise in an open or unenclosed area except as provided in Section 11.7.2.3. The provisions of this Section shall not apply to ~~the CC district or to~~ sidewalk sales or vendors permitted under the temporary use regulations of Section 5.10.2.
- B. An office with restroom facilities in a structure built in accordance with NC Building Code shall be located on the premises. All new structures shall meet the design standards of Section 11.3.
- C. No booths, stalls, or materials on display may be located within any required setback area or right-of-way.
- D. Outdoor display areas shall not be located in such a manner as to displace or otherwise interfere with any required parking spaces and maneuvering areas.
- E. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- F. Non-enclosed areas for the ~~storage and~~ sale of seasonal inventory shall be:
  - 1. Permanently defined on an approved site plan;
  - 2. ~~Completely screened from view Located in the side or rear yard and a minimum of 50 feet~~ from a public street right-of-way or an adjacent residentially-zoned parcel ~~with walls and/or fences; and~~  
Comprised of materials, colors, and design of screening walls and/or fences which shall conform to those used as in the principal structure. If such areas are to be covered, then the covering shall conform to the exposed roofing colors on the building.

## **5.9. INDUSTRIAL, WHOLESALE, TRANSPORTATION, & UTILITY USES**

### **5.9.1. ELECTRIC POWER GENERATION (SOLAR & WIND)**

- A. Solar farms shall be a minimum of five (5) acres and a maximum of 50 acres. A maximum of 75% of a parcel may be used for a solar farm.
- B. Systems, equipment and structures that are part of a solar farm shall not exceed 15 feet in height when ground mounted.
- C. Except in the I-1 and I-2 zoning districts, roof-mounted solar systems shall not exceed the maximum height for the applicable zoning district and shall not project more than one (1) foot above the surface of the roof on pitched roofs, and shall not project above the parapet wall on flat roofs.
- D. Ground-mounted solar energy systems as part of a solar farm shall meet the minimum zoning setback for the zoning district in which it is located and shall be screened with a Type D Buffer in accordance with Section 7.4.
- E. To the extent practical, all new distribution lines to any building, structure or utility connection shall be located below ground.
- F. An individual use wind power generation facility shall be a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less. There shall be a maximum of three (3) turbines for individual uses.
- G. Wind turbines for individual uses shall be setback two (2) times the height of the turbine from occupied buildings, property lines and public roads. Maximum height of an individual use wind turbine is 50 feet.
- H. The wind turbine or solar farm owner shall have six (6) months to complete decommissioning of the turbine if no electricity is generated for a continuous period of 12 months.
- I. It is the responsibility of the system owner or property owner to remove all obsolete or unused systems within 12 months of cessation of operations. Electric power generation Special Use Permit applications shall be accompanied by a decommissioning plan. Decommissioning shall include removal of solar panels, wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.

**5.9.2. LANDFILLS – DEMOLITION & INERT DEBRIS**

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294(4)a. NCGS 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”

*{Note: NCGS 130A-301.2 expires on June 30, 2001. These provisions are consistent with those requirements. The Solid Waste Management Division of DENR repealed its application and operational rules (formerly 15A NCAC 13B.0506 and 13B.0507 for demolition landfills on January 4, 1993.)}*

**5.9.2.1. Criteria**

- A. The disposal area of a demolition landfill shall not exceed one (1) acre.
- B. The disposal area shall not exceed five (5) feet above average grade in height.
- C. The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.
- D. The landfill shall be located at least one-quarter mile from any other landfill of any type.
- E. The perimeter of the landfill shall be at least 50 feet from the property boundary.
- F. The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.
- G. The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.
- H. The landfill shall comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.
- I. The applicant shall comply with the siting criteria set forth in 15A NCAC Section 13B.0564. After the expiration of NCGS 130A-301.2, the requirements of 15A NCAC Section 13B.0564 shall supersede any standards in this Section to the extent permitted by state law.
- J. Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.
- K. The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.
- L. No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

**5.9.2.2. Approval Process**

- A. No demolition landfill shall be established until a Zoning Permit is obtained from the Administrator.
- B. A Zoning Permit shall be effective for a 12-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project.

- C. The Administrator shall renew the Zoning Permit if a written finding is made that the construction project is ongoing.
- D. The following information must be submitted at the time of application for such permit:
  - A survey showing the exact location of the proposed demolition landfill within the entire project.
  - A statement detailing all contents of the landfill.
  - A statement detailing the plans for reclaiming the landfill at the end of its use and any plans for future building.

**5.9.2.3. Closure**

- A. Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a survey plat of the property that meets the requirements of NCGS 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Administrator at the same time that the certified copy of the notice required by this section is filed with the Administrator.
- B. Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a notice that a landfill for the disposal of demolition debris has been located on the land. Where state law requires an identical notice, compliance with the state requirements shall constitute compliance with this Section. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat [required by Section 5.14.4.1](#) is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the North Carolina General Statutes. The Register of Deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat [as required by Section 5.14.5.1](#), with the Administrator. Unless a filing fee is required for NCDEQ, the owner shall pay a filing fee to the Administrator within 15 days after the notice is recorded.
- C. The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

**5.9.3. MINI-WAREHOUSE/SELF STORAGE**

- A. The minimum lot size for mini-warehouse/self-storage uses shall be one (1) acre. The maximum lot size is three (3) acres.
- B. Except as allowed in Section 5.15.3.2, building height shall not exceed one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of 10 feet, which may include a maximum of eight (8) feet with an additional two (2) feet to accommodate a garage-type sliding or roll up door.
- C. A type “B” buffer yard as prescribed in Article 7 shall be provided around the perimeter of the mini-warehouse development.
- D. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 7.
- E. No facility herein provided for shall be used or maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.
- F. It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units or other accessory uses as listed in Section 5.15.12, or to permit same to occur upon any area designated as a storage warehouse.
- G. No portion of any mini-warehouse/self-storage use shall be used, on a temporary or permanent basis, as a dwelling or for any other purpose other than storage.
- H. Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse rental contracts shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.
- I. All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.
- J. No outside storage shall be permitted except the storage of recreational vehicles per Section 5.2.10.3. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for vehicle storage.
- K. Vehicular ingress-egress shall provide for safe access by customers and emergency vehicles. Interior travel lanes shall have a minimum width of 12 feet and shall provide a nine (9) foot wide parking lane. Lanes serving storage units on each side shall provide a nine (9) foot parking lane for each side.
- L. One (1) parking space is required for every 200 storage units with a minimum of two (2) spaces required. The parking spaces shall be provided adjacent to the manager’s office.
- M. Sales of customary equipment and supplies, such as hand trucks, tape, packaging materials, boxes, etc. are permitted through the main office only.

Signs or other advertising mediums shall not be placed within the buffer yard.

**5.9.4. MINING AND EXTRACTION**

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-2 (see Article 4) subject to the criteria below.

**5.9.4.1. Compliance with State Regulations**

All proposed mining and quarrying activities must conform to the “North Carolina Mining Act of 1971” as amended, (NCGS 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

**5.9.4.2. Review and Approval**

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a Special Use Permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix B of this Ordinance.

**5.9.4.3. Criteria**

- A. Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.
- B. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features or any combination of the above. Existing vegetation may also be considered in accordance with Section 7.4.4.4 of this Ordinance. The barrier shall be constructed so as to block the view of the mining and quarrying operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Board of Adjustments, through the issuance of a Conditional Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 7.
- C. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

**5.9.4.4. Exemptions**

- A. Earth moving activity [and borrow pits](#) disturbing less than one (1) acre of land shall be exempt from the provisions of this Section.
- B. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed, [subject to the approval of a Soil and Erosion Control permit by the North Carolina Department of Environmental Quality \(NCDEQ\)](#).

**5.9.5. SOLID WASTE COLLECTION AND/OR DISPOSAL - HAZARDOUS WASTE**

- A. State law restricts the extent to which local zoning may regulate hazardous waste facilities, the General Assembly recognizes that the reasonable concerns of local governments may be considered. NCGS 130B-3, 130B-4.
- B. To the extent not preempted by NCGS 130A-293, hazardous waste facilities shall be permitted only in the zoning districts indicated in Table 4.6-2 (See Article 4).
- C. Consistent with NCGS 130B-20, no zoning compliance permit shall be approved until a Special Use Permit application has been filed. Prior to the filing of any application for a zoning compliance permit, the site designation review committee established pursuant to NCGS 130B-9 and 4 NCAC Section 18.0305 shall examine the criteria for issuance of a conditional use permit and shall submit its recommendation to the North Carolina Hazardous Waste Management Commission. No Special Use Permit or Zoning Permit shall be issued unless the applicant complies in all respects to the above-referenced regulations.

**5.9.6. WASTE REMEDIATION/RECOVERY SERVICES (Junkyards/Salvage Yards/Recycling Operations)**

- A. This section shall apply to any junkyard, salvage yard, or recycling operation with outdoor storage, any industrial or extractive use involving outdoor storage of junk as a primary or an accessory use.
- B. No Special Use Permit or Zoning Permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS 136-144 (i) and:
  - 1. Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.
  - 2. No yard or storage lot shall be placed or maintained within a required yard setback.
  - 3. All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six (6) feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the state of North Carolina and the Town of Mount Pleasant such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

**5.9.7. WIRELESS TELECOMMUNICATIONS SUPPORT STRUCTURES & COLLOCATION**

**5.9.7.1. Purpose and Applicability**

- A. The purpose of this section is to ensure the safe and efficient integration of facilities necessary for the provision of advanced mobile broadband and wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless service to the public, government agencies, and first responders, with the intention of furthering the public safety and general welfare.
- B. The deployment of wireless infrastructure is critical to ensuring first responders can provide for the health and safety of all residents of North Carolina consistent with federal standards, which create a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures. The placement, construction, or modification of wireless communications facilities shall be in conformity with the Federal Communications Act, 47 U.S.C. Section 332 as amended, section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. Section 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.
- C. It is also the intent of this Section to:
  - 1. Ensure that the Town of Mount Pleasant has sufficient wireless infrastructure to support its public safety communications;
  - 2. Ensure access to reliable wireless communications services throughout all areas of Mount Pleasant’s jurisdiction;
  - 3. Encourage the use of existing structures for the collocation of telecommunications facilities;
  - 4. Encourage the location of support structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;
  - 5. Facilitate the responsible deployment of Telecommunications Facilities in residential areas to ensure comprehensive wireless services across Mount Pleasant’s jurisdiction; and
  - 6. Minimize the potential adverse effects associated with the construction of wireless support structures through the implementation of reasonable design, landscaping, and construction practices; and
  - 7. Ensure public health, safety, welfare, and convenience.
- D. The provisions of this Section apply to any new wireless support structure. The use of land for wireless support structure shall be permitted as set forth in Table 4.6-2 (see Article 4), subject to the criteria of this Section. Wireless support structures shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as essential services, public utilities, or private utilities. No permit shall be required for routine maintenance as defined in this Section.

**5.9.7.2. Definitions**

**ABANDON.** Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

**ACCESSORY EQUIPMENT.** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies,

generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

**ADMINISTRATIVE REVIEW AND APPROVAL.** Non-discretionary evaluation and approval of an application Zoning approval that the Administrator or designee is authorized to grant after Administrative Review subject to the requirement of Section 3.2 and Appendix B.4.

**ANTENNA.** Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

**APPLICABLE CODES.** The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

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

**CARRIER ON WHEELS OR CELL ON WHEELS (“COW”).** A portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

**COLLOCATION.** The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including, utility poles, Town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term "collocation" does not include the installation of new utility poles, Town utility poles, or wireless support structures.

**COMMUNICATIONS FACILITY.** The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

**COMMUNICATIONS SERVICE.** Cable service as defined in 47 U.S.C. § 522(6), information service as defined in 47 U.S.C. § 153(24), telecommunications service as defined in 47 U.S.C. § 153(53), or wireless services.

**COMMUNICATIONS SERVICE PROVIDER.** A cable operator as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

**CONCEALED (STEALTH) TELECOMMUNICATIONS FACILITY.** Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

**ELIGIBLE FACILITIES REQUEST.** A request for modification of an existing wireless support structure or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

**EQUIPMENT COMPOUND.** An area surrounding or near the base of a wireless support structure within which a wireless facility is located.

**EXISTING STRUCTURE.** Previously erected Support Structure or any other structure, including but not limited to,

buildings and water tanks, to which Telecommunications Facilities can be attached.

**FALL ZONE.** The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**MAJOR MODIFICATIONS.** Improvements to existing Telecommunications Facilities or Support Structures that result in a Substantial Increase to the Existing Structure. Collocation of new Telecommunications Facilities to an existing Support Structure without Replacement of the structure shall not constitute a Major Modification.

**MICRO-WIRELESS FACILITY.** A small wireless facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

**MINOR MODIFICATIONS.** Improvements to Existing Structures that result in some material change to the Facility or Support Structure but of a level, quality or intensity that is less than a Substantial Increase. Minor Modifications include the Replacement of the structure.

**MONOPOLE.** A single, freestanding pole-type structure supporting one or more Antenna. For purposes of this Ordinance, a Monopole is not a Tower.

**ORDINARY MAINTENANCE.** Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Minor and Major Modifications.

**REPLACEMENT.** Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a Substantial Increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

**RIGHT-OF-WAY, TOWN.** A right-of-way owned, leased, or operated by the Town, including any public street or alley that is not a part of the State highway system.

**SEARCH RING.** The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

**SMALL WIRELESS FACILITY.** A wireless facility that meets both of the following qualifications:

1. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than six (6) cubic feet.
2. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

**SUBSTANTIAL MODIFICATION.** A Substantial Modification occurs when:

1. The mounting of the proposed antenna on an existing structure that would increase the existing height of the existing structure by more than 10%, or by the height of one additional antenna array with separation from the

nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

2. The mounting of the proposed antenna to an existing water tower that would increase the existing height of the water tower by more than 20%; or
3. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4), or more than one new equipment shelter; or
4. The mounting of the proposed antenna would involve adding an appurtenance to the body of the Existing Structure that would protrude from the edge of the existing structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the structure via cable; or
5. The mounting of the proposed antenna would involve excavation outside the current Existing Structure site, defined as the current boundaries of the leased or owned property surrounding the Existing Structure and any access or utility easements currently related to the site.

**SUPPORT STRUCTURE(S).** A structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

**TELECOMMUNICATIONS FACILITY(IES).** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

**TOWER.** A lattice-type structure, guyed or freestanding, that supports one or more Antennas.

**UTILITY POLE.** A structure that is designed for and used to carry lines, cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless services.

**UTILITY POLE, TOWN.** A utility pole owned by the Town in the Town right-of-way that provides lighting, traffic control, or a similar function.

**WATER TOWER.** A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

**WIRELESS FACILITY.** Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term shall not include any of the following:

1. The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
2. Wireline backhaul facilities.
3. Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

**WIRELESS INFRASTRUCTURE PROVIDER.** Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

**WIRELESS PROVIDER.** A wireless infrastructure provider or a wireless services provider.

**WIRELESS SERVICES.** Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

**WIRELESS SERVICES PROVIDER.** A person who provides wireless services.

**WIRELESS SUPPORT STRUCTURE.** A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities, including water towers and high-tension electric towers. A utility pole or a Town utility pole is not a wireless support structure.

**5.9.7.3. New Wireless Support Structures & Substantial Modifications**

**5.9.7.3.1. Location and Permitted Uses**

- A. New wireless support structures shall be permitted as set forth in Table 4.6-1 of this Ordinance, which states that new structures are permitted in every zoning district subject to the issuance of a Conditional Use Permit by the Board of Adjustment, except that concealed (stealth) structures of less than 60 feet tall shall be permitted administratively without the issuance of a Conditional Use Permit.
- B. Wireless support structures may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

**5.9.7.3.2. Necessity of Structure**

- A. Subject to NCGS 160A-400.52, prior to approval of a new wireless support structure or substantial modification, the applicant shall provide evidence that no existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new structure, that residential, historic and designated scenic areas cannot be served from outside the area, and that the proposed height of the structure or replacement structure is necessary to provide the applicant's desired service. The application shall also provide evidence that collocation on an existing wireless support structure is not feasible.
- B. No new wireless support structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if conditional use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:
  - 1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed

antenna and related equipment.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

**5.9.7.3.3. Height, Setbacks, and Fall Zone**

- A. All new wireless support structures shall be a monopole or concealed (stealth) design. Maximum height is 200 feet in all districts except I-1 and I-2. Maximum height in the I-1 and I-2 districts is 250 feet. The Board of Adjustment shall also give consideration to compatibility with viewsheds and topography when approving the height of the structure.
- B. Minimum setbacks for all monopole structures from shall be a minimum of the height of the tower from all property lines
- C. Minimum setbacks for concealed (stealth) design structures shall be a minimum of the engineered fall zone (as certified by a professional engineer), except that from any residential structure, the setback shall be the height of the tower.
- D. No wireless support structure shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any wireless support structure not located a distance equal to the height of the structure plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the structure is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

**5.9.7.3.4. Aesthetics**

- A. Wireless support structures shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.
- B. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the wireless support structure site.
- C. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color

of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

**5.9.7.3.5. Security Fencing**

Wireless support structures shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, and shall be equipped in such a manner as to deter climbing. Fencing shall be wood, wood composite, masonry, or coated chain link.

**5.9.7.3.6. Landscaping**

Wireless communications facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the structure compound from adjacent property. The standard buffer shall consist of a landscaped strip at least eight (8) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Board of Adjustment or Administrator (as applicable) may waive these requirements in locations where the view of the structure base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

**5.9.7.3.7. Lights**

No wireless support structure shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or the Town. This restriction against lights shall not apply to structures which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

**5.9.7.3.8. State or Federal Requirements**

All wireless support structures must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate wireless support structures. If such standards and regulations are changed, then the owners of the wireless support structures governed by this chapter shall bring such wireless support structures into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring wireless support structures into compliance with such revised standards and regulations shall constitute grounds for the removal of the wireless support structures at the owner's expense.

**5.9.7.3.9. Building Codes; Safety Standards**

To ensure the structural integrity of wireless support structures, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

**5.9.7.3.10. Signs**

Signs on a wireless support structure, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

**5.9.7.3.11. Permit Requirements**

- A. No wireless support structures, shall be erected, established, or substantially modified unless and until a Zoning Permit has been issued pursuant to Section 3.2.6 of this Ordinance, following the issuance of a Special Use Permit by the Board of Adjustment pursuant to Section 3.5 of this Ordinance.

- B. A concealed (stealth) telecommunications facility which does not exceed 60 feet in height is permitted by right, notwithstanding any provisions of the Use Matrix which requires a Conditional Use Permit. This provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.
- C. In addition to the procedures, standards and criteria set forth in Section 3.5 of this Ordinance, Conditional Use Permits for wireless support structures shall be issued in accordance with the following provisions:
  - 1. Wireless support structures 60 feet or more from the average ground level shall require a conditional use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.
  - 2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.
  - 3. In addition to any other information required pursuant to Section 3.5 of this Ordinance, applications for Conditional Use Permits for wireless support structures shall include the following information:
  - 4. A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed wireless support structure; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed wireless support structure and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.
  - 5. The setback distance between the proposed wireless support structure and the adjacent property line.
  - 6. The availability of suitable existing wireless support structures, other structures, or alternative technology.
  - 7. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
  - 8. A statement by the applicant as to whether construction of the structure will accommodate co-location of additional antennas for future users.
  - 9. A description of the suitability of the use of existing structures, other structures or alternative technology not requiring the use of structures to provide the services to be provided through the use of the proposed new structure.
  - 10. A description of the feasible alternative location(s) of future wireless support structures within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed structure is erected.
  - 11. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

**5.9.7.3.12. Approval Criteria**

In determining whether to issue a conditional use permit, the Board of Adjustments shall consider, in addition to any other standards in this Ordinance governing Conditional Use Permits, the following factors:

- Height of the proposed wireless support structure;
- Proximity of the wireless support structure to residential structures and residentially zoned district boundaries;
- Nature of uses on adjacent and nearby properties;
- Surrounding topography;
- Surrounding tree coverage and vegetation;
- Design of the wireless support structure, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;
- Proposed ingress and egress; and
- Availability of suitable existing wireless support structures, other structures, or alternative technologies not requiring the construction of new structures.

**5.9.7.4. Buildings or Other Equipment Storage**

**5.9.7.4.1. Accessory Equipment Structures**

The equipment cabinets and other support structures used in association with wireless support structures shall comply with the following provisions:

- Equipment cabinets and/or other structures shall comply with all applicable building codes.
- Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

**5.9.7.4.2. Location and Size of Accessory Equipment Structures**

Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall be located away from residentially zoned property, wherever possible.

**5.9.7.5. Cell On Wheels**

The use of Cell on Wheels (COW) in response to a declaration of emergency is permitted following administrative review and approval for up to 120 days.

**5.9.7.6. Collocation and Eligible Facilities Requests**

**5.9.7.6.1. Collocation Approval**

- A. Collocation of antenna on existing wireless support structures and minor modifications (eligible facilities requests) to existing wireless support structures that do not constitute substantial modifications, as defined by this Section, shall be reviewed and approved administratively subject to the requirements of Section 3.2.
- B. A collocation or eligible facilities request application is deemed complete unless the Town provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Town may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated. The Town shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Town shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

**5.9.7.6.2. Good Faith**

Applicants and permittee shall make a good faith effort to share wireless support structures, facilities and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith. Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

**5.9.7.6.3. Third-Party Technical Review**

In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users on the proposed structure, the Administrator may require the applicant to obtain a third-party technical study at the applicant's expense. The Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

**5.9.7.6.4. Exceptions**

No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

**5.9.7.7. Removal of Abandoned Antennas and Wireless Support Structures**

**5.9.7.7.1. Discontinuance Period**

Any wireless support structure or antenna that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the wireless support structures within ninety (90) days of receipt of notice from the Board of Adjustment notifying the owner of such abandonment. If there are two or more users of a single wireless support structure, then this provision shall not become effective until all users cease using the wireless support structure for the prescribed period. “Physically remove” shall include, but not be limited to:

- A. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- B. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- C. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

**5.9.7.7.2. Authority to Remove and Require Bond**

A performance bond shall be set for 1.25 times the estimated cost of removal of all wireless support structure and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

**5.9.7.8. Nonconforming Uses**

**5.9.7.8.1. No Expansion of Nonconforming Use**

Wireless support structures that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

**5.9.7.8.2. Preexisting Wireless Support Structures**

Preexisting wireless support structures constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new wireless support structure of like construction and height) shall be permitted on such preexisting structures. New construction other than routine maintenance on a preexisting wireless support structures shall comply with the requirements of this Section.

**5.9.7.8.3. Rebuilding Damaged or Destroyed Nonconforming Wireless Support Structures**

Notwithstanding this Section, bona fide nonconforming wireless support structures or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the structure onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed wireless support structure shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the structure shall be deemed abandoned.

**5.9.7.9. Collocation of Small Wireless Facilities**

**5.9.7.9.1. Applicability**

- A. Collocation of small wireless facilities, as defined by this Section, are permitted pursuant to NCGS [160D-9-35](#) (formerly 160A-400.54-57).
- B. The Town shall not adopt or enforce any ordinance, rule, regulation, or resolution that regulates the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any stadium or athletic facility. This subsection does not apply to a stadium or athletic facility owned or otherwise controlled by the Town. This subsection does not prohibit the enforcement of applicable codes.
- C. Nothing contained in this Section shall amend, modify, or otherwise affect any easement between private parties. Any and all rights for the use of a right-of-way are subject to the rights granted pursuant to an easement between private parties.
- D. Except as provided in this Section or otherwise specifically authorized by the General Statutes, the Town may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way of State-maintained highways or Town rights-of-way by a provider authorized by State law to operate in the rights-of-way of State-maintained highways or Town rights-of-way and may not regulate any communications services.
- E. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Section does not authorize the provision of any communications services or the installation, placement, maintenance, or operation of any communications facility, including a wireline backhaul facility, other than a small wireless facility, in the right-of-way.

**5.9.7.9.2. Approval**

- A. Small wireless facilities that meet the height requirements of Section [5.9.7.9.3](#) shall only be subject to administrative review and approval if they are collocated in a right-of-way within any zoning district or outside of rights-of-way on property other than single-family residential property.
- B. A Zoning Clearance Permit shall be required to collocate a small wireless facility. A Town shall receive applications for, process, and issue such permits subject to Section 3.2 and the following requirements:
  - 1. The Town may not, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought. "Services unrelated to the collocation," includes in-kind contributions to the Town such as the reservation of fiber, conduit, or pole space for the Town.
  - 2. The wireless provider completes an application as specified in form and content by the Town. A wireless provider shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers.
- C. A permit application shall be deemed complete unless the Town provides notice otherwise in writing to the applicant within 30 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified. The permit application shall be processed on a nondiscriminatory basis and shall be deemed approved if the Town fails to approve or deny the application within 45 days from the time the application is

deemed complete or a mutually agreed upon time frame between the Town and the applicant.

- D. The Town may deny an application on the basis that it does not meet any of the following:
- Applicable Town codes;
  - Local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment
  - Public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way; or
  - The historic preservation requirements in NCGS [160D-9-45 \(formerly 160A-400.55\(h\)\)](#). The Town must document the basis for a denial, including the specific code provisions on which the denial was based and send the documentation to the applicant on or before the day the Town denies an application. The applicant may cure the deficiencies identified by the Town and resubmit the application within 30 days of the denial without paying an additional application fee. The Town shall approve or deny the revised application within 30 days of the date on which the application was resubmitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial.
- E. An application must include an attestation that the small wireless facilities shall be collocated on the utility pole, Town utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- F. An applicant seeking to collocate small wireless facilities at multiple locations within the jurisdiction of the Town shall be allowed at the applicant's discretion to file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. A Town may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations for which incomplete information has been provided or that are denied. The Town may issue a separate permit for each collocation that is approved.
- G. The permit may specify that collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the Town and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- H. The Town shall require a wireless services provider to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the Town shall cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the Town reasonable evidence that it is diligently working to place such wireless facility back in service.
- I. The Town shall not require an application or permit or charge fees for (i) routine maintenance; (ii) the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles or Town utility poles in compliance with applicable codes by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under NCGS 105-164.4(a)(4c) or NCGS 105-164.4(a)(6).
- J. The applicant shall receive approval for work that involves excavation, affects traffic patterns, or obstructs vehicular traffic in a Town right-of-way.

**5.9.7.9.3. Use of Public Right-of-way and Facility Height**

- A. The use of public rights-of-way for collocation of small wireless facilities shall be subject to NCGS [160D-9-36 \(formerly 160A-400.56\)](#), including the following:
1. Each new utility pole and each modified or replacement utility pole or Town utility pole installed in the right-of-way shall not exceed 50 feet above ground level.
  2. Each new small wireless facility in the right-of-way shall not extend more than 10 feet above the utility pole, Town utility pole, or wireless support structure on which it is collocated.
  3. In no instance in a residential zoning district, where the existing utilities are installed underground may a utility pole, Town utility pole, or wireless support structure exceed 40 feet above ground level, unless the Board of Adjustment grants a variance approving a taller utility pole, Town utility pole, or wireless support structure.
- B. Except as provided in this part, the Town may assess a right-of-way charge under this section for use or occupation of the right-of-way by a wireless provider, subject to the restrictions set forth under NCGS 160A-296(a)(6). In addition, charges authorized by this section shall meet all of the following requirements:
1. The right-of-way charge shall not exceed the direct and actual cost of managing the Town rights-of-way and shall not be based on the wireless provider's revenue or customer counts.
  2. The right-of-way charge shall not exceed that imposed on other users of the right-of-way, including publicly, cooperatively, or municipally owned utilities.
  3. The right-of-way charge shall be reasonable and nondiscriminatory.
- C. Nothing in this section is intended to authorize a person to place, maintain, modify, operate, or replace a privately-owned utility pole or wireless support structure or to collocate small wireless facilities on a privately-owned utility pole, a privately-owned wireless support structure, or other private property without the consent of the property owner.
- D. Wireless providers shall repair all damage within a right-of-way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless provider fails to make the repairs required by the Town within a reasonable time after written notice, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town may maintain an action to recover the costs of the repairs.
- E. This section shall not be construed to limit enforcement of historic preservation zoning regulations consistent with Part 3C of Article 19 of this Chapter 160A, the preservation of local zoning authority under 47 U.S.C. § 332(c)(7), the requirements for facility modifications under 47 U.S.C. § 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. § 300101, et seq., as amended, and the regulations, local acts, and Town charter provisions adopted to implement those laws.
- F. A wireless provider may apply to a Town to place utility poles in the Town rights-of-way, or to replace or modify utility poles or Town utility poles in the public rights-of way, to support the collocation of small wireless facilities. A Town shall accept and process the application in accordance with the provisions of NCGS [160D-9-35 \(d\) \(formerly 160A-400.54\(d\)\)](#), applicable codes, and other local codes governing the placement of utility poles or Town utility poles in the Town rights-of-way, including provisions or regulations that concern public

safety, objective design standards for decorative utility poles or Town utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including those relating to screening or landscaping, or public safety and reasonable spacing requirements. The application may be submitted in conjunction with the associated small wireless facility application.

**5.9.7.9.4. Access to Town Utility Poles**

- A. Pursuant to NCGS [160D-9-37 \(formerly 160A-400.56\)](#), the Town may not enter into an exclusive arrangement with any person for the right to collocate small wireless facilities on Town utility poles. The Town shall allow any wireless provider to collocate small wireless facilities on its Town utility poles at just, reasonable, and nondiscriminatory rates, terms, and conditions, but in no instance may the rate exceed fifty dollars (\$50.00) per Town utility pole per year.
- B. A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the Town to be reimbursed by the wireless provider. In granting a request under this section, the Town shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.
- C. Following receipt of the first request from a wireless provider to collocate on a Town utility pole, the Town shall, within 60 days, establish the rates, terms, and conditions for the use of or attachment to the Town utility poles that it owns or controls. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.
- D. In any controversy concerning the appropriateness of a rate for a collocation attachment to a Town utility pole, the Town has the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period.
- E. The Town shall provide a good-faith estimate for any make-ready work necessary to enable the Town utility pole to support the requested collocation, including pole replacement if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the applicant. For purposes of this section, the term "make-ready work" means any modification or replacement of a Town utility pole necessary for the Town utility pole to support a small wireless facility in compliance with applicable safety requirements, including the National Electrical Safety Code, that is performed in preparation for a collocation installation.
- F. The Town shall not require more make-ready work than that required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to preexisting or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other communications service providers for similar work and shall not include any consultant fees or expenses.

## **5.10. OTHER USES**

### **5.10.1. BUSINESS KIOSKS, FREESTANDING (ATM, ICE VENDING, ETC.)**

- A. For purposes of these conditions, a business kiosk is defined as a freestanding structure of no greater than 200 square feet located within the parking lots of established shopping centers. These regulations shall not apply to vending units of smaller than 24 square feet and eight (8) feet tall placed against building walls within non-residential districts.
- B. The erection or installation of a kiosk on the property shall not eliminate or reduce the number of parking spaces required for the principal use on the site.
- C. A business kiosk shall maintain the same setbacks as required for all other non-residential accessory structures located within the zoning district.
- D. Freestanding signs identifying the kiosk and/or its services shall not be allowed, however a panel on an existing multi-tenant sign is permitted. Wall signage only shall be permitted provided the wall signs comply with Article 12 of this Ordinance.
- E. Space for stacking at least four (4) vehicles for each service window shall be provided; however, such space shall not eliminate or reduce the minimum number of parking spaces required for the principal use nor require the stacking of vehicles in such a manner that travel within the driving lanes and internal passageways are impeded.
- F. All utility connections shall be underground.
- G. Any landscaping or landscaping islands or areas eliminated or reduced in order to accommodate a business kiosk shall be replaced elsewhere within the parking lot at a location approved by the Administrator.
- H. The location of the kiosk and travel lanes for vehicles to and from the kiosk shall not obstruct or interfere with existing traffic flow patterns within the shopping center. Any alteration of existing traffic flow patterns shall require the approval of the Administrator.
- I. Kiosks shall meet the design standards for non-residential accessory structures as set forth in Section 11.3.14.

**5.10.2. TEMPORARY USES**

**5.10.2.1. General Provisions**

- A. The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Planning Department is required pursuant to Section 3.2 of this Ordinance. Temporary Use Permits shall not be required for non-profit organization fundraisers or individual vendors at Town-sponsored special events or individual vendors for which a Temporary Use Permit has been issued under Section 5.10.2.8.
- B. All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified in sections 5.10.2.2 through 5.10.2.6 below.
- C. The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.
- D. The use shall not be on publicly or privately-owned property unless the applicant first obtains written approval from the owner.
- E. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.
- F. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
- G. Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this section shall not apply to the CC district.
- H. Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Article 12 for specific standards for signs.
- I. Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time.
- J. The period of time an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on that parcel shall be at least three (3) months. This restriction shall not apply to real estate development and constructed related temporary uses as set forth in section 5.10.2.3.

**5.10.2.2. Temporary Retail Sales Uses**

**5.10.2.2.1. Fireworks Stands**

Limited to only non-residential zones for a period of time not to exceed 45 days. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

**5.10.2.2.2. Seasonal Sale of Agricultural Products (Including Christmas Trees)**

Temporary Use Permits are required for all produce stands in non-residential zoning districts. Such sales are limited to a period of time not to exceed four (4) consecutive months per calendar year. A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

**5.10.2.2.3. Food Vendors**

The sale of food and/or beverages from a stand, motor vehicle, tent, cart, or person may be allowed in the C-1, C-2, and I-1 zoning districts, and shall be limited to a period not to exceed 90 days per calendar year per lot of record. Food vendors shall be subject to applicable Health Department requirements.

**5.10.2.3. Real Estate Development and Construction-Related Temporary Uses**

**5.10.2.3.1. Contractors Office and Equipment/Storage Sheds**

Accessory to a Construction Project (Residential or Non-Residential). Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year as and if approved by the Administrator. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment or materials. All temporary buildings and trailers shall be completely removed from the site within 30 days of issuance of a Certificate of Occupancy or completion of the construction project, whichever occurs first.

**5.10.2.3.2. Real Estate Office in a Construction Trailer or Temporary Modular Unit**

Temporary structures, such as construction trailers or temporary modular units, may be used as real estate sales offices in any new construction project for the sale of unites within that project only. Such a temporary use may be allowed in all zoning districts. The permit shall be valid until the project is completed or for a period of two (2) years from the time of the recording of the most recent final plat.

**5.10.2.3.3. Real Estate Office in a Model Home**

Accessory to Construction of a New Residential Development. Limited to a period of time not to exceed one year with the option of an extension of up to one year as and if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

**5.10.2.3.4. Single Family Dwelling in Temporary Structure**

During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

**5.10.2.3.5. Recreational Vehicles**

Recreational vehicles shall be permitted as a temporary use or structure for up to six (6) months for residential construction or repair projects that have a valid building permit. At the end of six (6) months the recreational

vehicle shall be removed from the property or disconnected from utilities and parked in accordance with Section 5.2.10. This timeframe may receive a one-time extension of up to three (3) months due to extenuating circumstances.

**5.10.2.4. Temporary Business Relocation**

A business may be temporarily relocated to any location within the CC, O-I, C-1, C-2, or I-1 zoning districts, whether or not the use is allowed in that district, during the renovation of their permanent location for a period not to exceed six (6) months with the issuance of a Temporary Use Permit. Such may business may display a temporary banner not to exceed 32 square feet at the temporary location.

**5.10.2.5. Amusement Enterprises**

Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district for a period not to exceed 21 days within any calendar year. This classification excludes events conducted in a permanent entertainment facility.

**5.10.2.6. Religious Events**

- A. Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district for a period not to exceed 15 days.
- B. Religious events in a tent or other temporary structure may be allowed in any residential zoning district for a period not to exceed 15 days, provided that the property on which the temporary use is going to be operated is owned by the same religious institution requesting the temporary use.

**5.10.2.7. Promotional Activities in Commercial Zones Involving the Display of Goods and Merchandise**

Such activities may be conducted outside for a period of not more than two (2) consecutive days. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. A Temporary Use Permit for promotional activities may be issued up to 12 times during any calendar year, for a maximum of 24 days per calendar year.

**5.10.2.8. Special Events and Activities**

Special events and activities conducted on public property such as school sites and public parks shall be exempt from the provisions of this Section of the Ordinance but must comply with any guidelines, regulations and permitting process required by the authorizing agency (e.g. School District or a Parks and Recreation Department).

**5.10.2.9. Similar and Compatible Uses Not Specified**

If a particular temporary use is listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a “similar and compatible use”. Similar and compatible uses not specified are those uses which are similar and compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Planning & Zoning Board in accordance with Section 3.8 of this Ordinance.

## **APPENDIX A**

### **Definitions**

1. Terms Defined. Words contained in this Appendix A are those having a special meaning relative to the purposes of this Ordinance. Words not listed in this section shall be defined by reference to: (1) Chapter 2 of the State Building Code (~~Standard Building Code, 1997~~) or, if not defined therein, in (2) the most recent edition of the Merriam- Webster Dictionary Webster's Third New International Dictionary, unabridged, 1993, which documents are hereby incorporated by reference as if set forth in their entirety herein. Words and terms not defined in this Appendix but defined elsewhere in the Unified Development Ordinance shall be given the meanings set forth therein. Particular uses not defined herein shall have the meaning assigned in the Use Matrix (Table 4.6-2) and the NAICS Manual (~~see §§ 4.5 and 4.6 of this Ordinance.~~

2. Word Usage. In the interpretation of this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- Words used or defined in one tense or form shall include other tenses and derivative forms.
- Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- The word "shall" is mandatory.
- The word "may" is permissive.
- The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.
- The word "Town" shall refer collectively to Town of Mt. Pleasant.
- The word "Board" shall mean the Board of Adjustment.
- The words "Planning Board" shall mean the Town Planning and Zoning Board.
- The words "Recorder" and "Recorder of Deeds" shall mean the County Register of Deeds.
- In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, or table, the text shall control.
- All provisions of this ordinance shall be construed to be in addition to all other applicable laws, ordinances and rules of the federal government, the State of North Carolina or the Town; and in case of any conflict between this ordinance and any such other law, ordinance or rule, the more restrictive shall prevail.
- The words "include" and "including" mean include or including by way of illustration and not by way of limitation.

ABBATTOIR - See Slaughterhouse.

ABANDONMENT - The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ABUT- Having property or District lines in common.

ABUTTING PARCELS - Parcels which are directly touching and have common parcel boundaries. (Parcels across a public right-of-way shall not be considered abutting.)

ACCESSIBLE - Having access to, but which first may require the removal of a panel, door or similar covering of the item described. See Accessible, Readily. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

ACCESSIBLE, READILY - Having direct access without the need of removing any panel, door or similar covering of the item described, and without requiring the use of portable ladders, chairs, etc. See Accessible. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

ACCESSORY – see Accessory Use.

ACCESSORY APARTMENT – see Accessory Dwelling.

ACCESSORY DWELLING - A Dwelling Unit that is accessory, supplementary, and secondary to the principal Dwelling Unit that may be constructed as an addition to the principal structure or as an accessory to the principal structure. An Accessory Dwelling is detached from the principal Dwelling Unit. [See § 5.3 of this Ordinance.](#)

ACCESSORY STRUCTURE - A building or other structure, the use of which is incidental to that of the main building and which is located on the same lot and is customarily used in connection with the main building or other structure.

ACCESSORY USE - A subordinate Use of a Building or other Structure, or Use of land which is:

- conducted on the same Lot as the principal Use to which it is related, and
- clearly incidental to, and customarily found in connection with, such principal Use.  
[\(See § 5.2 of this Ordinance.\)](#)

ADDITION - An extension or increase in Floor Area or height of a Building or Structure. (Source: North Carolina State Building Code, Vol. 1, § 202)

ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE - See Sedimentation Control Standards in Article 9.

ADJACENT - All properties immediately contiguous to a development site, including those which are separated from the site only by a road or other right-of-way or easement.

ADJOIN - Touching at some point.

ADMINISTRATIVE DECISION - Any decision on a development application made by an authorized employee or official pursuant to [§ 3.2](#) of this Ordinance.

ADMINISTRATOR - Officer charged with the authority and duty to administer this Ordinance ~~pursuant to § 2.1.~~

ADT - AVERAGE DAILY TRAFFIC

ADULT CARE HOME - An assisted living ~~residence~~ residential care facility in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. As distinguished from a nursing home, an "adult care home" means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services. Includes any "Adult Care Home" as defined by NCGS 131D-2, 131D-20, NCGS 131E-76, 131E-101 (including any "combination home").

ADVANCEMENT OF CAPACITY - The provision, by an Applicant for development approval or any other entity or person, of a Public Facility, or funding sufficient to ensure the acquisition of any necessary right-of-way and construction of a Public Facility, prior to the scheduled date of construction of the Public Facility in the Capital Improvements Program.

AFFILIATE - A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of, another person.

AGGRIEVED PERSON - The Town Board, the Planning & Zoning Board, or the Administrator; a county or municipality within an area designated as a joint planning area; applicants, and persons, businesses, corporations, institutions, governments or other entities owning property or residing within one thousand (1,000) feet from the exterior boundaries of a proposed development; and any other person having standing to challenge a development order pursuant to North Carolina law.

AGRICULTURE - For purposes of this Ordinance, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

1. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
2. The planting and production of trees and timber.
3. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
4. Aquaculture as defined in G.S. 106-758.
5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
6. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism (as defined by NCGS 99E-30), the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.
7. A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals

for marketing and farm tenant dwellings. Uses which shall not be deemed as “agricultural uses” include (I) zoos, (II) kennels, (III) riding stables and academies, (IV) non-domesticated animals, and (V) animals commonly perceived to be a threat to humans. (Source: NCGS 106-581.1)

The commercial production, storage, processing, marketing, distribution or export of any agronomic, floricultural, horticultural, viticultural, silvicultural or aquacultural crop including, but not limited to, farm products, livestock and livestock products, poultry and poultry products, milk and dairy products, fruit and other horticultural products, and seafood and aquacultural products. (Source: the "North Carolina Agricultural Finance Act, NCGS 122D-3)

AGRICULTURAL ANIMALS - The following animals are considered accessory agricultural animals to an agricultural use, whether used for personal enjoyment or for commercial purposes: horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, pigs, goats, ostrich, emu or rhea. Agricultural animals do not include household pets as defined by this Ordinance.

AGRICULTURAL CONSERVATION EASEMENT - A negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement: (1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; and (2) Shall be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question. (Source: NCGS 106- 744, The Farmland Preservation Enabling Act)

AGRICULTURAL LAND - Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(1), and each tract must be under a sound management program. Sound management program. -- A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105-277.2).

AGRICULTURAL PRODUCE - Fruit, vegetables, eggs and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat and dairy products shall not be considered agricultural produce for the purposes of this Ordinance.

~~AIRPORT TRANSPORTATION & SUPPORT ACTIVITIES AND RELATED USES~~ - Any public or private airport, heliport, or helipad (except accessory helipads for emergency services) including terminal buildings, towers, runways, take-off/landing pads and other facilities directly pertaining to the operation of air transportation ~~the airport.~~

ALLEY - Any public space or thoroughfare 20 feet (6096 mm) or less wide which has been dedicated or deeded for public use. (Source: North Carolina State Building Code, Vol. 1, § 202)

ALTER or ALTERATION - Any change or modification in construction or occupancy. (Source: North Carolina State Building Code, Vol. 1, § 202)

AMBULATORY SURGICAL FACILITY - A facility designed for the provision of an ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under NCGS Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office

does not make that office an ambulatory surgical facility. Includes any "ambulatory surgical facility" as defined in NCGS § 131E-146 or NCGS § 131E-176.

AMENDMENT - An amendment to the Unified Development Ordinance or a new Unified Development Ordinance.

AMERICAN STANDARD FOR NURSERY STOCK - The [latest edition of the](#) publication entitled "American Standard for Nursery Stock" (~~ANSI Z60.1-1996, approved November 6, 1996~~), published by the American Nursery and Landscape Association ("ANLA")(formerly the American Association of Nurserymen), which document is hereby incorporated by reference as if set forth in its entirety herein. ~~Said document may be obtained by contacting ANLA at 1250 I Street NW, Suite 500, Washington, D.C. 20005 (202/789-2900).~~

AMPLITUDE - The maximum displacement of the surface of the earth from its normal resting position. Amplitude is generally measured in inches or mils.

AMUSEMENT ARCADE / ELECTRONIC GAMING OPERATION - Any business establishment which is engaged in providing an amusement activity such as an arcade, electronic games, skilled games, or similar activity whether as a principal or an accessory use. This includes amusements in which patrons or customers operate electronic machines, including, but not limited to computers and gaming terminals, to conduct games of chance or games of skill, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played, by predetermined odds, or skill. The term also includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés. This does not include any lottery endorsed by the State of North Carolina.

~~COMMERCIAL~~ AMUSEMENT, INDOOR - An establishment offering sports, game playing or similar amusements to the public, including, but not limited to: skating rinks, bowling alleys, billiards, ping pong, mechanical or electronic games, but not gambling or card playing, within a fully enclosed structure. Indoor commercial amusement does not include non-commercial or charitable events.

~~COMMERCIAL~~ AMUSEMENT, OUTDOOR - An establishment that offers games, rides, or other similar activities on a commercial basis in a fixed location, including but not limited to: miniature golf, amusement parks, water slides, amphitheaters, stadia, tracks, and drive-in theaters.

AMUSEMENT PARK - A primarily outdoor or open facility, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

ANIMAL CLINIC - Facility for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for the temporary boarding of animals.

ANIMAL HOSPITAL – see Animal Clinic.

ANIMAL OPERATION - Any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the NCGS shall not be considered animal operations for purposes of this Ordinance. (Source: NCGS 143- 215.10B)

~~ANIMAL REGULATIONS—See Section 5.4 of this Ordinance.~~

ANIMAL SHELTER - A facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals. (Source: NCGS 19A-23)

ANIMAL SERVICES - Any facility used for the purpose of giving licensed medical treatment to animals or pets or any other treatment of animals, such as grooming, boarding, or selling of pet supplies. This use may include indoor or outdoor animal kennels as allowed in the Use Matrix (Table 4.6-2).

ANIMAL UNIT ("AU") – For the purposes of this Ordinance, a unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: one (1) cow, one (1) horse, two (2) swine, three (3) goats or sheep, 10 fowl, 1.0 beef feeder or slaughter animal; 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit. The total animal units located on a given parcel or Animal Operation shall be determined by adding the Animal Units for each animal type. ~~(Sources: 40 C.F.R. 122.23; 15A NCAC 2H.0217(a)(1)(A))~~

ANIMAL WASTE - Livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation. (Source: NCGS § 143-215.10B) includes Liquid residuals resulting from an animal operation that are collected, treated, stored, or applied to the land through an animal waste management system. (Source: NCGS § 90A-47.1)

ANIMAL WASTE MANAGEMENT SYSTEM - A combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste. (Source: NCGS § 143-215.10B)

APARTMENT HOUSE - Any Building or portion thereof used as a Multiple Dwelling for the purpose of providing three or more separate Dwelling Units which may share means of egress and other essential facilities. (Source: North Carolina State Building Code, Vol. 1, § 202)

APIARY - Bees, comb, hives, appliances, or colonies, wherever they are kept, located, or found. (Source: NCGS § 106-635)

APPEAL - A request for a review of the Administrator's interpretation of any provisions of this Ordinance or a request for a determination that there is error in an order, requirement or decision made by the Administrator pursuant to this Ordinance.

APPLICANT - Any person, firm, partnership, joint venture, association, corporation, group or organization applying for an Application for Development Approval.

APPLICATION FOR DEVELOPMENT APPROVAL OR "APPLICATION" - A written request for any approval, permit, or action required by this Ordinance, including any written request for approval or issuance of a development order or development permit. This includes such terms as "proposals" and "requests."

ARCHITECT - A person who is duly licensed to practice architecture by the North Carolina Board of Architecture. (Source: NCGS § 83A-1)

ARCHITECTURAL TRIM - The ornamental or protective framing or edging around openings or at corners or eaves and other architectural elements attached to the exterior walls of buildings, usually of a color and material different from that of the adjacent wall surface, and serving no structural purpose. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, BUILDING - The area included within surrounding exterior walls, or exterior walls and fire walls, exclusive of courts. The area of a building or portion of a building without surrounding walls shall be the usable area under the horizontal projection of the roof or floor above. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, GROSS FLOOR - The area within the inside perimeter of the exterior walls with no deduction for corridors, stairs, closets, thickness of walls, columns or other features, exclusive of areas open and unobstructed to the sky. (Source: North Carolina State Building Code, Vol. 1, § 202)

AREA, NET FLOOR - The area actually occupied or intended to be occupied even though at any given time a portion of such floor area may be unoccupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet room, mechanical area or other features. (See: North Carolina State Building Code, Vol. 1, § 202)

ARTISAN ~~CUSTOM MANUFACTURING~~ - An establishment primarily engaged in the on-site production of goods by hand manufacturing that involves only the use of hand tools or domestic mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts, and the incidental direct sale to customers of goods produced on the site. Typical ~~custom manufacturing~~ artisan uses include ceramic studios, ~~and~~ custom jewelry, and artwork.

ASSISTED LIVING RESIDENCE - Any residential care facility group housing and services program for two (2) or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. "Assisted Living Residence" includes any nursing service exceptions authorized by the North Carolina Department of Human Resources on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of NCGS 131E-102. There are three types of assisted living residences: Adult Care Homes, Group Homes (for developmentally disabled adults), and Multi-Unit Assisted Housing with services. (Source: NCGS 131D-2). Includes any "Assisted Living Residence" as defined by NCGS 131D-2 or NCGS 131D-20.

ATRIUM - A space, intended to occupancy within a building, extending vertically through the building and enclosed at the top. (Source: North Carolina State Building Code, Vol. 1, § 202)

AUCTION HOUSE SALES ESTABLISHMENT - Any place where items are sold at auction to the highest bidder.

AUDITORIUM - A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations. See also "Places of Public Assembly."

AUTHORIZED AGENT - Any person with valid authority provided by the Owner, as evidenced by a notarized document authorizing the Agent to represent the Owner, and acting on behalf of the Owner of land seeking a development order or development permit approval.

AUTOMOBILE GRAVEYARD - See "Junkyard."

AUTOMOBILE REPAIR, MAJOR - An establishment engaged in engine rebuilding or reconditioning of automobiles, boats, and other motor vehicles, the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan, worn or damaged motor vehicles or trailers, including body, frame or fender straightening or repair, and/or the painting of vehicles.

AUTOMOBILE REPAIR, MINOR - An establishment engaged in the sale of automotive fuels or oils, and the incidental repair and replacement of parts and motor services to automobiles, including oil change, tire sales, and alignment, but not including any operation specified under "Automobile Repair, Major."

AUTOMOBILE SALES, RENTAL - ~~An open area used use~~ for the display, sale or rental of new and/or used wheeled motor vehicles.

AVIGATION EASEMENTS - A document acknowledging airport proximity, limiting the height of structures and granting permission for the conditions arising from the overflight of aircraft in connection with the operation of an airport.

AWNING - An architectural projection that provides weather protection, identity and/or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid or retractable skeleton structure over which an approved cover is attached. (Source: North Carolina State Building Code, Vol. 1, § 202)

BALCONY, ASSEMBLY ROOM - That portion of the seating space of an assembly room, the lowest part of which is raised 4 ft (1219 mm) or more above the level of the main floor. (Source: North Carolina State Building Code, Vol. 1, § 202)

BALCONY (EXTERIOR) - An exterior floor system projecting from a structure and supported by that structure, with no additional independent supports. (Source: North Carolina State Building Code, Vol. VII, § 202).

BAR - Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption as an accessory use.

BASEMENT - That portion of a building which is partly or completely, or having a floor, below grade (see "Story above grade"). (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

BASE COURSE - The layer of material that lies immediately below the wearing surface of a street pavement.

BEACH BINGO – In accordance with the definition set forth in NCGS 14-309.6, “beach bingo” means bingo games which have prizes of ten dollars (\$10.00) or less or merchandise that is not redeemable for cash and that has a value of ten dollars (\$10.00) or less. Beach Bingo is subject to the provisions of NCGS 14-309.14.

~~Beach bingo. Nothing in this Article shall apply to "beach bingo" games except for the following subdivisions:~~

- ~~1. No beach bingo game may offer a prize having a value greater than ten dollars (\$10.00). Any person offering a greater than ten dollar (\$10.00) but less than fifty dollar (\$50.00) prize is guilty of a Class 2 misdemeanor. Any person offering a prize of fifty dollars (\$50.00) or greater is guilty of a Class I felony.~~
- ~~2. No beach bingo game may be held in conjunction with any other lawful bingo game, with any "promotional bingo game", or with any offering of an opportunity to obtain anything of value, whether for valuable consideration or not. No beach bingo game may offer free bingo games as a promotion, for prizes or otherwise. Any person who violates this subsection is guilty of a Class I felony.~~
- ~~3. NCGS 18B 308 shall apply to beach bingo games.~~
- ~~4. Upon conviction under any provision of this section, such person shall not conduct a bingo game for a period of at least one year. (1983, c. 896, s. 3; 1983 (Reg. Sess., 1984), c. 1107, s. 10; 1987, c. 701; 1989 (Reg. Sess., 1990), c. 826, s. 2; 1993, c. 539, ss. 214, 1232; 1994, Ex. Sess., c. 24, s. 14(e).)~~

BEACON - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST INN - A business of not more than five (5) guest rooms that offers bed and breakfast accommodations to at least one but not more than ten persons per night for a period of less than one week, and that:

1. Does not serve food or drink to the general public for pay;
2. Serves only the breakfast meal, and that meal is served only to overnight guests of the business;
3. Includes the price of breakfast in the room rate; and is the permanent residence of the owner or the manager of the business.

(Source: NCGS 130A-247). ~~See § 5.7 of this Ordinance.~~

BERM - A mound of earth designed so that slope drainage is directed away from a paved area and sidewalks which serves as a screen or bufferyard with landscaping.

BEST MANAGEMENT PRACTICES (BMPs) - Methods, measures, practices, schedules of activities, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff,

spillage or leaks, sludge or waste disposal, or drainage from raw material storage. With regard to construction these may include structural devices or nonstructural practices that are designed to prevent pollutants from entering water or to direct the flow of water. Economic, institutional and technical factors shall be considered in developing best management practices.

**BICYCLE** - A device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than sixteen (16) inches in diameter or having three wheels in contact with the ground any of which is more than sixteen (16) inches in diameter.

**BICYCLE FACILITIES** - A general term denoting improvements and provisions made or approved by public agencies to accommodate or encourage bicycling, including parking facilities, mapping, and bikeways, and shared roadways not specifically designated for bicycle use.

**BICYCLE LANE (BIKE LANE)** - A portion of a roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

**BICYCLE PATH** - A hard surfaced path for bicycles. This bikeway is physically separated from motorized vehicular traffic by an open space barrier and either within the highway right-of-way or within an independent right-of-way.

~~**BIG BOX RETAIL**~~—see “[Superstore](#)”.

**BLOCK** - That property abutting one side of a street and lying between the two nearest intersecting streets, or nearest intersecting street and railroad right-of-way, un- subdivided acreage, waterways, but not an alley, of such size as to interrupt the continuity of development on both sides thereof.

**BLOCK FRONTAGE** - All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, water way (wider than thirty feet, 30'), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

**BOARD** - Unless otherwise indicated in the text, Board shall refer to the Town of Mount Pleasant Board of Adjustment.

**BOARDING HOUSE OR ROOMING HOUSE** - A building containing a single dwelling unit and three (3) or more rooms where lodging is provided, with or without meals, for compensation. "Compensation" may include money, services or other things of value.

**BOARDING KENNEL** - A facility or establishment which regularly offers to the public the service of boarding dogs or cats or both for a fee. Such a facility or establishment may, in addition to providing shelter, food and water, offer grooming or other services for dogs and/or cats. (Source: NCGS § 19A-23)

**BOAT** – A floating watercraft vessel propelled on water by oars, sails, or an engine. For the purposes of this Ordinance the following shall apply to boat units:

- Two (2) personal watercraft, less than 13 feet in length shall equal one boat unit.
- One (1) watercraft vessel of less than 30 feet in length is equal to one boat unit.
- One (1) watercraft larger than 30 feet shall equal two boat units.

[BOAT SALES/RENTAL – An establishment engaged in the retail sale or leasing of boats or personal watercraft.](#)

**BODY PIERCING** – The intentional act of any person, or persons, of piercing any part of the body for another person or persons, other than the ears, for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body.

BONA FIDE FARM - A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

1. A farm sales tax exemption certificate issued by the Department of Revenue.
2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS 105-277.3.
3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
4. A forest management plan.
5. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

BORROW PIT - An area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance. (Source: The Mining Act of 1971, NCGS § 74-49)

BROADCASTING/TELECOMMUNICATIONS STUDIO – An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services, radio and television broadcasting, or cable and other pay television services, but excluding those uses classified as utilities and broadcasting towers.

BUFFERYARD - A strip of land established to protect one type of land use from another land use or to provide screening. Normally, a bufferyard is landscaped and developed in open space areas. See Article 7 of this Ordinance.

BUFFER, EXTERNAL - A bufferyard along the exterior boundaries of a development which is maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

BUILDABLE AREA - The portion of a lot which is within the envelope formed by the required yards. See "Yard, Required."

BUILDING - Any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a fire wall shall be considered as a separate building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

BUILDING AREA - The total areas taken on a horizontal plane at the mean grade level of the principal buildings and all accessory buildings, exclusive of uncovered porches, terraces, steps, roof overhangs, and balconies.

BUILDING ENVELOPE - The three dimensional space occupied by a building, including all eaves, covered porches, breezeways and other portions of the building, but excluding attached decorative walls which are less than or equal to three feet in height.

BUILDING FAÇADE - That exterior side of a building which faces, and is most nearly parallel to, a public or private street. The Façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

BUILDING HEIGHT - A vertical distance from the highest point of a building to grade, measured in accordance with § 4.7 of this Ordinance.

BUILDING LINE - A line as determined by meeting the respective front, side and rear yard setbacks or in the case of irregular shaped lots with less than the minimum lot frontage (such as cul-de-sac lots), the building line shall be established at the point of minimum lot width. The Building Line shall be measured with a line perpendicular to the street or property line in front of which no structure may be erected.

**BUILDING, MAIN OR PRINCIPAL** - A building, or buildings, in which the dominant use of the lot on which it is situated is conducted. In any Residential Zoning District, any dwelling other than an Accessory Building shall be deemed to be the main building of the lot on which it is situated.

**BUILDING, MIXED USE** - A Building which contains Dwellings located above the ground floor of an institutional, civic, office, commercial or retail use. Mixed Use Buildings are a common feature of traditional town centers where shop owners lived above ground-floor businesses, and are sometimes referred to as "Live-Work Units." Where a Mixed Use Dwelling is permitted by this Ordinance within a particular district, the ground-floor retail uses are also permitted. [See § 4.10 \(Traditional Neighborhood Development – TND Infill Uses\).](#)

**BUILDING PERMIT** - An authorization to construct a structure as issued by the Cabarrus County Building Inspections Department.

**BUILDING, TEMPORARY** - A structure designed, built, created or occupied for short and/or intermittent periods of time, including tents, lunch wagons, dining cars, trailers and other roofed structures on wheels or other supports used for residential business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purpose of this definition, "roof" shall include an awning or other similar covering whether or not it is permanent in nature.

**BUILT-UPON AREA** - That portion of a development that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities, etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.) (Source:15A NCAC 2H.1002).

[\*\*BUSINESS KIOSK\*\* - A walk-up or drive-through self-service unit that provides convenience-type services including but not limited automatic teller machine \(ATM\) ice vending, movie rental, household propane tanks, and donation bins.](#)

[\*\*BUSINESS & PROFESSIONAL SERVICES\*\* - An establishment primarily engaged in providing services to commercial and business establishments, including but not limited to repair services, computer services, cleaning and maintenance services, and similar uses.](#)

**BULK** - The size and shape of buildings, structures, and non-building uses; and the physical relationship of their exterior walls or construction or their location to lot lines and other buildings or structures or other walls or construction of the same building or structure; and all open spaces required in connection with a building or structure. Bulk regulations include regulations dealing with lot area, lot area per dwelling unit, lot frontage, lot width, building height, required yards, courts, usable open space, the ratio of aggregate gross floor area to the area of the lot, spacing between buildings on a single lot, and the length of buildings in a row.

**CALIPER** - A standard trunk diameter measurement for trees taken six inches above ground for up to and including four-inch caliper size and twelve inches above ground for larger sizes.

**CAMP, THERAPEUTIC** - A residential treatment facility provided in a camping environment which is designed to assist individuals to develop behavioral control, coping skills, self-esteem, and interpersonal skills. (Source: 10 NCAC 14V.5201, 10 NCAC 44E.0002).

**CAMPGROUND** - A plot, parcel, or tract of land upon which two (2) or more campsites or recreational vehicles are located, established, or maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition. A Therapeutic Camp is not considered a "Campground."

**CAMPING UNIT** - Any tent, trailer, cabin, lean-to, Recreational Vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

CAMPSITE - Any plot, parcel, or tract, or portion thereof, intended for exclusive occupancy by a Camping Unit.

CANOPY - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies. (See Sign Regulations.)

CAPACITY - The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

CAPITAL IMPROVEMENT - A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the Town, a special district, or a private service provider.

CAPITAL IMPROVEMENT, PLANNED - A Capital Improvement designed for construction within a period not to exceed six (6) years in a Capital Improvements Program.

CAPITAL IMPROVEMENTS PROGRAM - A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. "Capital improvements program" may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category of public facilities.

CAR DEALERSHIP - See "Automobile Sales Establishment."

CARNIVAL - See "Outdoor Event, Temporary."

CARPORT - A roofed structure which may be attached or unattached to the principal structure providing space for the storage of one or more motor vehicles and enclosed on not more than three (3) sides by walls.

CARETAKER RESIDENCE - A dwelling unit which houses an individual or family who is employed by the primary user of the property or is the property owner to oversee and protect the daily operations of the property and structure(s). Such dwelling unit shall not be used for any purpose other than as a caretaker unit. The total square footage of the dwelling unit shall not exceed 2,500 square feet.

CAR WASH - An establishment that provides washing and cleaning of passenger or recreational vehicles by hand, by use of automated equipment operated by one (1) or more attendants, or by self-service facilities.

~~CARRIAGE HOUSE~~ - See "Accessory Dwelling."

CARRY-OUT FOOD SERVICE - A business whose principal purpose is the preparation and sale of food or beverages for consumption off-site, such as delicatessens, ice cream stores and hot dog stands, but shall not include liquor stores, restaurants, and drive-through commercial establishments.

CATERING SERVICE – A business that provides prepared food service at site for events or households.

CELLAR - That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling.

CEMETERY - Any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

1. A burial park, for earth interment.
2. A mausoleum.
3. A columbarium.

(Source: NCGS 65-48. See § 5.9)

CEMETERY, LICENSED- Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State. [See § 5.9 of this Ordinance.](#)

CEMETERY, UNLICENSED - Land and facilities used for the burial of the dead, including municipal, private family, farm, church or animal cemeteries, which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law. [See § 5.9 of this Ordinance.](#)

CENTERLINE - The true centerline of a street right-of-way that has been fully dedicated to the required width.

CENTERLINE OFFSET OF ADJACENT INTERSECTIONS - The gap between the centerline of streets adjoining a common road from opposite or same sides.

CENTRAL WATER SYSTEM - See public Water System.

CERTIFICATE OF COMPLIANCE - The certificate issued by the Administrator, indicating that the use or occupancy of, or the connection or provision of utilities to any building or land hereafter created, erected, changed, converted, altered or enlarged in its use or structure is in compliance with all regulation of this Unified Development Ordinance.

CERTIFICATE OF OCCUPANCY - The certificate issued by the North Carolina Department of Buildings, indicating that all required building and service systems shall have been inspected for compliance with the Building Code and other applicable laws and ordinances and that the Building, or portion of the Building, may be occupied or used.

CERTIFICATE OF STORMWATER COMPLIANCE - The approval for activities that meet the requirements for coverage under a stormwater general permit for development activities regulated by the Stormwater Management provisions of the North Carolina Administrative Code. (Source: 15A NCAC 2H.1002).

CERTIFY - A certification by an agency or official, pursuant to this Ordinance, of the existence of some fact or circumstance, whether made in oral or written form, which provides reasonable assurance of the accuracy of the certification.

CHANGE IN USE - A change from one principal use of a building or land to another principal use of the building or land whether or not there is an increase in the size of the existing building or extent of the use of the land.

CHANNEL - A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHILD CARE - A program or arrangement where three (3) or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four (4) hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

1. Arrangements operated in the home of any child receiving care if all of the children in care are related to each other and no more than two additional children are in care;
2. Recreational programs operated for less than four consecutive months in a year;
3. Specialized activities or instruction such as athletics, dance, art, music lessons, horseback riding, gymnastics, or organized clubs for children, such as Boy Scouts, Girl Scouts, 4-H groups, or boys and girls clubs;
4. Drop-in or short-term care provided while parents participate in activities that are not employment related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care provided in health spas, bowling alleys, shopping malls, resort hotels, or churches;
5. Public schools;
6. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by the Southern Association of Colleges and Schools and that operate a child care facility as defined in subdivision

- (3) of this section for less than six and one-half hours per day either on or off the school site;
  - 7. Bible schools conducted during vacation periods;
  - 8. Care provided by facilities licensed under Article 2 of Chapter 122C of the General Statutes;
  - 9. Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment; and
  - 10. Any child care program or arrangement consisting of two or more separate components, each of which operates for four (4) hours or less per day with different children attending each component.
  - 11. [Track-out programs provided to school-age children when they out of school on a year-round school calendar.](#)
- (Source: NCGS 110-86)

CHILD CARE CENTER - An arrangement where, at any one time, there are three (3) or more preschool-age children or nine (9) or more school-age children receiving Child Care. Includes family child care homes and any other child care arrangement not excluded by NCGS 110-86(2), that provides Child Care, regardless of the time of day, wherever operated, and whether or not operated for profit. (Source: NCGS 110-86).

CHILD CARE HOME, FAMILY - A child care arrangement located in a residence where, at any one time, more than two (2) children, but less than nine (9) children, receive child care. [This type of Child Care may be permitted as a Home Occupation.](#) (Source: NCGS 110-86).

~~CHILDREN'S CAMP—A residential child care facility which provides foster care at either a permanent camp site or in a wilderness setting. (Source: NCGS 131D-10.2)~~

CHURCH - See "Religious Institutions."

~~CITY COUNCIL—City Council of Concord, North Carolina.~~

[CIVIC, SOCIAL, FRATERNAL ORGANIZATION - An establishment that is organized and operated solely for a social, recreational, patriotic, fraternal, or philanthropic purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by NCGS 14-309.11\(a\) and NCGS 14-309.13.](#)

CLEANING OR PROCESSING ESTABLISHMENT - A business that primarily involves the on-site cleaning, treatment, or chemical processing of goods or materials, or the storage of chemicals, used in off-site cleaning, treatment, or processing. This includes, but is not limited to, carpet cleaners, dry- cleaning plants, exterminating services, and taxidermists. This term does not include Dry Cleaning, and Laundry establishments.

CLINIC OR HEALTH CARE FACILITY - A building containing an association or group of physicians, dentists, clinical psychologists, and similar professional health care practitioners, including allied professional assistants who are assembled for the purpose of carrying on their professions. The health care facility may include apothecary, dental and medical laboratories, tissue labs, and/or X-ray facilities, but shall not include inpatient care or operating rooms for major surgery.

~~CONSERVATION CLUSTER DEVELOPMENT OR CLUSTER OPTION DEVELOPMENT - A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of sensitive and open space areas. See § 4.8 of this Ordinance.~~

COLLECTOR STREET - Streets accessing neighborhoods and routes serving intra-city rather than intra-state travel. A minor amount of through traffic may be carried by a collector street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than for arterial routes. A collector street includes any street classified as a Major Collector or Minor Collector pursuant to Article 10 and Appendix C of this ordinance.

~~COMMERCIAL PARKING LOT—See "Parking Lot."~~

~~COMMERCIAL PARKING STRUCTURE~~— See "Parking Structure."

~~COMMERCIAL STABLE~~— See "Stable, Commercial."

COMMERCIAL VEHICLE - See "Vehicle, Commercial."

COMMISSION - Unless otherwise indicated in the text, Commission shall refer to the Concord Planning and Zoning Commission.

COMMON OWNERSHIP - Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stock owner, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association, but excluding ownership of less than 1% of any stock traded on the New York, American or Pacific Stock Exchanges or traded over-the-counter where the price is listed at least weekly in the Wall Street Journal.

~~COMMUNITY PARK~~— A community park as defined in the Cabarrus County Parks and Recreation Master Plan, at 4-2 and 4-5.

COMMUNITY WATER SYSTEM - See definition of "Public Water System."

COMPREHENSIVE PLAN - A comprehensive plan for development of the Town, or any County-wide Comprehensive Plan adopted by the Town, [pursuant to NCGS 160D-5-1](#), and including any part of such plan separately adopted and any amendment to such plan, or parts thereof. Unless and until a formal Comprehensive Plan is adopted for the Town, any applicable Area Plan and/or the Official Zoning Map and the text of this Ordinance shall be considered the Comprehensive Plan.

CONCEPT PLAN - A generalized plan indicating the boundaries of a tract or tracts under common ownership, and identifying proposed land use, land use intensity and thoroughfare alignment.

~~CONDITIONAL SPECIAL~~ USE - A "~~conditional special~~ use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a conditional use if designated as such by the Use Matrix of Table 4.6-2.

CONDOMINIUM - The ownership of single units in a multi-unit structure with common areas and facilities. (Source: Unit Ownership Act, NCGS 47A-3), real estate portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. (Source: North Carolina Condominium Act, NCGS 47C-1-103)

CONFERENCE AND BANQUET FACILITIES - See "Places of Public Assembly, Indoors."

CONFORMING USE - A use that is permitted within the applicable zoning district (see Use Matrix in Table 4.6-2).

CONNECTIVITY INDEX - The index of the connectivity of a street system prescribed by the Street Improvement Standards of Article 10.

CONSENT AGREEMENT - A regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in the Unified Development Ordinance and, where the denial or deferral of development approval is disputed by the applicant, to effectuate the public policy favoring the settlement of disputes, which document contains an integrated development scheme for a particular phase or phases of development approval, and contains maps, diagrams and other appropriate materials showing future conditions

consistent with the provisions of this Ordinance.

CONSERVE AND CONSERVATION - To use, and the use of, all methods and procedures for the purposes of increasing the number of individuals of resident species of plants up to adequate levels to assure their continuity in their ecosystems. These methods and procedures include all activities associated with scientific resource conservation such as research, census, law enforcement, habitat protection, acquisition and maintenance, propagation, and transplantation into unoccupied parts of historic range. With respect to endangered and threatened species, the terms mean to use, and the use of, methods and procedures to bring any endangered or threatened species to the point at which the measures provided for the species are no longer necessary. (Source: NCGS § 106-202.12)

CONSERVATION EASEMENT - A non-possessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological or cultural aspects of real property.

CONSTRUCTION PLAN - The maps or drawings accompanying a subdivision plat showing the specific location and design of improvements to be installed in the subdivision as a condition of the approval of the plat.

CONTIGUOUS - Bordering or adjoining, meeting or joining at the border or surface.

CONTRACTOR OFFICE – Offices for general contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing, and roofing. This excludes shops for any construction materials, assembly, equipment, or storage yards.

CONTRACTOR SHOPS – Shops for general contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing, and roofing. This may include shops for any construction materials, assembly, equipment, or storage yards.

CONTROLLED-ACCESS FACILITY - A State highway, or section of State highway, especially designed for through traffic, and over, from or to which highway owners or occupants of abutting property, or others, shall have only a controlled right or easement of access. (Source: NCGS 136- 89.49)

CONVENIENCE STORE - A store offering for sale a limited selection and quantity of groceries and other articles normally found in grocery stores, and which may also offer delicatessen or fast food items, and whose business is mostly dependent on quick stops by its customers. A convenience store operation may also include self-service gasoline sales. [See § 5.10 of this Ordinance.](#)

~~CONVENTIONAL OPTION DEVELOPMENT – Any application requesting approval of a development or use within a zoning district other than a PUD, TND or TOD district, and a Cluster development.~~

CONVEY - To transfer all or a part of a title or equitable interest in land; to lease or assign an interest in land; or to transfer any other land interest.

CONVEYANCE PLAT - A plat that may be used for the transfer of land qualifying as a minor subdivision. See Article 6.

CORNER LOT - See "Lot, Corner."

CORRAL - A pen or enclosure for confining animals.

CORRECTIONAL INSTITUTION - A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-

release programs, whether such facilities provide confinement for all of each twenty-four hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

CORRIDOR (building) - A passageway into which compartments or rooms open and which is enclosed by partitions, other than partial partitions, and/or walls and a ceiling or a floor/roof deck above. (Source: North Carolina State Building Code, Vol. 1, § 202)

CORRIDOR (road) - A street or roadway identified as a principal link or gateway within the community.

COUNTY - The County of Cabarrus, North Carolina. Where this Ordinance refers to any territory, land area or property within the "County", the term "County" shall include all incorporated and unincorporated areas within Cabarrus County, North Carolina. Where appropriate, the term shall also include any personnel or agent of Cabarrus County.

COURTYARD - A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building. (Source: North Carolina State Building Code, Vol. VII, § 202).

CREMATORY - An establishment either part of or separate from a funeral home or veterinary services establishment that contains a furnace for the purpose of cremating the bodies of deceased persons or animals.

CRITICAL AREAS - Any lot, parcel or property, or portion thereof, located within the the Floodplain Overlay District, the River/Stream Overlay District, or any Watershed Protection Overlay District.

CROSSWALK - A public right-of-way used primarily for pedestrians' travel through or across any portion of a block.

COUNTRY CLUB - A private club, including country clubs, that provides one (1) or more of the following: indoor and/or outdoor golf, tennis, or swimming facilities, indoor exercise or recreational rooms and equipment; and which may include a clubhouse with dining and banquet facilities; operated on a private membership basis and restricted to use by members and their guests.

CUL-DE-SAC - A short, dead-end street terminating in a vehicular turn-around area.

CURB FACE - The vertical or shaped portion of a curb, facing the roadway, and designed to direct storm waters.

CURB - A stone, concrete, or other improved boundary marking the edge of the roadway or paved area.

CURB OUTLET SYSTEM - Curb and gutter installed in connection with Stormwater Management, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

CUT, LAND - Land surface which is shaped through the removal of soil, rock or other materials.

DATA CENTER/CALL CENTER – A facility primarily intended for the storage or management of computer or electronic data or customer service via phone or electronic communication.

DAY CARE - See "Child Care."

DAYS - When used to establish time limits on various processes in this Ordinance, days shall mean business days.

DECISIONMAKER - The agency, official or entity authorized to render a final decision which approves, approves with conditions or denies an application for development approval.

DECLARATION - An instrument, duly recorded, by which the property is submitted to Chapter 47A of the North Carolina General Statutes, and such declaration as from time to time may be lawfully amended. (Source: Unit

Ownership Act, NCGS § 47A-3); and any instruments, however denominated, which create a condominium, and any amendments to those instruments. (Source: North Carolina Condominium Act, NCGS § 47C-1-103)

DEDICATION - A gift, by the owner, of his property to another party without any consideration being given for the transfer. The dedication is made by written instrument and is completed with an acceptance.

DE NOVO HEARING - A new hearing. In a de novo hearing, the reviewing agency considers the application as if it originated before it, but may consider the findings of fact, conclusions of law, or recommendations of the agency which previously considered the case.

DENSITY - The total number of dwelling units per acre, ~~computed in accordance with § 4.7 of this Ordinance.~~

DENSITY BONUS - Dwelling units or non-residential square footage permitted in addition to the permitted density or intensity within a zoning district, ~~computed in accordance with § 4.8 of this Ordinance.~~

DENSITY, NET - The number of dwelling units divided by the net acreage remaining after subtracting all critical areas and streets, ~~computed in accordance with § 4.7 of this Ordinance.~~

DEPARTMENT Unless otherwise noted in the text, Department shall refer to ~~the Cabarrus County~~ Planning ~~Services~~ Department.

DEVELOPER - A person, firm, partnership, joint venture, association, corporation, groups or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval under this Ordinance.

DEVELOPMENT - The division of a parcel of land into two or more parcels; the construction, reconstruction conversion, structural alteration, relocation or enlargement of any structure; any mining, drilling, excavation, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated by this reference, and any of the following activities:

1. Change in use.
2. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
3. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or central water system and including the long-term storage of materials.
4. Erection of a permanent sign.
5. Any activity increasing the need for parking.
6. Construction, elimination or alteration of a driveway onto a public street.

DEVELOPMENT ORDER - Any action granting, denying or granting with conditions, an application for a development permit.

DEVELOPMENT PARCEL - Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

DEVELOPMENT PERMIT - Any zoning clearance; building permit; home occupation permit; sign permit; temporary use permit; certificate of occupancy; conditional use permit; preliminary subdivision plat; final subdivision plat or other plat approval; preliminary site plan; final site plan; rezoning (change of zone); Comprehensive Plan amendment; specific plan; or any other official action of the Town or any other state or local government commission, board, agency, department or official having the effect of permitting development of land located within the geographic area

subject to the provisions of this Ordinance.

~~DEVELOPMENT RIGHT - The potential for the improvement of a parcel of real property, measured in dwelling units for residential uses or equivalent dwelling units for non residential uses, which exists because of the zoning classification of the parcel.~~

~~DEVELOPMENT SERVICES DEPARTMENT - The Cabarrus County Development Services Department.~~

DIAGNOSTIC CENTER - A freestanding facility, program, or provider, including but not limited to, physicians' offices, clinical laboratories, radiology centers, and mobile diagnostic programs.

DIMENSIONAL REGULATIONS - ~~See § 4.7 of this Ordinance.~~ Numerical standards including lot size, lot width, setbacks, separation distances, and similar criteria.

DISPOSITION - A transfer of all or part of a title or equitable interest in land; a lease or an assignment of an interest in land; or any other transfer or conveyance of an interest in land.

DORMITORY - A space in a building where group sleeping accommodations are provided with or without meals for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks and ski lodges. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

DRAINAGE AREA OR WATERSHED - The entire area contributing surface runoff to a single point. (Source: 15A NCAC 2H.1002).

DRIVE-THROUGH ~~USES COMMERCIAL ESTABLISHMENT~~ - A commercial retail or personal service establishment designed or intended to enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include, but are not necessarily limited to branch banks, fast-food restaurants, and pharmacies.

DRIVEWAY - A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street. A driveway is not a road, street, boulevard, highway, or parkway.

DRYCLEANING STOREFRONT - A drop-off and pick-up location for garments taken off-site to be cleaned with an organic solvent.

DUST-FREE- - A land surface that is paved in one of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate or (4) the equivalent of the above.

DWELLING - Any building which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

DWELLING, DUPLEX - A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. A duplex may include: (1) a semidetached dwelling, which is a building containing two dwelling units attached horizontally (see illustration), or (2) a building with two units attached vertically, with one dwelling unit located on top of the other.

DWELLING, MIXED USE - See "Building, Mixed Use."

DWELLING, MULTI-FAMILY MULTIPLE - A building or portion thereof designed for or occupied as three (3) or more dwelling units on a lot of record.

DWELLING, SINGLE-FAMILY - A building designed for occupancy by one (1) family.

DWELLING, SINGLE-FAMILY ATTACHED - ~~A building containing~~ Two (2) or more residential units, attached along and sharing one (1) or more common walls between any two (2) units, for which each unit is located on individual lot of record or stacked one (1) above the other, or attached to a non-residential use. An Attached Dwelling includes ~~any Duplex, Triplex, Quadruplex, townhouses or Rowhouse.~~

DWELLING, SINGLE-FAMILY DETACHED - A Single-Family Dwelling Unit that is not attached to any other Dwelling Unit by any means and is surrounded by yards on an individual lot of record.

DWELLING UNIT - A dwelling unit is a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII, § 202).

DWELLING, UPPER STORY – One or more dwelling units, intended for permanent residential occupancy, established above the first story of a structure that contains commercial or other nonresidential space on the first story of the structure

EASEMENT - A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for a specific purpose.

EASEMENT, NON-ACCESS - An easement prohibiting vehicular access from a public street.

EFFECTIVE DATE OF THIS ORDINANCE - The effective date of this Ordinance determined in accordance with Article 1 of this Ordinance.

ELECTRIC GENERATING FACILITY - Any plant facilities and equipment for the purposes of producing, generating, transmitting, delivering or furnishing electricity for the production of power. (Source: NCGS § 75A-2)

~~ENCLOSURE RATIO (Note: this definition is used in § 4.10 TND District only) — The ratio of building height to spaces in front of the building. Buildings serve to spatially define streets. Proper spatial definition is achieved with buildings or other architectural elements (including certain tree plantings) that make up the street edges aligned in a disciplined manner with an appropriate ratio of height to width. The condition of alignment occurs when the facades of buildings cooperate to delineate the public space, as walls form a room. Building articulation must take place primarily in the vertical plane or facade. Appendages such as porches, balconies, and bay windows are encouraged to promote the visual transition. The condition of enclosure generated by the height-width ratio of the space is related to the physiology of the human eye. If the width of a public space is such that the cone of vision encompasses less street walls than the opening to the sky, then the degree of spatial enclosure is slight. Ratios not exceeding 1:4 are considered optimal, while a 1:6 height to width ratio is the absolute minimum required for appropriate urban spatial definition. See P. Craighead, ed., The Hidden Design in Land Use Ordinances (University of Southern Maine, 1991), at 45; R. Arendt, Rural by Design (American Planning Association, 1994), at 10-11. An appropriate average ratio is 1:3. As a general rule, the tighter the ratio, the stronger the sense of place. Spatial enclosure is particularly important for shopping streets, which must compete with malls which provide very effective spatial definition. In the absence of spatial definition by facades, disciplined tree planting is an alternative. Trees aligned for spatial enclosure are necessary along thoroughfares with substantial front yards. If Streetscape Landscaping is provided in accordance with the Landscaping Standards of this Ordinance, the Enclosure Ratio shall be measured from the height of the trees at maturity rather than the height of the buildings. For the internal streets or circulation systems of subdivision plats or site plans, the Enclosure Ratio shall be computed by dividing the height of the shortest facing structure by the spaces between the buildings. For development on individual tracts adjoining a public right-of-way and not under Common Ownership with tracts or parcels facing across the right-of-way, the Enclosure Ratio shall apply only to the tract or parcel subject to the Application for Development Approval. Example: A building (Building A) is 15 feet in height and faces a building (Building B) 24 feet in height across a street with a 40-foot right-of-way. Building A is located~~

~~15 feet and Building B is located 20 feet from the edge of the right of way, producing a building to building space of 75 feet. The enclosure ratio is 1:5 (15 ÷ 75 = 1:5). See first "Village Scale" example (illustration). Source: P. Craighead, ed., The Hidden Design in Land Use Ordinances. (University of Southern Maine, 1991).~~

ENGINEER - An Engineer licensed by the State of North Carolina.

ENGINEER, ~~CITY TOWN – The City of Concord Director of Engineering.~~ The contracted Professional Engineer for the Town of Mount Pleasant.

ENHANCEMENT - Improvement of the functions or an existing wetland system. Enhancement may include improved flood control capacity, increased groundwater recharge capability, increased density and diversity of native wildlife and vegetation, and improved aesthetic values (e.g., by removing non-native impediments, structures, impervious surfaces).

ENLARGEMENT OR "TO ENLARGE" - An increase in size or addition to the Floor Area of a Building or Structure, or an increase in the portion of a Building, Structure, or land area occupied by an existing Use.

ENTRANCE ROAD - A Street which: (1) leads into a Subdivision, Planned Unit Development, or a Traditional Neighborhood Development, and (2) intersects with a higher order Street.

EQUIPMENT - Rolling stock or movable personal property except that, for the purpose of this Ordinance, it shall not include those items defined as Heavy Equipment.

EQUIPMENT SALES/ RENTAL – The retail sales or rental of heavy equipment.

EQUIVALENT DWELLING UNIT OR "EDU" - See "Equivalent Residential Unit."

EQUIVALENT RESIDENTIAL UNIT OR "ERU" - (See Art. 14 "Adequate Public Facilities Standards" of this Ordinance.)

ERECT - To build, construct, attach, hang, place, suspend, affix and/or apply.

~~EROSION CONTROL – See Article 9 of this Ordinance.~~

EVIDENCE - Any map, table, chart, contract or other document or testimony prepared or certified that is offered by a person to establish a claim, condition or assertion.

EXCAVATION - The removal of soil, rock or other matter from a land area.

EXISTING CAPACITY - The Capacity of the existing built and operational Public Facilities, as determined by the service provider.

EXISTING DEMAND - See "Public Facilities Standards" of this Ordinance.

EXOTIC ANIMALS - See Other Animals.

EXOTIC SPECIES (PLANT) - A species or higher taxon of plant not native or naturalized in North Carolina but appearing in the Federal Endangered and Threatened Species List or in the appendices to the International Treaty on Endangered and Threatened Species. (Source: NCGS § 106-202.12)

EXTENDED STAY LODGING FACILITY - Any building containing six or more units intended or designed to be used, rented, or hired out to be occupied, or which are occupied for sleeping purposes for guests, and which units contain kitchen facilities for food preparation including, but not limited to, such facilities as refrigerators, stoves and

ovens. Extended Stay Lodging Facilities may contain lobbies, conference rooms, meeting rooms, child play areas, and/or restaurants.

EXTRACTIVE USES - Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining but excludes individual water well drilling.

FAÇADE – See “Building Façade”.

FAMILY - An individual, or two (2) or more persons related by blood, marriage or law, or a group of not more than any five (5) persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two (2) or persons related by blood, marriage or law, are a part of the family for this code. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

FAMILY CARE HOME - 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 resident handicapped persons. (Source: NCGS 168-21)

~~FARM, BONAFIDE— A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.~~

~~FARM BUILDINGS— Structures, other than residences and structures appurtenant thereto, for on farm use (barns, sheds, poultry houses, etc.). (Source: North Carolina State Building Code, Vol. 1, § 201.3)~~

~~FARM OPERATION— Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. (Source: NCGS § 133-7)~~

~~FARM RELATED BUSINESS— A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services.~~

FARMERS MARKET - A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers market differs from a produce stand in that there may be more than one (1) seller per parcel of land and the structure from which produce is sold at a farmers market need not be portable or capable of being dismantled or removed from the site.)

FEED LOT - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Ordinance. (Source: NCGS § 143-215.10B)

FENCE - A barrier of man-made construction, regardless of the material used, including walls but not retaining walls. ("material" does not include vegetation.) [For the purposes of this Ordinance, a fence is not a structure.](#)

FENCE, LIVING - A hedge of vegetation used as a screening device or a fence with vegetation growing to it or on it which at the time of maturity would prevent an "open" effect and would block the normal line of sight.

FENCE, OPEN - A fence constructed of material which does not interrupt the line of sight, such as split rail, pipe or chain-link fencing and shall not include a living fence.

FILL - Deposit of soil, rock, or other material placed in an area which created an obstruction or increases surface elevation.

FINAL PLAT - A survey map of record which indicates the boundaries for streets, blocks, lots and other property divisions which is prepared pursuant to Article 6 of this Ordinance.

FINAL SITE PLAN OR FINAL PLAN - The map of a proposed development to be filed after approval by the decision-making authority and any accompanying material as described in this Ordinance.

FINANCIAL INSTITUTION - Any trust company, savings bank, industrial bank, savings and loan association, building and loan association, commercial bank, credit union, federal association, investment company, or other business association, which is chartered under federal or State law, solicits, receives or accepts money or its equivalent on deposit and loans money as a regular business. (Source: NCGS § 116B-10)

FIRE FLOW SURVEY - A testing of fire hydrants to determine capacity by volume and pressure for fire-fighting purposes.

FIRE PROTECTION FACILITIES - Fire stations and major pieces of fire-fighting apparatus, including, but not limited to pumpers, quick response vehicles, hook and ladder trucks, and similar equipment, owned and operated by the Town of Mount Pleasant Fire Department or other duly authorized volunteer fire districts.

FLAG - Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity. ~~Flags are regulated in accordance with the standards of Article 12 "Sign Regulations"~~

FLAG LOT - See "Lot, Flag."

FLEA MARKETS - A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two (2) or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products, or other items offered for sale outside an enclosed building. Flea markets shall not include any of the following activities which occur at the same location four (4) or fewer days in any calendar year: garage sales, produce stands, or fundraising activities done by a non-profit organization.

FLOOR AREA -The sum of the gross horizontal areas of the several stories of the building measured from the exterior faces of the exterior walls or from the center line of party walls. It shall exclude any basement floor, interior balconies and mezzanines, elevator shafts and stair wells and enclosed porches. The floor area of accessory uses and of accessory buildings on the same lot shall be included.

FLOOR AREA RATIO (FAR) - The ratio of the gross floor area of all structures on a parcel to the gross area of the parcel on which such structures are located.

FORESTLAND - Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit, but the wasteland included in the unit shall be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in NCGS 105-277.3(a)(3), and each tract must be under a sound management program.

FRONT - Any public street frontage, not including alleys.

FRONTAGE - The distance where a property line is in common with a public or private street right-of-way, or a recorded access easement. See section 6.6.5.3. for provisions regarding access easements.

FRONTAGE, DOUBLE - A lot which extends from one street frontage to another street.

~~FRONTAGE, FULL - Frontage which meets the requirements of § 4.7 of this Ordinance.~~

FRONTAGE ROAD - A way, road or street which is auxiliary to and located on the side of another highway, road or street for service to abutting property and adjacent areas and for the control of access to such other highway, road or street. (Source: NCGS § 136-89.49)

FUEL/HEATING OIL DEALER - An establishment primarily engaged in the retail sale of fuel or heatin oil (excluding retail sale of motor fuels), bottled gas, coal, wood, or other fuels. This definition includes only those uses in the following NAICS group(s): 45431 Fuel Dealers

FULLY SHIELDED - "Fully shielded" means that light fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted, as certified by photometric test report.

FUNERAL HOME - An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals. May include accessory crematories.

GARDEN SUPPLY - An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, pre-packaged fertilizers, pre-packaged pesticides, and other garden supplies to the general public.

GARAGE, PRIVATE - An accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles of occupants in the building to which such garage is accessory, but not including the parking or temporary storage of delivery or truck motor vehicles having a capacity in excess of one (1) ton.

GAS STATION - Buildings and/or surfaced area where motor vehicles may be refueled and/or serviced.

GOVERNMENT BUILDINGS/FACILITIES – Buildings or other facilities owned or leased by a federal, state, or local government entity for the exercise of governmental functions or the provision of services to the public. This shall not include correctional institutions, public parks, shooting ranges, or those uses listed under the “Industrial, Wholesale, Transportation, and Utility Uses” category.

GRADE - A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 feet (1829 millimeters) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "grade" also includes a reference plan representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 ft. (1829 mm) from the building, whichever is closer to the building. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

GRADE, FINISHED - The level of the soil after completion of site development.

GRADE, NATURAL - The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.)

GREENBELT - Greenbelts run along the perimeter of a subdivision, ~~Planned Unit Development, or TND~~, and serve to (1) buffer a neighborhood from surrounding incompatible uses such as a highway corridor or industrial district, and/or (2) provide an edge for the neighborhood. Greenbelts differ from the other types of open spaces in that the natural vegetation and wildlife is undisturbed, or the area is actively cultivated for crops or the raising of Livestock

(excluding Concentrated Animal Feeding Operations).

GREENFIELD DEVELOPMENT - Development on undeveloped parcels undeveloped parcels not surrounded by existing development, or on large parcels surrounding partially developed areas or undeveloped areas.

GREENHOUSE - An enclosed detached accessory structure consisting primarily of light-transmitting materials and used exclusively for growing plants. (Source: North Carolina State Building Code, Vol. VII, § 202).

GREENHOUSE/HORTICULTURAL NURSERY (COMMERCIAL) - An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses and/or plant farms. This may include the wholesale or retail of products produced on-site.

GREENWAY - A linear area maintained as open space in order to conserve natural and/or cultural resources, and to provide recreational opportunities, aesthetic and design benefits, and linkages between open space and recreational facilities and between these facilities and their users.

GROSS AREA OR GROSS ACREAGE - The area of a lot or parcel, including all proposed or dedicated streets, alleys, private accessways, roadway and/or alley easements. Such boundaries shall extend to the center line of an existing abutting street or alley right-of-way. In the case of an existing partial dedication or easement, the gross area shall not extend beyond what would be the centerline of the full dedication.

GROSS LEASABLE AREA (GLA) - The total building area, expressed in square feet and designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, as measured from exterior walls or the centerline of walls separating two abutting buildings, but excluding any space where floor-to-ceiling height is less than six feet and six inches (6'6").

GROUND SUBSIDENCE - A process characterized by the downward displacement of surface material caused by phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

GROUND WATER - Subsurface water within and below the zone of continuous saturation.

GROUP HOME - An adult care home which has two (2) to nine (9) developmentally disabled adult residents. Includes any "Group home for developmentally disabled adults" as defined by NCGS 131D-2 or NCGS 131D-20. See § 5.17 of this Ordinance.

GROUP RESIDENTIAL DEVELOPMENT - A development where more than one principal residential building is permitted on a lot or any development where there are three (3) or more dwelling units in a building. A "Group Residential Development includes any (1) Apartment House/Multiple Dwelling, Quadriplex, Triplex, or Townhouse; and any Attached Dwelling (Duplex). or (2) any Mixed Use Dwelling.

GUEST - Any transient person who rents or occupies a room for sleeping purposes.

GUNSMITH – A business that repairs, modifies, and/or fabricates guns. Such business may include incidental gun purchases and exchanges (subject to applicable state and federal laws) and ammunition and accessory sales.

GUTTER - A shallow channel, usually set along a curb or the pavement edge of a road or the edge of a building roof, for purposes of catching and carrying off water.

HABITABLE ROOM - Any room meeting the requirements of the North Carolina One and Two Family Dwelling Code for sleeping, living, cooking or dining purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms and similar spaces. (Source: North Carolina State Building Code, Vol. VII, § 202).

**HAZARDOUS WASTE DISPOSAL FACILITY** - Any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under NCGS Chapter 130A, Article 9 and/or NCAC Title 15A, Chapter 13, Subchapter 13A. (Source: NCGS 130A-290). [See § 5.11 of this Ordinance.](#)

**HAZARDOUS WASTE FACILITY** A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste (Source: NCGS 130A-290). [See § 5.11 of this Ordinance.](#)

**HAZARD PRONE AREA** - An area which has not yet been designated by the State or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or other on-site naturally-occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the County.

**HEALTH CARE PROVIDER** - Without limitation any person who pursuant to the provisions of NCGS Chapter 90 is licensed, or is otherwise registered or certified to engage in the practice of or otherwise performs duties associated with any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a hospital or a nursing home; or any other person who is legally responsible for the negligence of such person, hospital or nursing home; or any other person acting at the direction or under the supervision of any of the foregoing persons, hospital, or nursing home. (Source: NCGS 90-21.11)

**HEALTH SERVICE FACILITY** - A hospital; psychiatric facility; rehabilitation facility; long term care facility; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; oncology treatment center; hospice, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility. (Source: NCGS 131E-176)

**HEALTH CLUB** - An establishment that provides facilities for exercise activities, such as running, jogging, aerobics, weight lifting, court sports and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

**HEAVY EQUIPMENT** - Large equipment including, but not limited to: trucks with greater than a one and one-half ton rating, cranes, crawler-type tractors, earth movers, dump trucks and other equipment of equal or greater size and weight.

**HEIGHT** -The vertical distance from the grade to the highest point of any portion of a structure, ~~measured as set forth in § 4.7.5. of this Ordinance.~~

**HEIGHT, BUILDING** - The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories includes basements, except as specifically provided for in Section 503.2.4 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HEIGHT, STORY** - The vertical distance from top to top of two (2) successive finished floor surfaces. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HEIGHT, WALL** - The vertical distance to the top measured from the foundation wall, or from a girder or other intermediate support of such wall. (Source: North Carolina State Building Code, Vol. 1, § 202)

**HELIPAD** - A facility without the logistical support provided by a heliport (see Heliport definition) where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling or storage of helicopters.

HELIPORT- An area providing for the take-off and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

~~HIGH QUALITY WATERS—See Sedimentation Control Standards.~~

~~HIGH QUALITY WATER ZONES—See Sedimentation Control Standards.~~

HIGHWAY - A general term denoting a public way for purposes of vehicular travel including the entire area within the right-of-way.

HILLSIDE DISTURBANCE - Any and all areas of the building site disturbed during construction by grading or excavation and temporary or permanent construction for all buildings, parking areas, driveways, roads, sidewalks, and other areas of concrete, asphalt, or other construction materials.

HILL CREST - The highest point on a hill or slope as measured contiguously throughout the property. Any given property may have more than one hill crest.

HOME OCCUPATION - Any occupation or profession or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing therein, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character thereof, and contains no mechanical equipment except for that which is customarily used for domestic, hobby, or household purposes. A home occupation is an accessory use to a dwelling unit. [See § 5.12 of this Ordinance.](#)

HOMEOWNERS ASSOCIATION - An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a pro-rated share of expenses of the association which may become a lien against the lot, property or other interest of the member.

HORSE - Any animal of the genus equus.

HORTICULTURAL LAND - Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit shall be appraised under the use-value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. (Source: NCGS 105-277.2).

HOSPICE - Any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement. (Source: NCGS 131E-176, 131E-201)

HOSPICE INPATIENT FACILITY - A freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in an inpatient setting. For purposes of this Article only, a hospital which has a contractual agreement with a licensed hospice to

provide inpatient services to a hospice patient as defined in G.S. 131E-201(4) and provides those services in a licensed acute care bed is not a hospice inpatient facility and is not subject to the requirements in G.S. 131E-176(5)(ii) for hospice inpatient beds. (Source: NCGS 131E-176, 131E-201)

**HOSPICE RESIDENTIAL CARE FACILITY** - A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. (Source: NCGS 131E-176)

**HOSPITAL** - A hospital licensed, accredited or approved under the laws of any state and a hospital operated by the United States government, a state or its subdivision, although not required to be licensed under state laws. (Source: NCGS 130A-403) The term "hospital" also includes a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term also includes all facilities licensed pursuant to NCGS 131E-77 of the General Statutes. (Source: NCGS 131E-176)

**HOTEL** - Any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**HOUSEHOLD ITEM REPAIR SERVICES** – A business that provides repair services for smaller items that are typically found within a home such as appliances, personal computers, electronic devices, furniture, and similar items.

**HOUSEHOLD PETS** - Those animals which are commonly kept as pets: dogs, cats, fish, small birds (e.g. parakeets, parrots), rodents (e.g. mice, rats), ~~and~~ reptiles (non-poisonous snakes, lizards), and potbellied pigs under 100 pounds.

**HUD CODE** - The National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq., as amended) and the regulations promulgated by the United States Department of Housing and Urban Development thereto (24 C.F.R. part 3282), commonly known as the "HUD Code".

**HYDROLOGY** - The science of dealing with the properties, distribution, and circulation of water.

**HYDROPERIOD** - The period during which a soil area is saturated.

**IMPACT AREA** - See Adequate Public Facilities of this Ordinance.

**IMPERVIOUS SURFACE** - Includes all buildings or structures measured at their greatest extent and so as to include areas overhung by eaves, balconies, and other projecting features of the structure; also all paved or otherwise hard-surfaced areas such as buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), and similar hard-surfaced areas. Wooden slatted decks and the water area of a swimming pool are considered pervious. Source: 15A NCAC 2B.0202(13) (defining "built-upon area").

**IMPROVED OPEN SPACE** - Landscaped areas, turf areas, parks, golf course and recreation areas constructed on the parcel, but shall not include associated buildings.

**IMPROVEMENTS** - Right-of-way pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, re-vegetation, water mains, sanitary and storm sewers, drainageways, gas lines, electrical and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes, and any other similar items required for compliance with the regulations of this Ordinance or the conditions of approval.

**IN KIND** - For mitigation purposes, "in kind" means the restoration, replacement, or creation of a wetland or river stream system which provides functions, attributes, and characteristics closely approximating those of a specific wetland or river stream system that would be adversely affected by the proposed activities.

INDUSTRIAL OR COMMERCIAL TREATMENT PLANT SEPTAGE - Solid, semisolid or liquid residue generated during the treatment of sewage that contains any waste resulting from any process of industry, manufacture, trade, or business in a treatment works where the designed disposal is subsurface. Industrial or commercial treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Industrial or commercial treatment plant septage does not include ash generated during the firing of industrial or commercial treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works. (Source: NCGS 130A-290)

INDUSTRIAL PARK - A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible uses.

INDUSTRIAL PROCESS WASTEWATER - Any water-carried waste resulting from any process of industry, manufacture, trade, or business. (Source: NCGS 130A-334)

INDUSTRIAL USES - Storage, processing, and shipping of agricultural or timber products; minerals extraction and production, storage, processing, shipping or conversion to energy; fabrication, assembly, servicing, manufacture, storage or warehousing of other products

INDUSTRIAL WASTE - Any liquid, solid, gaseous, or other waste substance or a combination thereof resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource. (Source: NCGS 143-213)

INFILL - The development of new housing or other buildings on scattered vacant sites surrounded by developed areas.

INFILTRATION SYSTEMS - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

INTEGRAL UNITS - Items, equipment, or machinery which are assembled or constructed to function as a single unit, such as, but not limited to, large cranes, drilling rigs or other large vehicles, large diameter pipes or culverts, large scale motors or transformers, and the like.

INTENSITY – The extent to which a set of activities or buildings occur on a property. Relative intensity is determined by building coverage, impervious area coverage, traffic generation, and potential impacts on adjacent property. In general land use intensities are in order from low to high as follows: agriculture, open space/recreation, residential, institutional, office, retail, and industrial. The intensity of residential uses is further described by density, or the number of dwelling units per acre. The number of square feet of development per acre by land use type with respect to non-residential land uses.

INTERIOR LOT - See "Lot, Interior."

INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED Facilities licensed pursuant to Article 2 of Chapter 122C of the North Carolina General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. (Source: NCGS 131E-176)

~~JUNIOR HIGH SCHOOL—A school which embraces not more than the first year of high school with not more than the upper two elementary grades. (Source: NCGS 115C-75)~~

JUNK - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. (Source: Junkyard Control Act, NCGS 136-143).

LAGOON - A confined body of water to hold animal byproducts including bodily waste from animals or a mixture of waste with feed, bedding, litter or other agricultural materials. (Source: NCGS § 106-802, Swine Farm Siting Act)

LAND CLEARING & INERT DEBRIS LANDFILL - A facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash. For purposes of this definition, "land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material. (Source: 15A NCAC § 13B.0101)

LAND DISTURBING ACTIVITY - Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highways and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. (Source: NCGS § 113A-52)

LANDFILL - A disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility. (Source: NCGS § 130A-290)

LANDFILL, DEMOLITION - A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid wastes approved by the Director of the North Carolina Division of Solid Waste Management or the Director's authorized representative. (Source: 15A NCAC § 13B.0101).

LANDLOCKED PARCEL - A parcel of land without access of record with the County Register of Deeds.

LANDOWNER - Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site specific development plan or a phased development plan under this section, in the manner allowed by ordinance. (Source: NCGS § 160A-385.1)

LANDSCAPE - An area set aside from structures and parking which is developed with natural materials (i.e. lawns, trees, shrubs, vines, hedges, bedding plants, rock) and decorative features, including paving materials, walls, fences and street furniture.

LANDSCAPE ARCHITECT - A person who holds a current certificate entitling him or her to practice "landscape architecture" and to use the title "landscape architect" in North Carolina under the authority of NCGS, chapter 89A. (Source: NCGS § 89A-1).

LANDSCAPE CONTRACTOR - Within the meaning of this Chapter any person, partnership, association or corporation which holds a certificate issued by the North Carolina Landscape Contractors' Registration Board. (Source: NCGS § 89D-1).

LATERAL SEWER - A sewer which discharges into a trunk line and has only collection lines tributary to it. A line from a structure or use which discharges into a collection line is not a lateral.

LIBRARY OR MUSEUM - A room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical or scientific objects.

LICENSED GEOLOGIST - A person who is licensed as a geologist under the provisions of the North Carolina Geologists Licensing Act, NCGS, Chapter 89E.

LICENSED SOIL SCIENTIST - A person who is licensed as a soil scientist under the North Carolina Soil Scientist Licensing Act, NCGS, Chapter 89F.

LINEAR PARK - Any linear park as defined in the Cabarrus County Parks and Recreation Master Plan, ~~at 4-8 and 4-7.~~

LIQUOR STORE - A store which sells or offers to sell alcoholic beverages, as defined in NCGS 18B-101.

LIVESTOCK - "Livestock" shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine (Source: Livestock Law, NCGS 68-15) and domestic fowl (Source: Livestock Law, NCGS 68-25).

LIVESTOCK DEALER - Any person who buys livestock (i) for his own account for purposes of resale, or (ii) for the account of others. (Source: NCGS 106-418.8)

LOADING AND UNLOADING SPACES - A permanently maintained space on the same lot as the principal building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

LOADING SPACE - An off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel. This space shall open onto a street or alley, and any use of the space shall not obstruct pedestrian or vehicular traffic upon the street or alley.

LOCAL ROAD OR LOCAL STREET - Provides direct access to adjacent land and access to higher street classifications. All streets or roads not otherwise classified are local.

LOT - A parcel of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger lot, parcel, or tract into two (2) or more smaller lots or units. A "lot" includes any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

LOT AREA -The area of a horizontal plane within the lot lines of a lot.

LOT, CORNER - A lot having frontage on two (2) intersecting streets, or upon two sides of the same street, the adjacent sides of which street or streets contain an angle of not more than 135 degrees. In the case of a curved corner, the corner of the lot shall be that point on the Lot Line adjoining the street or Right-of-Way nearest to the point of intersection of the said tangents.

LOT COVERAGE - The percentage of the area of a lot which is occupied by all buildings or other covered structures using the roof outline for all outer dimensions.

LOT DEPTH (LENGTH) - The length (or depth) of a lot shall be:

1. If the front and rear lines are parallel, the shortest distance between such lines.
2. If the front and rear lines are not parallel, the shortest distance between the midpoint of the front lot line and the midpoint of the rear lot line.
3. If the lot is triangular, the shortest distance between the front lot line and the line parallel to the front lot line, not less than ten feet long lying wholly within the lot.

LOT, DOUBLE FRONTAGE (THROUGH LOT) - An interior lot having frontage on two (2) non-intersecting streets.

LOT, FLAG - A lot having no frontage or access to a street or place except by a narrow strip of land.

LOT FRONTAGE - The distance for which a lot abuts on a street.

LOT, INTERIOR - A lot other than a corner lot or a through lot.

LOT, KEY - A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and fronting on the street which forms the side boundary of the corner lot.

LOT LINE - Any boundary or boundary line which provides the legally defined limits of a lot, parcel tract, or plot.

LOT LINE, FRONT - In the case of an interior lot, a line separating the lot from the street right-of-way. In the case of a corner lot, the narrower of the two lot lines adjoining a street right-of-way. If said lot lines for a corner lot are of the same length, then both lot lines shall be considered a Front Lot Line for purposes of this Ordinance.

LOT LINE, REAR - A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

LOT LINE, SIDE - The boundary of a lot which is not a front lot line or a rear lot line.

LOT LENGTH - See Lot Depth.

LOT THROUGH - A lot having a part of opposite lot lines abutting two (2) streets, and which is not a corner lot. (Also known as a "double frontage lot"). On such lot, both lot lines are front, except that where a non-access easement has been established on such a lot, the front lot line shall be considered as that lot line most distant front the lot line containing the non-access easement.

LOT WIDTH - For rectangular lots, lots having side lot lines not parallel, and lots on the outside of the curve of a street, the distance between side lot lines measured at the required Minimum front yard line on a line parallel to the street or street chord; and for lots on the inside of the curve of a street, the distance between side lot lines measured 30 feet behind the required minimum front yard line on a line parallel to the street or street chord.

LOWEST FLOOR - 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 storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

LOW INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed eighty percent (80%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MAINTENANCE - The replacing or repairing of a minor part or parts of a building or structure which have degraded by ordinary wear or tear or by the weather.

MAJOR SITE PLAN – [The site-specific plan for any Planned Unit Development \(PUD\), Conditional Zoning District, or Special Use Permit. See § 3.7 of this Ordinance.](#)

MAJOR SUBDIVISION - All land subdivisions that are not exempted by state statute or previously described under the minor subdivision procedures shall be processed as a major subdivision.

MAJOR THOROUGHFARE - A Major Thoroughfare as designated on the Cabarrus-South Rowan [Metropolitan Planning Organization \(MPO\) Comprehensive Transportation Plan \(CTP\) Thoroughfare Plan.](#)

MANUFACTURED HOME - A structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as

a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

MANUFACTURED HOME, SINGLE SECTION – See MANUFACTURED HOME, TYPE I.

MANUFACTURED HOME, MULT-SECTION - A manufactured home assembled in two (2) or more sections. Also, see MANUFACTURED HOME, TYPE II.

MANUFACTURED HOME, TYPE I - See "MANUFACTURED HOME, SINGLE SECTION." A manufactured home assembled in one section not exceeding seventeen (17) feet in width.

MANUFACTURED HOME, TYPE II - A multi-section manufactured home greater than or equal to seventeen (17) feet in width. Width for MANUFACTURED HOMES - TYPE II shall be determined by mean width when all sections are in a final assembly arrangement.

[MANUFACTURED HOME/MODULAR HOME/ACCESSORY BUILDING SALES – A business that sells manufactured homes, modular homes, or accessory buildings \(storage buildings, carports, garages, swimming pools\) on a property.](#)

MANUFACTURED HOME PARK - Any area, lot, parcel or tract held in common ownership, and on which individual portions of said area, lot, parcel or tract are leased for the placement of manufactured homes as a primary residence. A manufactured home land lease community does not include manufactured home subdivisions or property zoned for manufactured home subdivisions.

MANUFACTURED HOME SPACE - The portion of land area allotted and/or designated to be allotted to any one manufactured home. The term "manufactured home space" shall include the term "mobile home space."

MANUFACTURED HOME SUBDIVISION - A parcel or contiguous parcels of land subdivided into two (2) or more lots configured for development of manufactured housing.

MANUFACTURED HOUSING - See Manufactured Home.

~~MANUFACTURING, HEAVY—An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which involves specialized processes on the premises.~~

~~MANUFACTURING, LIGHT—An establishment and/or activity primarily engaged in manufacturing, production and/or assembly which does not involve, on the premises, the use of heat, noise and/or odor generating/producing processes, which are detectable off-site.~~

[MANUFACTURING, TYPE A - A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, Manufacturing\(A\) produces little or no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties. Examples include assembly of premanufactured components, furniture assembly, apparel manufacturing \(from premanufactured textiles\), and high-volume commercial printing.](#)

MANUFACTURING, TYPE B - A manufacturing establishment whose operations, including storage of materials, processing, fabrication or assembly of products; and loading and unloading of new materials and finished products at loading docks for an enclosed building, and which does not produce or utilize in large quantities as an integral part of the manufacturing process toxic, hazardous, or explosive materials. Noise, odor, dust, or vibration from the manufacturing process may result in only minor impacts on adjacent properties. Examples include:

- Food manufacturing (NAICS codes beginning with 311)
- Beverage manufacturing (NAICS codes beginning with 3121)
- Textile manufacturing (NAICS codes beginning with 313 and 314)
- Fabricated metal product manufacturing (excluding forging) (NAICS codes beginning with 332)
- Machinery manufacturing (NAICS codes beginning with 333)
- Computer, medical equipment, instrument, and telecommunications component assembly (excluding those that involve hazardous materials) (NAICS codes beginning with 334)
- Electrical Equipment, Appliance, and Component Manufacturing (NAICS codes beginning with 335)
- Transportation equipment manufacturing (NAICS codes beginning with 336)
- Furniture and related product manufacturing (NAICS codes beginning with 337)
- Miscellaneous manufacturing (NAICS codes beginning with 339)

MANUFACTURING, TYPE C - A manufacturing establishment whose operations, including storage of materials, processing, fabrication or assembly of products; and loading and unloading of new materials and finished products may occur either inside an enclosed building or outside on the premises. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part of the manufacturing process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties. Examples include:

- Manufacturing from raw materials
- Tobacco manufacturing (NAICS codes beginning with 3121)
- Leather and allied product manufacturing (NAICS codes beginning with 316)
- Wood product manufacturing (NAICS codes beginning with 321)
- Paper manufacturing (NAICS codes beginning with 322)
- Petroleum and coal products manufacturing (NAICS codes beginning with 324)
- Chemical or pharmaceutical manufacturing (NAICS codes beginning with 325)
- Plastics and rubber manufacturing (NAICS codes beginning with 326)
- Nonmetallic mineral product manufacturing (excluding artisans and craftsmen creating glass or clay products for sale) (NAICS codes beginning with 327)
- Primary metal manufacturing (NAICS codes beginning with 331)

MARQUEE - Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

MARQUEE SIGN - Any sign attached to, in any manner, or made a part of a marquee.

MASSAGE - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. (Source: NCGS § 14-202.10)

MASSAGE BUSINESS - Any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. (Source: NCGS § 14-202.10)

MATERIAL - Relative to sexually oriented businesses, "material" shall mean and include, but not be limited to, accessories, books, magazines, photographs, prints, drawings, paintings, motion pictures, pamphlets, videos, slides, tapes, or electronically generated images or devices including computer software, or any combination thereof.

MATERIALS RECOVERY FACILITY - Any site used for the separation of recyclable materials from nonhazardous waste streams, or where commingled recyclable materials are sorted into distinct categories. For purposes of this

definition, the phrase "recyclable materials" shall be defined as set forth in NCGS § 130A-290, which is incorporated herein by this reference.

[MAUSOLEUM – A building, either as a principal use or accessory to a cemetery, in which bodies or ashes of the dead are interred.](#)

**MEDICAL CLINIC** - An office occupied and used for the duties associated with a Health Care Provider or Chiropractor.

**MENTAL HEALTH FACILITY** - Any individual, association, group or other entity at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes any "area facility," "licensable facility," "private facility," "residential facility," "State facility," "24-hour facility," Veterans Administration facility as defined in NCGS 122C-3. (Source: NCGS 122C-3).

**MEZZANINE** - One or more intermediate levels between the floor and ceiling of a story, meeting the requirements of § 503.2.3 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

**MICROBREWERY/MICRODISTILLERY/MICROWINERY** - A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of North Carolina Alcoholic Beverage Control Commission. Associated tasting rooms, brewpubs, or restaurants for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. A microbrewery produces less than 15,000 barrels of beer annually (according to the American Brewers Association). A microdistillery produces less than 50,000 proof gallons of spirits per year (according to the American Distilling Institute). Breweries and distilleries that produce more volume shall be categorized as manufacturing facilities. Microwineries primarily use fruits that are sourced from local farms but do not farm the fruits on site.

**MINE** - An area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended. (Source: Mine Safety and Health Act of North Carolina, NCGS 74-24.2) [See § 7.30 of this Ordinance.](#)

**MINI-WAREHOUSE** - Buildings which are composed of contiguous individual rooms which are rented to the public for the storage of personal property and which have independent access and locks under the control of the tenant; but excluding the storage of explosive, corrosive or noxious materials, such as dust, fumes, or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties; and further excluding any other use otherwise permitted in the Zoning District in which the Mini Warehouse is located. [See § 7.23 of this Ordinance.](#)

**MINING** – Defined as: a.) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; or b.) Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include: (i) Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area; (ii) Mining operations where the affected land does not exceed one acre in area; (iii) Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land; (iv) Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining; (v) Removal of overburden

and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area. (Source: The Mining Act of 1971, NCGS 74-49)

MINOR THOROUGHFARE - A Minor Thoroughfare as designated on the Cabarrus-South Rowan MPO [Thoroughfare Plan Comprehensive Transportation Plan \(CTP\)](#).

MITIGATION - The minimization of impacts to existing vegetation and wildlife habitat as a result of development in the resource area, and that lost vegetation and wildlife habitat are restored or recreated.

MIXED USE DWELLING - See "BUILDING, MIXED USE."

MIXED USE DEVELOPMENT OR MIXED USE PROJECT - A proposed development that includes primary non-residential and primary residential uses on the same development site

MOBILE HOME A single-family dwelling, factory built and factory-assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C. § 5401, 1978, as amended) or the State Building Code.

MODERATE INCOME HOUSING - Housing reserved for occupancy or ownership by persons or households whose annual gross income does not exceed one hundred percent (100%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.

MODULAR HOME - A dwelling unit constructed in accordance with the standards set forth in the State Building Code applicable to site built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home may consist of one or more sections transported to the site in a manner similar to a mobile home or manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

MOTEL - A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

[MOTION PICTURE & SOUND RECORDING – A studio in which film, audio-visual, or sound recording or production takes place.](#)

MOTOR HOME - A vehicular-designed unit built on, or permanently attached to, a self-propelled vehicle chassis, van, or chassis cab, which is an integral part of the complete vehicle, to provide temporary living quarters for recreational, camping, or travel use.

MOTOR VEHICLE - See "VEHICLE, MOTOR."

MOTOR VEHICLE REPAIR SHOP - See "AUTOMOBILE REPAIR SHOP".

MOTORSPORTS COMPLEX - A facility consisting of a racetrack, seating, concession areas, suites, and parking facilities, with accessory offices, residences, and/or retail facilities, and which is utilized primarily for the hosting of automobile racing events.

MULTI-FAMILY DWELLING - A structure arranged, designed, and intended to be the residence of more than one

family, with each family having independent cooking and bathing facilities.

~~MULTIPLE DWELLING – See "APARTMENT HOUSE."~~

MUNICIPALITY - An incorporated city or town.

MUNICIPAL STREET - A street or highway accepted by the Town and which is not a State Highway. (Source: 19A NCAC § 20.0404).

MUNICIPAL SOLID WASTE MANAGEMENT FACILITY - Any publicly or privately owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal. (Source: NCGS 130A-290)

NAICS MANUAL - The North American Industry Classification System, ~~1997 edition~~ ~~(or~~ most current version as amended, published by the Office of Improvement and Budget of the Executive Office of the President, which is hereby incorporated by this reference.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - A fixed reference adopted as a standard geodetic datum for elevations determined by leveling. Established in 1929. Also referred to as National Geodetic Vertical Datum of 1929 and Sea Level Datum of 1929. The NGVD is usually preferred as the primary datum for engineering design. NGVD is derived from a general adjustment of the first order level nets of both the United States and Canada. It was formerly called "Sea Level Datum of 1929" or "mean sea level". Although the datum was derived from the average sea level over a period of many years at 26 tide stations along the Atlantic, Gulf of Mexico, and Pacific Coasts, it does not necessarily represent local mean sea level at any particular place.

NATURAL EROSION - See Sedimentation Control Standards.

NATURAL HAZARD - A geologic, floodplain, or wildfire hazard as identified by a State or federal agency.

NATURAL RESOURCE - Existing natural elements relating to land, water, air, plant and animal life, including, but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation and animal habitats.

~~NEIGHBORHOOD PARK – A public recreation facility ranging in size from fifteen (15) to twenty-five (25) acres and which is improved with a combination of active recreation areas for family use such as field game areas (such as ball field), court game areas (such as tennis and basketball courts), crafts, playground apparatus, and passive recreation areas such as picnicking.~~

NET AREA - The area of a lot or parcel, excluding all dedicated streets or alleys and roadway or alley easements.

NET FLOOR AREA - The square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, stairways, elevator shafts, elevator lobbies, rest rooms, mechanical areas, security areas or services areas.

NIGHTCLUB, BAR, LOUNGE – An entertainment venue that serves alcoholic beverages without being classified as a restaurant by North Carolina ABC regulations, operates after 11:00pm, and provides music, dancing, or similar entertainment. This shall not include “sexually oriented businesses” as defined by this Ordinance.

NODE - An identifiable grouping of uses subsidiary and dependent upon a larger urban grouping of similar or related uses.

NON-COMMUNITY WATER SYSTEM - See definition of "Public Water System."

NONCONFORMING - A legal use, structure, and/or development which existed prior to the adoption of this

Ordinance or any amendment thereto, which does not presently conform to this Ordinance or its amendments.

NONCONFORMING BUILDING OR STRUCTURE - A Building or Structure that was lawfully developed, and legally existed prior to any change in, the applicable zoning district bulk regulations, but does not comply with one or more of the applicable district bulk regulations, either on the Effective Date of this Ordinance or as a result of any amendments to this Ordinance. See § 13.1 of this Ordinance.

NONCONFORMING SIGN - Any sign that does not conform to the requirements of this ordinance.

NONCONFORMING USE - A use of land that:

1. legally existed before its current zoning or land use category designation; and
2. has been maintained continuously since the time the applicable regulations governing the land changed; and
3. because of subsequent changes, does not conform to the provisions of this Ordinance now governing such land.

[See § 13.1 of this Ordinance.](#)

NON-POINT SOURCE - Generalized discharge of waste which cannot be located as to a specific source into a water body.

NON-PROFIT - Organizations which qualify for exemption from federal income taxes pursuant to Section 501(c)(3) of the Internal Revenue Code, and for which an application for exemption thereto has been approved by the federal Internal Revenue Service.

NOTICE OF INTENT - A written notification to the Division of Environmental Management, Department of Natural Resources and Community Development, that an activity or discharge is intended to be covered by a general permit, as more particular defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

NURSERY - A place where plants are raised, acquired, and maintained for transplanting or sale. It may also include, either exclusively or in conjunction with the above activities, the sale of materials commonly used for landscaping purposes, such as soil, rock, bark, mulch and other materials determined by the Director to be landscaping materials. Sale or rental of small landscaping tools and supplies may be an accessory use. [See § 7.25 of this Ordinance.](#)

NURSERY SCHOOL/PRE- SCHOOL/DAY CARE - See "CHILD CARE."

NURSING HOME - A [residential care](#) facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A "nursing home" is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A 'nursing home' provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (Source: NCGS 131E-101) [See § 7.26 of this Ordinance.](#)

OBSTRUCTION - A dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or material, in, along, across, or projecting into any drainway, channel, or watercourse, which might impede, retard or change the direction of the flow of water, either by itself or by catching and collecting debris carried by the water, or which is placed where the 100-year flood may carry the debris downstream.

OCCUPANCY - The purpose for which a building, or part thereof, is used or intended to be used. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

OCCUPANT LOAD - The calculated minimum number of persons for which the means of egress of a building or

portion thereof is designed, based on Table 1003.1 of the North Carolina State Building Code. (Source: North Carolina State Building Code, Vol. 1, § 201.3).

OCCUPIED RESIDENCE - A dwelling actually inhabited by a person on a continuous basis as exemplified by a person living in his or her home.

OCCUPIED SPACE - The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by the State Building Code. (Source: North Carolina State Building Code, Vol. VII, § 202).

OFFICE - A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

OFF-SITE - Any premises not located within the area of the property to be subdivided or developed, whether or not in the common ownership of the applicant for subdivision or development approval.

OFF-SITE STORMWATER SYSTEMS - Stormwater management systems that are located outside the boundaries of the specific project in question, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

ON-SITE - With regard to mitigation, "on-site" means restoration or replacement of a wetland or river stream at or very near the site where a wetland or river stream has been or will be degraded by regulated activity.

ON-SITE STORMWATER SYSTEMS - The systems necessary to control stormwater within an individual development project and located within the project boundaries. (Source: 15A NCAC 2H.1002).

OFF-STREET PARKING SPACE - The space required to park one vehicle, exclusive of access drives, and not on a public right-of-way.

ONE-HUNDRED-YEAR (100-YEAR) FLOODPLAIN - The low land near a watercourse which has been, or may be, covered by water of a flood of 100-year frequency, as established by engineering practices of the U.S. Army Corps of Engineers. It shall also mean that a flood of this magnitude may have a one percent change of occurring in any given year.

OPEN DUMP - A solid waste disposal site which is not a sanitary landfill. (Source: NCGS 130A- 290)

OPEN MINING - The mining of natural mineral deposits by removing the overburden lying above such deposits and mining directly from the deposits exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying and dredging.

OPEN SPACE - Any space or area (i) characterized by great natural scenic beauty or (ii) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. The term "open space land" includes any undeveloped or predominantly undeveloped land in an urban area that has value for one or more of the following purposes: (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. The term "open space uses" means any use of open space land for (i) park and recreational purposes, (ii) conservation of land and other natural resources, or (iii) historic or scenic purposes. (Source: NCGS 160A-407)

OPEN SPACE STANDARDS - See Parks and Open Space Standards.

OPEN SPACE, COMMON - Open space within or related to a development, not a part of individually owned lots or dedicated for general public use, but designed and intended for the common ownership, use and enjoyment of the

residents of the development.

ORDINANCE - Unless otherwise specified, refers to this Unified Development Ordinance.

OTHER ANIMALS - Those animals not defined elsewhere in this Appendix as household pets or agricultural animals.

~~OUTDOOR CULTURAL EVENTS – Entertainment, educational and cultural events generally involving the outdoor assembly of 50 or more people.~~

~~OUTDOOR EVENT, TEMPORARY – A temporary commercial amusement activity such as a carnival, circus, rodeo or auction.~~

OUTDOOR LIGHT FIXTURES - "Outdoor light fixture" means outdoor artificial illuminating devices, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

OUTDOOR STORAGE, ~~NON-VEHICULAR~~ - An establishment that provides for ~~outdoor~~ storage of machinery ~~and~~ equipment, merchandise, materials, or similar items outside of a fully enclosed building, ~~not including vehicles.~~

OVERBURDEN - The earth, rock, and other materials that lie above the natural deposit of minerals.

OWNER - Any person, agent, firm or corporation having a legal or equitable interest in the property. (Source: North Carolina State Building Code, Vol. 1, § 202).

PARCEL - An area of land defined by a legal description and recorded with the County Register of Deeds.

PARENT - A person that directly, or indirectly through one or more intermediaries, controls another person.

PARK, COMMUNITY - The community park is easily accessible to a single, or several neighborhoods, depending on local needs and population distribution at the time the park is developed. When possible, the park may be developed adjacent to a high or middle school. The community park provides recreational opportunities for the entire family and contains areas suited for intense recreational purposes such as a recreation center building, athletic fields, swimming, tennis, and walking/jogging. The park may also possess areas of natural quality for outdoor recreation such as viewing, sitting and picnicking.

PARK, DISTRICT - A district park provides more diverse recreational opportunities than a regional park, only on a much smaller scale. The district park emphasizes passive recreational opportunities similar to a regional park, yet also includes limited active recreational facilities. A district park is easily accessible by the population it serves and is within a 20 mile service radius. The park contains a minimum of 5 acres per 1,000 population. A district park is typically at least 200 acres in size.

PARK, LINEAR - A linear park is an area developed for one or more varying modes of recreational travel such as hiking, biking, horseback riding and canoeing. Often times the linear park will be developed to connect recreational facilities, as well as schools and residential neighborhoods. The acreage and service area of a linear park is variable and subject to existing natural and man-made features, the existence of public right-of-way and the public demand for this type of park. In some cases, a linear park is developed within a large land area designated for protection and management of the natural environment, with the recreation use a secondary objective.

PARK, PUBLIC – An outdoor recreational use and/or nature preserve that is owned and/or operated by a public government entity, including but not limited to the Town of Mount Pleasant, Cabarrus County, or the State of North Carolina.

**PARK, NEIGHBORHOOD** - The neighborhood park is designed to serve a population of up to 5,000, but in many instances even more are served. The park requires 2.5 acres per 1,000 population served and is typically at about 15-25 acres. The neighborhood park is typically characterized by recreational activities for each member of the family, such as field games, court games, crafts, playground apparatus, picnicking and space for quiet/passive activities. The service radius for a neighborhood park is 1/2 to one mile and is easily accessible to the neighborhood population through safe walking and biking access. Parking may or may not be required. Where feasible the activity areas are equally divided between quiet/passive activities and active play. This type of park may be developed as a school/park or community center facility.

**PARK, REGIONAL** - A regional park is a park within a fifty mile service radius, which serves several communities or a multi-county region. Approximately 10 acres per 1,000 population served and generally 1,000 acres is required for developing a regional park. The regional park is an area of natural ornamental quality that provides diverse and unique natural resources for nature-oriented outdoor recreation including nature viewing and study, wildlife habitat conservation, hiking, camping, canoeing and fishing. Generally 80% of the land is reserved for conservation and natural resource management, with less than 20 % developed for recreation. The recreation areas consist of play areas and open fields/meadows for informal use.

**PARKING GARAGE** - An attached or detached building which is used for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS 160A-551)

**PARKING LOT** - Any lot, parcel, area or place for the parking or storing of motor and other vehicles, open to public use without charge or for a fee, and shall without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles. (Adapted from: Parking Authority Law, NCGS 160A-551)

**PARKING SPACE** - A space, enclosed or unenclosed, exclusive of driveways or aisles, for the temporary parking of one vehicle, which has adequate access to permit ingress and egress of a motor vehicle to a street.

**PARKING STRUCTURE** - A facility, partially or fully above ground, accessory to another facility or a primary use, at which a fee may be charged for the temporary storage of passenger vehicles.

**PARTIALLY SHIELDED** - "Partially shielded" means that [light](#) fixtures are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal, as certified by photometric test report.

**PATH, MULTI-USE** - A pathway, which may be paved or unpaved, and is physically separated from motorized vehicular traffic by an open space or barrier and is either within the highway right-of-way or within an independent tract, or easement. Multi-use path activities may include walking, hiking, jogging, horseback riding, bicycling, and roller skating.

**PAVEMENT** - The paved portion of a street, including paved shoulders and on-street parking areas, but not including sidewalks and driveways. (Source: 19A NCAC § 20.0404).

**PAWNSHOP** - The location at which, or premises in which, a pawnbroker, as defined in NCGS 91A- 2, regularly conducts business. (Source: Pawnbrokers Modernization Act of 1989, NCGS 91A-2)

**PEDESTRIAN PATH** - An improvement located within a public right-of-way or private area which is designed primarily for the use of pedestrians and/or bicyclists.

PEDESTRIAN RIGHT-OF-WAY - A right-of-way or easement dedicated for public pedestrian access.

PENNANT - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PERFORMER - Any person who is an employee or independent contractor of the adult business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an adult business.

PERMEABLE PAVEMENT - A pavement system, [as designated by the North Carolina Department of Environmental Quality](#), with traditional strength characteristics, but which allows rainfall to percolate through it rather than running off. A permeable pavement system utilizes either porous asphalt, pervious concrete, or plastic pavers interlaid in a running bond pattern and either pinned or interlocked in place. Porous asphalt consists of an open graded course aggregate held together by asphalt with sufficient interconnected voids to provide a high rate of permeability. Pervious concrete is a discontinuous mixture of Portland cement, coarse aggregate, admixtures, and water which allow for passage of runoff and air. ~~Examples of permeable pavement systems include Grasspave2®, Gravelpave2®, Turfstone®, and UNI Eco stone®. (See Watershed Management Institute, Inc. and U.S. Environmental Protection Agency, Office of Water, Operation, Maintenance & Management of Stormwater Management (Aug. 1997), at 2-32; Booth & Leavitt, Field Evaluation of Permeable Pavement Systems for Improved Stormwater Management, 65 J. Am. Planning Ass'n 314 (Summer 1999), at 314-325.~~

PERSON - Any individual or group of individuals, partnership, general or limited, firm, association, whether incorporated or unincorporated, corporation, company, firm, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or any governmental or quasi-governmental entity, or other legal entity. The term "Person" includes both for profit and not-for-profit entities.

~~PERSONAL CARE SERVICES - An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, massage therapy, aesthetician, nail salon, or similar uses, but shall not include any use which may be defined as a sexually oriented business.~~

~~PERSONAL SERVICE ESTABLISHMENT - A business that provides personal services directly to customers at the site of the business, or which receives goods from or returns good to the customer which have been treated or processed at another location. "Personal service establishment" includes, but is not limited to: travel agencies, dry-cleaning and laundry drop-off and pick-up stations, tailors, hair stylists, cosmeticians, toning or tanning salons, branch offices of financial institutions, photocopying services, postal substations, package delivery drop-off and pick-up stations, shoe repair shops, interior design studios, domestic pet-grooming and care services, and art, music, dance and martial-arts schools.~~

~~PEST CONTROL SERVICES - A business that provides services to reduce or manage animal species that adversely impact human activities, damage property, or are otherwise considered a detriment to human health through the use of traps, chemicals, or similar means of management. This definition includes exterminators.~~

PETITIONER - An applicant.

~~PET SHOP - A person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale. (Source: NCGS 19A-23)~~

PHARMACY - Any place where prescription drugs are dispensed or compounded. (Source: NCGS § 90-85.3)

PHASED DEVELOPMENT PLAN - A plan which has been submitted to a Town by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan. (Source: NCGS § 160A-385.1)

PHASED SUBDIVISION APPLICATION OR PHASED SITE PLAN APPLICATION - An application for subdivision or site plan approval in which the applicant proposes not to immediately subdivide or develop the property but to develop the property in one or more individual phase(s) over a period of time. A phased subdivision application may include an application for approval of, or conversion to, horizontal or vertical condominiums, non-residential development projects, planned unit developments, mixed-use projects, and residential developments. A phased subdivision application or phased site plan application must be filed as part of an application for a specific plan or Master Preliminary Plan.

PHOTOGRAPY STUDIO – A workspace for the purpose of taking, producing, developing, printing, or duplicating photographs.

PHYSICIAN - An individual licensed to practice medicine pursuant to Article 1 of Chapter 90, NCGS.

PILINGS - Foundational structures placed into the earth to secure buildings and other structures.

PLACE OF PUBLIC ASSEMBLY - A fairground, auditorium, stadium, church, theater or any other place where people assemble. (Source: NCGS § 130A-334)

PLAN, SITE - A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not limited to topography, vegetation, drainage, flood plains, wetlands and waterways; (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; (3) the location of building pads for all residential and non-residential buildings; and (4) the location and extent of all external buffers from surrounding areas.

PLAN, SITE-SPECIFIC DEVELOPMENT - A plan which has been submitted to a Town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a preliminary or general development plan, a ~~conditional or~~ special use permit, a conditional ~~or special use~~ zoning district plan, or any other land-use approval designation as may be utilized by a Town. Unless otherwise expressly provided by the Town, such a plan shall include the approximate boundaries of the site; significant topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; ~~the approximate dimensions, including height, of the proposed buildings and other structures;~~ and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific development plan under this section that would trigger a vested right shall be finally determined by the Town pursuant to ~~Article 13 of~~ this Ordinance, and the document that triggers such vesting shall be so identified at the time of its approval. A variance shall not constitute a site-specific development plan, and approval of a site-specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site-specific development plan. (Source: NCGS 160A-385.1)

PLAN, SKETCH - A sketch preparatory to the preliminary plat or site plan (or final plat or site plan in the case of minor subdivisions or conditional use permits) to enable the subdivider to save time and expense in reaching general agreement with the platting authority as to the form of the plat and the objectives of this Ordinance.

PLANNED CAPACITY - See Adequate Public Facilities Standards of this Ordinance.

PLANNED CAPITAL IMPROVEMENT - See Adequate Public Facilities Standards of this Ordinance.

PLANNED DEVELOPMENT - A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land zoned and improved as a development for which the otherwise applicable bulk use and other requirements may be modified in order to allow for more flexible planning in conformance with the development approval process and developed in accordance with [the provisions of section 4.9 of this Ordinance](#).

PLANNING & ZONING BOARD - The Mount Pleasant Planning and Zoning Board. Also referred to as the "Board."

PLANT - Any member of the plant kingdom, including seeds, roots and other parts or their propagules. (Source: NCGS 106-202.12)

PLAT - The legal map of a subdivision.

POINT SOURCE - Any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal-feeding operation from which wastes are or may be discharged to the waters of the State. (Source: NCGS 143-213)

POSITIVE DRAINAGE - Clear, unobstructed flow of stormwater away from any building.

[POST OFFICE – A branch of the United States Postal Service that is open to the public and responsible for the collection and distribution of mail. This does not include large distribution hubs.](#)

PRACTICABLE ALTERNATIVE - Alternative to proposed project which is available and capable of being executed after taking into consideration cost, existing technology, and logistics in light of overall project purposed, and having less impacts to wetlands or river streams. It may involve using an alternative site in the general region that is available to the developer and may feasibly be used to accomplish the project.

PRELIMINARY PLAT - The preliminary drawing or drawings, described in Chapter 5 of this Ordinance, indicating the proposed manner or layout of the subdivision to be submitted to the platting authority for approval.

PRETREATMENT FACILITY - Any treatment works installed for the purpose of treating, equalizing, neutralizing or stabilizing waste from any source prior to discharge to any disposal system subject to effluent standards or limitations. (Source: NCGS § 143-213)

PRETREATMENT STANDARDS - Effluent standards or limitations applicable to waste discharged from a pretreatment facility. (Source: NCGS § 143-213)

PRINCIPAL BUILDING OR STRUCTURE - The building or structure in which is conducted the principal use of the zoning lot on which it is located. This shall include any buildings which are attached to the principal structure by a covered structure. Zoning lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

PRINCIPAL USE - The main or primary use of a parcel of land.

[PRINTING SERVICES – A business that provides document printing, photocopies, large format printing, screen printing, or similar process that involves the transfer of ink to a paper, cloth, vinyl, plastic, or similar material. This shall not include any manufacturing operation comprising more than 5,000 square feet.](#)

PRIVATE - Anything not owned or operated by the federal government, state government, or any political subdivision.

**PRIVATE CLUBS** - An organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in NCGS 105-130.2(1). (Source: NCGS 130A-247)

**PRIVATE USE** - One which is restricted to the occupants of a lot or building together with their guests, where compensation for such use is not received, and where no business or commercial activity is associated with such use or building.

**PRIVATE UTILITIES** - Includes power, telephone, natural gas, cable television and private water supply service.

**PRODUCE STAND** - A temporary open air stand or place for the seasonal selling of agricultural produce. A produce stand is portable and capable of being dismantled or removed from the sales site. ([See also Farmers Market.](#))

**PROFESSIONAL ENGINEER** - A person who has been duly registered and licensed as a professional engineer by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS 89C-3)

**PROFESSIONAL OFFICE** - An office of a member of a recognized profession maintained for the conduct of that profession and not including storage or sale of merchandise as a primary use.

**PROPERTY LINE, COMMON** - A line dividing one lot from another. (Source: North Carolina State Building Code, Vol. 1, § 202)

**PROPERTY LINE** - See "Lot Line."

**PROTECTED PLANT** - A species or higher taxon of plant adopted by the Board to protect, conserve, and/or enhance the plant species and includes those the Board has designated as endangered, threatened, or of special concern. (Source: NCGS 106-202.12)

**PUBLIC** - Anything owned or operated by the federal government, state government, or any political subdivision.

**PUBLIC OR COMMUNITY WASTEWATER SYSTEM** - A single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility. (Source: NCGS 130A-334)

**PUBLIC ASSEMBLY, ~~INDOORS~~** - Buildings or indoor facilities for the purpose of, but not necessarily limited to banquet halls, auditoria, private clubs and lodges, conference centers, and theaters, including kitchen for the preparation of food to be consumed at the premises.

~~**PUBLIC ASSEMBLY, OUTDOOR**~~ - See "[Commercial Amusement, Outdoor.](#)"

**PUBLIC FACILITIES** - See Adequate Public Facilities of this Ordinance.

**PUBLIC HEARING** - A public meeting for which public notice has been given and an opportunity for public testimony is provided.

**PUBLIC LAND FOR DEDICATION AND OWNERSHIP** - Parks, playgrounds, schools, drainage channels, trails, highways, roads and streets or other areas of land accepted by the Town Board and dedicated for the public's use or benefit.

**PUBLIC MEETING** - A meeting of a Board, Planning & Zoning Board, Town Board or their representatives where the public may attend.

PUBLIC NOTICE - Notice to the public of a public hearing or meeting as required by state or local law.

PUBLIC RIGHT-OF-WAY - Any area on or adjoining a street, road, highway, alley, or pedestrian/bicycle way or other special purpose way or utility installation owned by, or reserved to, the public for present or future public use.

PUBLIC SCHOOL OR PUBLIC SCHOOL FACILITY - Any education facility under the jurisdiction of a local board of education or local school district, whether termed an elementary school, middle school, junior high school, high school or union school. (Source: NCGS 115C-205). Includes charter schools.

PUBLIC SPACE -A legal open space on the premises, accessible to a public way or street, such as yards, courts or open spaces permanently devoted to public use, which abuts the premises and is permanently maintained accessible to the fire department and free of all encumbrances that might interfere with its use by the fire department. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

PUBLIC TRANSPORTATION - Transportation of passengers whether or not for hire by any means of conveyance, including but not limited to a street railway, elevated railway or guideway, subway, motor vehicle or motor bus, either publicly or privately owned and operated, carpool or vanpool, holding itself out to the general public for the transportation of persons within the territorial jurisdiction of the authority, including charter service. (Source: North Carolina Public Transportation Authorities Act, NCGS 160A-576; Regional Public Transportation Authority Act, NCGS 160A-601)

PUBLIC TRANSPORTATION SYSTEM - Without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking or other facilities, and rights-of-way, or any combination thereof, used or useful for the purposes of public transportation. (Source: North Carolina Public Transportation Authorities Act, § 160A-576; Regional Public Transportation Authority Act, NCGS § 160A-601)

PUBLIC USE - A use which is owned by, and operated for, the public by a public entity.

PUBLIC-USE HELIPORT - A heliport or helipad that has been designed for use by the public and is available for such, whether owned or operated by a governmental agency or a private entity, provided that such entity has agreed, in writing, to that use of its property.

PUBLIC WATER SYSTEM - A system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

- Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and
- Any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

A public water system is either a "community water system" or a "noncommunity water system" as follows:

- "Community water system" means a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.
- "Noncommunity water system" means a public water system which is not a community water system. (Source: NCGS 130A-313)

The term "public water system" also includes a system for the provision of piped water for human consumption as defined in NCGS 130A-313(10). (Source: NCGS 90A-20.1)

[PUBLISHING SERVICES – A business or organization engaged in the dissemination of literature or information through print or digital media.](#)

[QUADRUPLEX—A building containing four \(4\) attached dwellings in one building in which each unit has two open](#)

~~space exposures and shares one or two walls with an adjoining unit or units.~~

QUALIFIED LANDSCAPE ARCHITECT - A person with at least a four year degree in the field of landscape architecture from an accredited university offering such a degree.

QUARRY- See "MINE." ~~See § 7.30 of this Ordinance.~~

RACE TRACK, AUTOMOBILE - A facility consisting of a paved roadway used primarily for the sport of automobile racing. A race track may include seating, concession areas, suites, and parking facilities, but does not include accessory offices, residences, or retail facilities. This definition shall also include any facility used for driving automobiles under simulated racing or driving conditions (test tracks, "shakedown" tracks or other similar facilities), but which does not include seating, concession areas, or retail facilities for the general public.

RAIL TRANSPORTATION & SUPPORT SERVICES – Any facility located along a railroad line that provides services related to rail transportation, including, but not limited to rail yards, storage, maintenance facilities, shipping and distribution. This does not include transit stops for light rail passenger transit.

RCRA - The Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.

REAL PROPERTY - Lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate. (Source: Parking Authority Law, NCGS § 160A-551) The term "real property" also includes a building, structure, real estate, land, tenement, leasehold, interest in real estate cooperatives, condominium, and hereditament, corporeal and incorporeal, or any interest therein. (Source: NCGS § 41A-3)

REAR YARD - See "Yard, Rear."

RECEIVING AREA - An area designated by this Ordinance as appropriate for development beyond the target density through the transfer of development rights.

RECEPTION, BANQUET, EVENT FACILITY. A business that provides a venue for receptions, banquets, and events where people gather for celebrations, meetings, conferences, or similar large gatherings at which food and/or beverages may be served and entertainment may be provided.

RECLAMATION - The reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area. (Source: The Mining Act of 1971, NCGS § 74-49)

RECLAMATION PLAN - The operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:

- Proposed practices to protect adjacent surface resources;
- Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;
- Manner and type of revegetation or other surface treatment of the affected areas;
- Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;
- Method of compliance with State air and water pollution laws;

- Method of rehabilitation of settling ponds;
- Method of control of contaminants and disposal of mining refuse;
- Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
- Maps and other supporting documents as may be reasonably required by the Department; and
- A time schedule that meets the requirements of NCGS 74-53.

(Source: The Mining Act of 1971, NCGS 74-49)

RECORDED/RECORD - Document(s) being placed in the indexed or coded files and book(s) of the County Clerk and Register of Deeds.

RECREATIONAL FACILITY, ACCESSORY -An area or facility designed to meet the demand for active recreation, including play fields, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools, tot lots, indoor fitness facilities, and similar uses, accessory to the principal use such as a hotel, residential development, country club, or place of employment designed to serve the needs of users of the principal use and not open to the general public.

RECREATION FACILITIES, INDOOR - Establishments engaged in providing indoor recreation services. Such may include public or private health or exercise clubs, gymnasiums, spectator sports facilities, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. Such uses do not include indoor amusements as defined by this Ordinance.

RECREATION FACILITIES, OUTDOOR - Establishments engaged in providing outdoor recreation services such as outdoor sports fields or courts (excluding motor sports) that are located outside of a public park which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include any accessory uses, such as snack bars, pro shops, and field houses which are designed and intended primarily for the use of patrons of the principal recreational use. This shall not include outdoor amusements as defined by this Ordinance. Any plot or tract of land on which there is located an outdoor swimming pool, tennis court, or golf course that is open to either the general public or to the members and guests of any organization having 50 or more members.

RECREATIONAL INSTRUCTIONAL CAMPS - Businesses or organizations that provide instruction within an indoor setting for sports, athletics, martial arts, dance, performing arts, or similar activities.

RECREATION USE - A public or private, indoor or outdoor land use that provides leisure activities. This includes parks, campgrounds, pools, tennis courts, golf courses, gymnasium facilities, athletic facilities, sports facilities, and similar uses.

RECREATIONAL OUTDOOR SPORTS CLUB - Businesses or organizations that provide instruction or a venue to engage in outdoor sports such as hunting, fishing, and similar uses. This shall not include field sports which are included in "Recreation facilities, outdoor".

RECREATIONAL VEHICLE (RV) SALES – A business engaged in the sale of two (2) or more recreational vehicles, campers, or similar items.

REDEVELOPMENT - ~~For purposes of § 6-9, only,~~ Redevelopment means any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development, in accordance with the provisions of 15A NCAC 2H.100. (Source: 15A NCAC 2H.1002).

REFUSE - All waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining,

cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources. (Source: The Mining Act of 1971, NCGS 74-49)

REGISTERED LAND SURVEYOR - A person who, by reason of his special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, as herein defined, as attested by his registration as a registered land surveyor by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. (Source: NCGS § 89C-3)

REGULATION - As used in this Ordinance, means an applicable provision of this Ordinance or any other requirement promulgated under this Ordinance.

REGULATORY FLOOD ELEVATION - The elevation which is two (2) feet above the calculated water-surface elevation of the base flood.

RELIGIOUS INSTITUTION - A facility used primarily for religious assembly or worship and related religious activities, which may include cemeteries, columbariums, child care facilities, and school facilities as accessory uses.

RENDERER - The business of rendering carcasses, or parts or products of the carcasses, of cattle, sheep, swine, goats, fallow deer, red deer, horses, mules, or other equines. (Source: § 106-549.15)

RESEARCH FACILITY - Any place, laboratory, or institution at which scientific tests, experiments, or investigations are carried out, conducted, or attempted. (Source: NCGS § 19A-23)

RESERVATION - Reservation of land does not involve any transfer of property rights. It constitutes an obligation to keep property free from development for a stated period of time.

[RESIDENTIAL CARE FACILITY – A staffed facility for the care or treatment of the infirm, elderly, or children in a residential setting, as regulated by NCGS 131D, such as nursing homes, assisted living facilities, group homes, hospice care. This shall not include family care homes or halfway houses regulated by NCGS 122C \(Source: NCGS 131D, 122C\)](#)

RESIDENTIAL CHILD-CARE FACILITY - A staffed premise with paid or volunteer staff where children receive continuing full- time foster care. Residential child-care facility includes child-caring institutions, group homes, and children's camps which provide foster care. (Source: NCGS § 131D-10.2)

RESIDENTIAL USE - Includes all uses listed as residential in the Use Matrix.

RESIDENT PLANT OR RESIDENT SPECIES - A native species or higher taxon of plant growing in North Carolina. (Source: NCGS 106-202.12)

RESORT - A building or group of buildings containing two (2) or more guest rooms, other than a boarding house, hotel or motel, and including outdoor recreational activities such as, but not limited to, horseback riding, golf course, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities, and dining facilities intended for the primary use of its guests, but not including bars and restaurants which cater primarily to other than guests of the guest ranch/resort.

RESOURCE EXTRACTION - The on-site extraction of surface or sub-surface mineral products or other natural resources, including but not necessarily limited to quarries, burrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

RESTAURANT - An establishment serving food and beverages where all service takes place within an enclosed building or accessory outdoor eating or food dispensing areas.

RE-SUBDIVISION - The changing of an existing parcel created by a plat and recorded with the Register of Deeds.

RETAIL - The sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale. (Source: North Carolina Sales and Use Tax Act, NCGS 105-164.3).

[RETAIL ACCESSORY TO A MANUFACTURING USE – A small outlet store of less than 2,500 square feet for the sale of products manufactured on site and promotional products related to such items.](#)

RETAILER - Every person engaged in the business of making sales of tangible personal property at retail, or peddling the same or soliciting or taking orders for sales, whether for immediate or future delivery, for storage, use or consumption. (Adapted from: North Carolina Sales and Use Tax Act, NCGS 105-164.3)

RETAINING WALL - A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site.

REVISION - "Revision" means the changing and/or rescinding of zoning and other land use approvals following notice and an opportunity for objection. The status of the land use approvals, including zoning and/or subdivision approval(s) may be that which applied previously to the property or may be a new and/or different zoning or other land use status.

REZONING - An amendment [to one \(1\) or more zoning districts](#) to the Official Zoning Map. [Also known as “map amendment”, as established and maintained according to § 4.4 and Appendix B to this Ordinance.](#)

RIDGE - For purposes of any regulation or provision of this Ordinance applicable to mining, overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation. (Source: The Mining Act of 1971, NCGS 74-49)

RIGHT-OF-WAY - 1. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes; 2. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian. For purposes of this Ordinance, the "Right-of-Way" for streets shall mean and refer to the boundaries of any right-of-way certified and/or registered by the NCDOT pursuant to NCGS 136-19.4, a right-of-way recorded by the Town for roads or streets, or a right- of-way reserved in a recorded subdivision plat. If no such documentation exists, or if such documentation cannot be located, the "Right-of-Way" shall mean and refer to the edge of the paved surface of the street.

RIPARIAN ECOSYSTEM - Living organisms (plants and animals) and habitat that occur in association with any spring, lake, watercourse, river, stream, creek,, or other body of water, either surface or subsurface.

RIVER - A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes. (Source: NCGS 113A-33)

ROAD - A public or private highway, hard-surface road, dirt road, or railroad. (Source: NCGS § 113A-33)

ROADSIDE STAND - An accessory structure for the seasonal retail sale of grown or produced food products on the lot.

ROADWAY - The improved portion of a street within a right-of-way and/or easement.

ROOF LINE - The highest edge of the roof or the top of parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

[ROWHOUSE – See "Townhouse."](#)

**SAFETY SERVICES** - Any of the following uses or activities classified under NAICS 922 (Justice, Public Order, and Safety Activities); NAICS 92212 (Police Protection), NAICS 92216 (Fire Protection), or NAICS 56162 (Security Systems Services); but not including NAICS 9221 (Justice, Public Order, and Safety Activities); 92211(Courts); 92213 (Legal Counsel and Prosecution); 92214 (Correctional Institutions); or 92215 (Parole Offices and Probation Offices, including Emergency Medical Services). "Safety Services" does not include any warehouse or facility devoted to the maintenance of police or fire equipment, or any gun range or shooting range.

**SANITARY LANDFILL** - A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article. (Source: NCGS 130A-290)

**SAWMILL** - An operation or facility which has, as its predominant purpose, the sawing or planing of logs or trees into rough slabs. A "sawmill" is sometimes referred to as a "planing mill." [See § 7.35 of this Ordinance.](#)

**SAWMILL, ACCESSORY** - A Sawmill which is operated as an incident to a construction site or another industrial or retail operation which is or will be established as a Primary Use on the same site. [See § 7.35 of this Ordinance.](#)

**SCENIC EASEMENT** - A perpetual easement in land which (i) is held for the benefit of the people of North Carolina, (ii) is specifically enforceable by its holder or beneficiary, and (iii) limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of the land and activities conducted thereon. The object of such limitations and obligations is the maintenance or enhancement of the natural beauty of the land in question or of the areas affected by it. (Source: NCGS 113A-33). A "scenic easement" also includes a perpetual easement in land which:

- is held for the benefit of the people of North Carolina,
- is specifically enforceable by its holder or beneficiary, and
- limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(Source: North Carolina Trails System Act , NCGS 113A-85)

**SCHOOL** - An institution of learning, such as elementary and secondary schools, colleges and universities, which offers instruction in several branches of learning and study, but not including business colleges, nursery schools, dancing schools, riding academies, or Business, Technical, Trade schools. Includes public, private, charter and community schools. [Also includes any related accessory uses including after school care, sports facilities, school-related storage, and bus parking.](#)

**SCHOOL, BOARDING** - An elementary school, middle school, [junior high school](#), or high school which provides lodging or dwelling for students or faculty on the same property.

**SCHOOL, BUSINESS, TRADE, [OR VOCATIONAL](#)** - A school, other than a college or university, which may be operated as a commercial venture, and which provides part-time or full-time education beyond the high school level and does not provide lodging or dwelling units for students or faculty. Includes technical and cosmetology schools. (See NAICS 611).

**SCHOOL, COLLEGE OR UNIVERSITY** - An institution providing full-time or part-time education beyond the high school level, including any lodging rooms or housing for students or faculty.

**SCHOOL, ELEMENTARY** - A school which [embraces includes](#) all or part of the first through the eighth grade and which may have a kindergarten or other early childhood program. [As an elementary school subset, a primary school may include early childhood programs, kindergarten, and first through fourth grades..](#) (Source: NCGS 115C-75)

**SCHOOL, HIGH** - A school which [embraces includes a high school department above the elementary grades and all or part of ninth through twelfth grades](#), which offers at least the minimum high school course of study prescribed by

the State Board of Education. (Source: NCGS 115C-75)

SCHOOL, MIDDLE – A school which includes all or part of sixth through ninth grades. Alternatively an intermediate school may include all or part of the fifth through ninth grades. (Source: NCGS 115C-75)

SCHOOL, UNION – A school that includes all elementary, middle, and high school grades. (Source: NCGS 115C-75)

SCHOOL, SECONDARY – A middle school or high school.

SCHOOL DISTRICT - Any school district as defined in NCGS 115C-69.

~~SCHOOL PROJECT—Any one or more buildings, structures, improvements, additions, extensions, enlargements or other facilities for use primarily as a dormitory or other housing facility, including housing facilities for student nurses, a dining hall and other food preparation and food service facilities, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, laundry facility, and maintenance, storage or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, or any combination of the foregoing, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of an institution for higher education or a particular facility, building or structure thereof in the manner for which its use is intended but shall not include such items as books, fuel, supplies or other items the costs of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination. (Source: Higher Educational Facilities Finance Act, NCGS § 115E-3)~~

SCRAP AND SALVAGE SERVICES - An establishment primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms, such as automotive wrecking yards, metal salvage yards, or paper salvage yards.

SCREENING - Shielding, concealing and effectively hiding from view of a person standing at ground level on an abutting site, or outside the area of the feature so screened by a wall, fence, hedge, berm or any combination of these methods, or any similar architectural or landscaped feature, such as a landscape perimeter strip or bufferyard. (See Landscape Standards).

SEASONAL HIGH WATER TABLE - The highest level that groundwater, at atmospheric pressure, reaches in the soil in most years (see 15A NCAC 2H.1002, which is hereby incorporated by this reference).

SEDIMENT - Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin. (Source: the "Sedimentation Pollution Control Act of 1973, NCGS § 113A-52)

SEDIMENTATION - The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.

SEDIMENTATION ACT - The North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant thereto.

SEDIMENT AND EROSION CONTROL DEVICES - Sediment fences, sediment traps, or other devices necessary to reduce sedimentation as required by this section.

SEISMIC EFFECTS - Direct and indirect effects caused by an earthquake or man-made phenomena.

SENDING AREA - An area designated by this Ordinance as a sending area appropriate for the conveyance of transferable development rights from the area.

SENIOR HIGH SCHOOL - A school which embraces the tenth, eleventh and twelfth grades. (Source: NCGS § 115C-75)

SENSITIVE AREAS - Critical Areas, slopes exceeding 3:1 (pre-development), critical wildlife habitat, stream corridors, wetlands, ridge lines, and areas defined as visually vulnerable pursuant to the Environmental and Open Space Element of the Comprehensive Plan.

SEPTAGE - Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin which is removed from a wastewater system. The term septage includes the following:

- Domestic septage, which is either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works receiving only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works receiving either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.
- Domestic treatment plant septage, which is solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works where the designed disposal is subsurface. Domestic treatment plant septage includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from domestic treatment plant septage. Domestic treatment plant septage does not include ash generated during the firing of domestic treatment plant septage in an incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
- Grease septage, which is material pumped from grease interceptors, separators, traps, or other appurtenances used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup.
- Industrial or commercial septage, which is material pumped from septic tanks or other devices used in the collection, pretreatment, or treatment of any water- carried waste resulting from any process of industry, manufacture, trade, or business where the design disposal of the wastewater is subsurface. Domestic septage mixed with any industrial or commercial septage is considered industrial or commercial septage.

(Source: NCGS 130A-290)

SEPTAGE MANAGEMENT FIRM - A person engaged in the business of pumping, transporting, storing, treating or disposing septage. The term does not include public or community wastewater systems that treat or dispose septage. (Source: NCGS 130A-290)

SEPTIC TANK SYSTEM - A subsurface wastewater system consisting of a settling tank and a subsurface disposal field. (Source: NCGS 130A-334)

SERVICE LINES - Electric, gas, communication, water, sewer, irrigation and drainage lines providing local distribution or collection service.

SERVICE STATION - A building or use devoted to the retail sale of fuels, lubricants, and other supplies for motor vehicles, including minor repair activities which are subordinate to the sale of petroleum products.

SERVICE YARD AND/OR ENTRANCE - An area and/or entrance to a structure, which is used for pickup and delivery, especially in conjunction with retail and wholesale outlets

**SETBACK** - The distance from the street (in the case of a Front Setback) or property line to the nearest part of the applicable Building, Structure, measured perpendicular to the street or property line, in front of which no structure may be erected.

**SETBACK, FRONT** - The minimum horizontal distance between any Building or Structure and the Front Lot Line.

**SETBACK LINE** - A line measured from the property line or right-of-way line of a public street, as applicable. Also, see building line.

**SETBACK, SIDE** - The minimum horizontal distance between any building and the side property line.

**SETBACK, REAR** - The minimum horizontal distance between any building and the rear property line.

**REQUIRED SETBACK** - The distance required by Article 4 of this Ordinance between the building or other structure and the lot line or, for unsubdivided properties, the property line.

**SEWAGE** - Water-carried human waste discharged, transmitted, and collected from residences, buildings, industrial establishments, or other places into a unified sewerage system or an arrangement for sewage disposal or a group of such sewerage arrangements or systems, together with such ground, surface, storm, or other water as may be present. (Source: NCGS 143-213) The term "sewage" also means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with flood handling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater. (Source: NCGS 130A-334)

**SEWAGE TREATMENT/DISPOSAL SYSTEM** - Any plant, system, facility, or property used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage (including industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources), or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS 162A-2)

**SEWERS** - Mains, pipes and laterals for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system, including pumping stations where deemed necessary by the authority. (Source: NCGS 162A-2)

**SEWER SYSTEM** - Pipelines or conduits, pumping stations, and force mains, and all other construction, devices, and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal. (Source: NCGS 143-213) The term "sewer system" shall also include both sewers and sewage disposal systems and all property, rights, easements and franchises relating thereto. (Source: NCGS 162A-2)

**SEXUALLY ORIENTED DEVICES** - Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device. (Source: NCGS § 14-202.10)

**SEXUALLY-ORIENTED BUSINESS** - Any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in NCGS § 14-202.10. A "Sexually-Oriented Business" includes any Adult Establishment. (Source: NCGA §§ 160A-181.1; 14-190.13; 14-202.10). See § 7.36 of this Ordinance.

**SHOPPING CENTER** - A group of stores planned and designed for the site on which it is built, functioning as a unit,

with off-street parking, landscaped areas, and pedestrian malls or plazas provided on the property as an integral part of the unit.

SHOULDER - The earthen soil, clay, or gravel or turf section of pavement support extending from the outer pavement edge to the bottom of a side ditch including shoulder sections which are paved. (Source: 19A NCAC § 20.0404).

SIDEWALK - The portion of a street or cross walkway, paved or otherwise surfaced, intended for pedestrian use only.

***SIGN DEFINITIONS***

A-FRAME SIGN - A portable sign comprised of two separate panels or faces joined at the top and spread apart at the bottom to form the base on which the sign stands.

ANIMATED SIGN – A sign with movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having “chasing action” which is the action of a row of lights commonly used to create the appearance of motion.

BALLOON - A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

BANNER - A sign having the character, letters, illustrations, ornamentations, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic, or like kind of malleable material with or without frame. Flags displayed on poles permanently mounted to the ground shall not be considered banners.

BUILDING FRONT - The linear length of building facing a street right-of-way or in the case of a planned unit development, a legal private access road.

CANOPY - A protective cover over a door, entrance, window, or outdoor service area which is attached to or cantilevered from a building. Also known as an awning. Permanent marquees and porticoes which are designed as a continuous or integral part of the structure shall not be considered canopies.

CANOPY SIGN - A sign that is suspended from, attached to, supported from, applied to, or constructed as part of a canopy or awning.

CHANGEABLE COPY SIGN - A sign on which message copy is changed manually or electronically. Also known as a reader-board sign or message board sign.

FACADE - The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

FACSIMILE SIGN – A three-dimensional object [placed as a freestanding sign](#), such as a chicken bucket, automobile (or automobile part), or human figure located in such a manner as to attract attention.

FENCE SIGN - A sign mounted on, attached to, or constructed as part of a fence or similar structure.

GRADE - The uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest Town or state street curb.

GROUND SIGN - A freestanding sign with its base or its supports mounted directly to the ground.

ILLUMINATION, INDIRECT - Illumination which reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

ILLUMINATION, INTERNAL - Illumination provided from a source located inside or within the face of the sign.

INFLATABLE SIGNS - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention.

MANSARD - A steeply pitched roof, pitched at such an angle as to resemble a building wall.

MONUMENT SIGN – A ground sign that is mounted generally flush with the surrounding grade. It may not be attached to a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed 24 inches in height and are included in the measurement of sign height.

OUTDOOR ADVERTISING (BILLBOARD) SIGNS - A permanently installed sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced, manufactured and/or furnished at a place other than the real property on which said sign is located.

PANEL - The primary surface of a sign that carries the sign message.

PENNANT - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PORTABLE SIGN - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, tent signs, A-frame or T-shaped signs and signs placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention.

PROJECTING SIGN - A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

POLE SIGN – A ground mounted sign attached to a single post with a sign base is greater than 24 inches above grade. An encased pole sign is a sign in which the pole is wrapped in an encasement a minimum of 18 inches wide, and does not have a top-to-base ratio of greater than 3:1. The encasement matches the sign materials or the materials of the building located on the property.

**PYLON SIGN-** A ground mounted sign attached to two posts with the sign base is greater than 24 inches above grade. Pylon signs have posts that are encased by materials matching that of the building located on the property.

**ROOF SIGN** – Any sign erected, constructed, and/or painted wholly or partially on or above the roof of a building.

**SIGN** - Any display of letters, words, numbers, symbols, emblems, objects, pictures, or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display be made on, attached to, or constructed as part of a building, structure, vehicle, or object.

**SPINNER** - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

**STREAMER** - A string or strip of miniature or full size pennants or flags which may or may not be suspended between two points.

**TEMPORARY SIGN** - A sign not intended to be displayed on a permanent basis.

**VALANCE** - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

**VEHICLE SIGN** – See Portable Sign.

**WALL SIGN** - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

**WINDOW SIGN** - A sign which is applied to the building glass area.

**WIND-DRIVEN SIGN** - Consists of one (1) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons or other objects or materials designed or intended to move when subject to pressure by wind or breeze and by that movement attract attention and function as a sign (see definition of SIGN).

**SIGNIFICANT ADVERSE IMPACT** - Impacts from activities that result in or contribute to any of the following consequences:

1. Alteration of the wetland or river stream environment, including alteration which results from activities such as grading of slopes and banks, creation of impervious surfaces, removal of native vegetation, placement of fill within a wetland or river stream or associated riparian ecosystem;
2. Disturbance or taking of wildlife, aquatic life, or other natural resources or habitats;
3. Alteration of base flood elevations;
4. Alteration of existing hydrologic or aquatic systems;
5. Degradation of aesthetic, scenic or cultural values associated with the ecosystem;
6. Degradation of environmental quality, including water quality, plant and wildlife communities, and ecosystem functions and stability.

**SITE EVALUATION** - An investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission. (Source: NCGS § 106-802, Swine Farm Siting Act)

**SILTATION** - Sediment resulting from accelerated erosion which is settleable or removable by properly designed,

constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited, or is in suspension in water.

~~SINGLE FAMILY RESIDENTIAL COMPLEX—A group of single family dwellings designed for individual separate ownership with unified management that provides common services and outdoor recreational facilities, but not including public bars, public restaurants or any commercial activity in connection therewith.~~

~~SINGLE FAMILY RESIDENTIAL DWELLING—A separately owned residence for use by one family as a housekeeping unit with space for eating, living, and permanent provisions for cooking and sanitation. See NCGS § 87-15.5).~~

SLAUGHTERHOUSE - A building or structure where livestock is slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage and/or sale of the product on the premises.

SLOPE - A vertical rise in feet measured over a horizontal distance, expressed as a percentage, measured generally at right angles to contour lines.

SLUDGE - Any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects. (Source: NCGS § 130A-290)

SQUARE - Open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and monuments or public art.

SOLID MASONRY - Load-bearing or nonload-bearing construction using masonry units where the net cross-sectional area of cored brick in any plane parallel to the surface containing the cores shall be not less than 75 percent of its gross cross-sectional area. No part of any hole shall be less than 3/4 inch (19.1 mm) from any edge of the brick. Solid masonry units shall conform to ASTM C 55, C 62, C 73, C 145 or C 216. (Source: North Carolina State Building Code, Vol. VII, § 202).

SOIL SURVEY - The Soil Survey of Cabarrus County, North Carolina, published by the Soil Conservation Survey of the U.S. Department of Agriculture, dated September 1988, which document is hereby incorporated by this reference.

SOLID WASTE - Any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans.
- b. Solid or dissolved material in
  1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.
  2. Irrigation return flows.
  3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92- 500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.
- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be

a solid waste for the purposes of this Article.

d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).

e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article. (Source: NCGS § 130A-290)

**SOLID WASTE DISPOSAL FACILITY** - A facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste. (Source: NCGS § 159C-3)

**SOLID WASTE DISPOSAL SITE** - Any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method. (Source: NCGS § 130A-290)

**SOLID WASTE MANAGEMENT FACILITY** - Land, personnel and equipment used in the management of solid waste. (Source: NCGS § 130A-290)

**SOUND MANAGEMENT PROGRAM** - A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. (Source: NCGS § 105- 277.2).

**SPECIAL CONCERN SPECIES** - Any species of plant in North Carolina which requires monitoring but which may be collected and sold under regulations adopted under the provisions of this Article. (Source: NCGS § 106-202.12)

~~**SPECIFIC PLAN** - A document encompassing a specific geographic area of the Governing Agency which is prepared for the purpose of specifically implementing the Comprehensive Plan by (1) refining the policies of the Comprehensive Plan to a specific geographic area; and (2) containing specific recommendation as to the detailed policies and regulations applicable to a focused development scheme. The specific plan shall consist of goals, objectives and policies; requirements for capital improvements; the level of service required for public facilities; physical and environmental conditions; housing and land use characteristics of the area; and maps, diagrams and other appropriate materials showing existing and future conditions.~~

**SPECIFIED ANATOMICAL AREAS** - Means: 1.) Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or 2.) Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Source: NCGS § 14-202.10)

**SPECIFIED SEXUAL ACTIVITIES** - Means: 1.) Human genitals in a state of sexual stimulation or arousal; 2.) Acts of human masturbation, sexual intercourse or sodomy; or 3.) Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts. (Source: NCGS § 14-202.10)

**SPOIL BANK** - A deposit of excavated overburden or refuse. (Source: The Mining Act of 1971, NCGS § 74-49)

**STABLE, COMMERCIAL** - A stable of horses, mules, or ponies which are let, hired, used or boarded on a commercial basis and for compensation. This facility may offer equestrian lessons and may include a show arena and viewing stands. [See § 7.37 of this Ordinance.](#)

**STABLE, PRIVATE** - A detached accessory building for the keeping of horses, mules, or ponies owned by the occupants of the premises and not kept for remuneration, hire or sale.

**STAFF** – Unless otherwise indicated, the staff of the Planning Department.

**START OF CONSTRUCTION** - Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvements was within one hundred eighty (180) days of the permit date. The actual start means the first placement of a permanently-constructed

structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STATE HIGHWAY - Street or highway on the State Highway System.

STATE HIGHWAY SYSTEM - The system of streets and highways as described in NCGS 136-44.1. (Source: 19A NCAC § 20.0404).

STORM DRAINAGE FACILITIES - The system of inlets, conduits, channels, dikes and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

STORMWATER - The flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt. (Source: NCGS § 143-213)

STORMWATER COLLECTION SYSTEM - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

STORMWATER RUNOFF - The direct runoff of water resulting from precipitation in any form. (Source: 15A NCAC § 4A.0005).

STORY - That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the surface of such floor and the ceiling or roof above it.

STORY ABOVE GRADE - Any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is: (1) More than 6 feet (1829 mm) above grade plane; (2) More than 6 feet (1829 mm) above the finished ground level for more than 50 percent of the total building perimeter; or (3) More than 12 feet (3658 mm) above the finished ground level at any point. (Source: North Carolina State Building Code, Vol. VII, § 202).

STREAM - A watercourse that collects surface runoff from an area of one square mile or greater. This does not include flooding due to tidal or storm surge on estuarine or ocean waters. (Source: NCGS 143-215.52).

STREET - Any public thoroughfare, street, avenue, or boulevard which has been dedicated or deeded to the public for public use. (Source: North Carolina State Building Code, Vol. 1, § 201.3). Includes any Road.

STREET FRONTAGE - The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distance lot line intersecting the same street.

STREET LINE - A lot line dividing a lot from a street. (Source: North Carolina State Building Code, Vol. 1, § 202).

STRIP DEVELOPMENT - A form of development characterized by the following:

- the primary uses are commercial or retail in nature;
- the development site takes direct access from an Arterial or Collector Road;
- the site contains parking located above ground level and lying between the accessed roadway and the primary buildings; and
- the site is characterized by substantial frontage along the road or roads from which it takes primary or secondary access, or by numerous access points along a roadway serving primarily retail and/or commercial

uses.

STRUCTURAL ALTERATION - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or exterior walls.

STRUCTURE - Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground or anything as defined by the Building Code, including an edifice or building of any kind. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, landscaping materials or fences. Includes both permanent and temporary structures.

STRUCTURE, MAIN OR PRINCIPAL - See "Building, Main or Principal."

STRUCTURE, PERMANENT - Anything constructed or erected within a required location on the ground or which is attached to something having location on the ground, including a fence or free-standing wall.

STRUCTURE, TEMPORARY - A moveable structure not designed for human occupancy or for the protection of goods or chattel, and not forming an enclosure, and placed on a parcel of land for a period of time equal to one (1) year or less..

STUB-OUT (STUB-STREET) - A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

SUBDIVIDE or "SUBDIVIDE LAND" - The act or process of creating a Subdivision.

SUBDIVIDER - Any Person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

SUBDIVISION - All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development whether immediate or future, and all divisions of land involving the dedication of a new street or change in existing streets; provided, however, that the following shall not be included within this definition: (1) the combination or re-combination of portions of previously platted subdivided or recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance; (2) the division of land into parcels greater than 10 acres where no street right-of-way dedication is involved; (3) the public acquisition, by purchase, of strips of land for the widening or the opening of streets; and (4) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance; [\(5\) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with the intestate succession under Chapter 29 of the General Statutes.](#)(Source: NCGS [160D-8-2, formerly 160A-376](#)). [See Article 5 of this Ordinance.](#)

SUBGRADE - The foundation layer of a street.

SUBSIDIARY - A person who is directly, or indirectly through one or more intermediaries, controlled by another person.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged-condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~SUPERSTORE – A retail structure or group of structures have a total of in excess of twenty-five thousand (25,000) square feet of Gross Floor Area.~~

SURFACE, IMPERVIOUS - See Impervious Surface.

SURVEYOR - A land surveyor registered by the State of North Carolina.

SWALE - An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales direct storm water flows into primary drainage channels and allow some of the storm water to infiltrate into the ground surface.

SWIMMING POOL, PRIVATE - A pool established or maintained on any premises by an individual for use by his/her family or guests of his/her household.

SWINE FARM - A tract of land devoted to raising 250 or more animals of the porcine species. (Source: NCGS 106-802, Swine Farm Siting Act)

SWINE HOUSE - A building that shelters porcine animals on a continuous basis. (Source: NCGS 106-802, Swine Farm Siting Act)

TATTOO/BODY PIERCING PARLORS – An establishment that provides body art services such as tattoos, where ink is injected or inserted into the dermis layer of the skin, and body piercing or modification that result in holes in or permanent physical alteration to the skin or other human anatomy, excluding medical procedures performed in the office or clinic of licensed medical professional.

TAILORING/SEWING SERVICES – An establishment that provides the making, mending, or altering of clothing, drapes, or similar textile or leather items. This shall not include textile manufacturing.

TAXI, LIMOUSINE, CHAFFEUR SERVICES – A business that provides transportation services to individuals or group of passengers for a fee.

TAXIDERMY – An establishment that prepares, stuffs, and mounts the skins, antlers, or other body parts of deceased animals for preservation and display.

TELEVISION, RADIO AND FILM STATION- A facility for the production of films and/or the production and broadcast of television and radio programs including but not necessarily limited to: offices, dressing rooms, studios, sound stages, file rooms, and set stage, but not including transmitting facilities.

TEMPORARY - Unless otherwise specified, for a period of time less than or equal to one (1) year.

TEMPORARY HEALTH CARE STRUCTURE – A transportable residential structure, of no greater than 300 square feet, providing an environment facilitation a caregiver’s provision of care for a mentally or physically impaired person

as defined by NCGS 160D-9-14 (formerly 160A-383.5).

TEMPORARY USE - See Use, Temporary.

TEN-YEAR STORM - 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. (Source: 15A NCAC 2H.1002; Sedimentation Control Standards).

THOROUGHFARE - A Major or Minor Thoroughfare or an arterial or collector street as identified on the Thoroughfare Plan Cabarrus-Rowan Metropolitan Planning Organization (MPO) Comprehensive Transportation Plan (CTP).

~~THOROUGHFARE PLAN— The document entitled Cabarrus— South Rowan Urban Area Transportation Plan prepared by the Statewide Planning Branch, Division of Highways, North Carolina Department of Transportation and dated October 1997 (or newer edition as amended), which document is hereby incorporated by this reference.~~

THREATENED SPECIES - Any resident species of plant which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, or one that is designated as threatened by the Federal Fish and Wildlife Service. (Source: NCGS § 106-202.12)

THROUGH LOT - See "Lot, Through."

~~TIME SHARE— A "time share" as defined in NCGS 93A-41(9).~~

TIRE COLLECTION SITE - A site used for the storage of scrap tires. (Source: NCGS 130A-309.53)

TIRE PROCESSING SITE - A site actively used to produce or manufacture usable materials, including fuel, from scrap tires. (Source: NCGS 130A-309.53)

TOBACCO, ELECTRONIC CIGARETTE, VAPE, & ACCESSORY STORES – Retail establishments primarily engaged in the sale of tobacco products, electronic cigarettes, or vaporizers that deliver nicotine or other substances into the body.

~~TOTAL PERMISSIBLE DWELLING UNITS OR SQUARE FOOTAGE— The total density or intensity of a project computed pursuant to Section 4.7 of this Ordinance.~~

TOWNHOUSE - See “dwelling, single-family attached” ~~A single family dwelling unit constructed in a series, group or row of attached units separated by property lines and with a yard on at least two sides. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202). The term "townhouse" also includes a single family dwelling constructed in a series or group of attached units with property lines separating each unit. (Source: North Carolina State Building Code, Vol. 1, § 201.3)~~

TOWN BOARD- Mount Pleasant Town Board of Commissioners. The “board” unless otherwise noted.

TOXIC WASTE - That waste, or combinations of wastes, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformities, in such organisms or their offspring. (Source: NCGS § 143-213)

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

TRAIL - Any paved greenway, unpaved greenway, or wildlife/botanical greenway dedicated to public use. The term "trail" includes:

- Park trail. -- A trail designated and managed as a unit of the North Carolina State Parks System under NCGS Chapter 113, Article 2C.
- Designated trail. -- A trail designated by the Secretary pursuant to this Article as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.
- A State scenic trail, State recreation trail, or State connecting trail under NCGS 113A-86 when the intended primary use of the trail is to serve as a park trail or designated trail.
- Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system

(Source: North Carolina Trails System Act , NCGS § 113A-85)

TRANSFER STATION, HAZARDOUS - A facility used for storage of non-hazardous waste for a period of less than ninety (90) days.

TRANSIENT - Housing or accommodations which are typically occupied by residents for periods of two (2) weeks or less, including, but not limited to, hotels, motels and travel lodges.

TRANSIT SYSTEM - The property, equipment and improvements of whatever nature owned, used, constructed, maintained, controlled or operated to provide mass transportation for passengers or to provide for the movement of people, including park-and-ride stations, transfer stations, parking lots, malls, and skyways.

TRANSIT STATION - Any Structure or Transit Facility that is primarily used, as part of a Transit System, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

TRANSIT FACILITY - All real and personal property necessary or useful in rendering transit service by means of rail, bus, water and any other mode of travel including, without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicles, stations, terminals, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service.

TRANSIT TERMINAL - A commercial or public facility for the loading and unloading of passengers, luggage, and packages, including sales of fares, and which may include accessory restaurants, indoor commercial amusements, and retail sales, but not including airports.

TRANSMISSION LINES - Electric lines (115 KV and over) and appurtenant facilities, or pipelines/conveyors (ten (10) inches diameter or larger) and appurtenant facilities for transporting natural resources, chemicals, petroleum derivatives, or waste substances.

TRAVEL TRAILER - A vehicle or portable unit mounted on its own chassis and wheels which does not exceed eight feet (8') in width and/or forty feet (40') in length, is drawn by a motor vehicle, and provides temporary living quarters for recreational, camping or travel use.

TREATMENT WORKS - Any plant, septic tank disposal field, lagoon, pumping station, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned herein, installed for the purpose of treating, equalizing, neutralizing, stabilizing or disposing of waste. (Source: NCGS § 143-213).

~~TRIPLEX - A building which contains three (3) dwelling units, each of which has direct access to the outside or to a common hall.~~

TRUCK CAMPER - A portable unit consisting of a roof, floor and sides designed to be loaded onto, and unloaded from, the bed of a pickup truck, and provides temporary living quarters for recreational, camping or travel use.

TRUCK ~~AND MULTI-MODAL~~ TRANSPORTATION TERMINAL & SUPPORT - A facility for truck loading and unloading and cargo storage. [This includes support services such as maintenance and logistics.](#)

TRUCK PARKING AREA - An area for the parking of trucks which are often left with either their motors running and/or their refrigerator unit motors operating.

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

UNCOVERED - The removal of ground cover from, on, or above the soil surface.

UNDERGROUND PRESSURIZED IRRIGATION SYSTEM - A watering system for landscaped areas, consisting of underground pressurized pipes connected to sprinkler heads, bubbler heads, or drip systems such that one hundred percent (100%) irrigation water coverage is provided.

UNDERLYING DISTRICT or UNDERLYING ZONING DISTRICT - A standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.

UNIQUE OR SPECIAL AREAS PARKS - Any unique or special area as defined in the Cabarrus County Parks and Recreation Master Plan, at 4-8.

UNSUITABLE OR UNSTABLE SLOPE - An area susceptible to a landslide, a mudflow, a rockfall or accelerated creep of slope-forming materials.

UPZONING - The reclassification of land from a Residential to a Non-residential Zoning District, or to a Zoning District which permits greater density or intensity than the current zoning classification of the property.

USE - The purpose or purposes for which land or a building is occupied, maintained, arranged, designed, or intended.

USE, APPROVED - Any use that is or may be lawfully established in a particular district or districts, provided that it conforms with all requirements of these regulations for the district in which such use is located.

USE MATRIX - The schedule of permitted uses, conditional uses and accessory uses within each zoning district set forth in Table 4.6-1 of this Ordinance.

USE PERMITS - Approval, with appropriate stipulations, by the Governing Agency after public hearing of a use, structure, condition or manner of operation in conjunction with an otherwise permitted use which, by ordinance, requires the property owner or applicant to obtain such a permit.

USE, QUASI-PUBLIC - Uses which are considered to be dedicated to public service or to culture. These uses include, for the purposes of this Code, public, schools, hospitals, universities and churches.

USE, TEMPORARY - A use that is established for one (1) year or less, with the intent to discontinue such use upon the expiration of such time, and that does not involve the construction or alteration of any permanent structure. See § 7.39 of this Ordinance.

USE, VARIANCE - A variance as to the permissible use of land, including a variance that in effect grants a development permit. A use variance is not permitted under North Carolina law.

USED OIL RECYCLING FACILITY - Any facility that recycles more than 10,000 gallons of used oil annually. (Source: NCGS 130A-290)

UTILITIES - Services and facilities provided by public agencies and public monopolies such as electrical and gas service, water (domestic and irrigation), sewage disposal, drainage systems, and solid waste disposal.

UTILITY DISTRIBUTION LINES & APPURTENANCES – Any water, sewer, electrical, telecommunications lines within designated rights-of-way that provide essential services. This includes associated pump stations, substations, meter boxes, transformers, and similar appurtenances, but does not include treatment facilities, electric power generation, and wireless telecommunications towers.

UTILITY POLE - Pole used to support essential services such as power, telephone, or cable TV lines; or used to support street or pedestrian way lighting, typically located in public rights-of- way.

UTILITY FACILITIES - Buildings, structures, or land used by a utility, railroad, or governmental agency for uses such as, but not necessarily limited to, water or sewage treatment plants or pumping stations, substations, telephone exchanges, and resource recovery facilities, but not including land, buildings, or structures used solely for storage and maintenance of equipment and materials.

UTILITY SERVICE YARDS - Buildings, structures or land used by a utility, railroad, or governmental agency solely for the purpose of storing and maintaining equipment and materials.

VALANCE - A short apron which is designed and installed as part of a canopy/awning and is usually, but not necessarily vertical.

VARIANCE - A grant of relief from the requirements of this Ordinance which permits construction in a manner that would otherwise be prohibited by this Ordinance.

VEGETATIVE BUFFER - An area of natural or established vegetation directly adjacent to surface waters through which stormwater runoff flows in a diffuse manner to protect surface waters from degradation, as more defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

VEGETATIVE FILTER - An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner, so that runoff does not become channelized, as more particularly defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

VEGETATIVE GROUND COVER - Wood bark, shredded or chipped wood (installed over an adequate mat of fabric weed barrier), sod, or live plants.

VEHICLE - Any self-propelled device in, upon, or by which any person or property may be transported upon a public highway excepting devices moved by human power or used exclusively upon stationary rails or tracks.

VEHICLE, ABANDONED OR JUNK - A vehicle or any major portion thereof which is incapable of movement under its own power and will remain without major repair or reconstruction.

VEHICLE, COMMERCIAL - Any motor vehicle with a manufacturer's chassis rating greater than one (1) ton that is used for commercial purposes.

VEHICLE, MOTOR - A device, in, upon or by which any person or property is or may be transported or drawn upon a road or highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles. For the purpose of these regulations "motor vehicles" are divided into two (2) divisions:

- First Division: Those motor vehicles which are designed for the carrying of not more than ten (10) persons.

- Second Division: Those motor vehicles which are designed for carrying more than ten (10) persons, those designed or used for living quarters, and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the first division remodeled for use and used as motor vehicles of the second, and those motor vehicles of the first division used and registered as school buses. All trucks shall be classified as motor vehicles of the second division.

VEHICLE, RECREATIONAL - A vehicular or portable unit mounted on a chassis and wheels, and which is primarily designed to provide temporary living quarters for recreation and travel. Examples are: travel trailers, campers, camping trailers, and motor homes. For purposes of measuring length, the trailer hitch and/or trailer tongue shall be excluded.

~~VERY LOW INCOME HOUSING — Dwelling units reserved for occupancy or ownership by persons or households whose annual gross income does not exceed fifty percent (50%) of the area median household gross income for households of the same size in the Charlotte metropolitan statistical area, as defined by the U.S. Department of Housing and Urban Development in 24 C.F.R., Part 813.~~

VESTED RIGHT - The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan for a specified time, regardless of changes in this Ordinance. (Source: NCGS § 160A-385.1)

VETERINARIAN - A facility or establishment rendering surgical and medical treatment to animals, which may include overnight accommodations for purposes of recovery or boarding. For the purpose of these regulations, small animals shall be deemed to be ordinary household pets, excluding horses, donkeys, or other such animals not normally housed or cared for entirely within the confines of a residence. Crematory facilities shall not be allowed in a veterinarian establishment.

WALL, EXTERIOR - A wall, bearing or nonbearing, which is used as an enclosing wall for a building, other than a party wall or fire wall. (Source: North Carolina State Building Code, Vol. 1, § 201.3)

WAREHOUSING AND DISTRIBUTION, GENERAL - An establishment offering indoor or open-air storage and distribution and handling of materials and equipment, such as vehicle storage, monument or stone yards, grain elevators, or open storage yards.

WAREHOUSING AND STORAGE - Buildings used for the rental of space to the public for the storage of merchandise, commodities or personal property and where access is under the control of the building management, but excluding the warehousing and storage of explosive, corrosive noxious materials, such as dust, fumes or noise that could be dangerous, injurious, distasteful, pernicious or obnoxious to man, other organisms or properties.

WASTE-RELATED USE - Any of the following, (see Use Matrix and this Appendix A for rules of interpretation: Concentrated Animal Feeding Operation or Animal Production; Demolition Landfill; Hazardous Waste facility; Land Clearing and Inert Debris Landfill; Materials Recovery Facility; Salvage Yard; Septic and Other Waste Management Service; Slaughter House; Solid Waste Disposal Facility (including any Landfill, Incinerator or Combustor); Hazardous Waste Collection facility; or Nonhazardous Waste Collection facility.

WASTEWATER - Any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system. (Source: NCGS § 130A-334).

WASTEWATER COLLECTION SYSTEM - A unified system of pipes, conduits, pumping stations, force mains, and appurtenances other than interceptor sewers, for collecting and transmitting water-carried human wastes and other wastewater from residences, industrial establishments or any other buildings, and owned by a local government unit. (Source: NCGS § 159G-3).

WASTEWATER FACILITIES - Structures or systems designed for the collection, transmission, treatment or disposal of sewage and includes trunk mains, interceptors, and treatment plants, including package treatment plant and disposal systems, and on-site septic systems.

WASTE REMEDIATION/JUNKYARD/SALVAGEYARD - An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, selling, or remediating junk or scrap material, or for maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. An establishment or place of business which stores or keeps for a period of 15 days or more materials within the meaning of "junk" as defined by subdivision (3) of NCGS 136-143 which had been derived or created as a result of industrial activity shall be deemed to be a junkyard within the meaning of this definition. The term "Junkyard" includes any "Automobile Graveyard." An "Automobile Graveyard is any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of 15 days or more shall be deemed to be an "automobile graveyard" within the meaning of this definition. (Source: Junkyard Control Act, NCGS 136-143). See § 7.18 of this Ordinance.

WASTEWATER SYSTEM - A system of wastewater collection, treatment, and disposal in single or multiple components, including a privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. (Source: NCGS § 130A-334).

WATERCOURSE - Any lake, river, stream, creek, or other body of water or channel having banks and bed through which water flows at least periodically.

WATER DEPENDENT STRUCTURES - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

WATER FACILITIES - Systems or structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, storage facilities, and transmission and distribution mains.

WATER POLLUTION - The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the waters of the State, including, but specifically not limited to, alterations resulting from the concentration or increase of natural pollutants caused by man-related activities. (Source: NCGS § 143-213).

WATER POLLUTION CONTROL FACILITY - Any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, testing, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which shall have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution. (Source: NCGS 159C-3).

WATER POLLUTION CONTROL SYSTEM - A system for the collection, treatment, or disposal of waste for which a permit is required under rules adopted by either the North Carolina Environmental Management Commission or the Commission for Health Services. (Source: NCGS § 90A-46).

WATER SUPPLY SYSTEM - A public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures. (Source: NCGS § 159G-3).

**WATER SYSTEM** - All plants, systems, facilities or properties used or useful or having the present capacity for future use in connection with the supply or distribution of water or the control and drainage of stormwater runoff and any integral part thereof, including but not limited to water supply systems, water distribution systems, structural and natural stormwater and drainage systems of all types, sources of water supply including lakes, reservoirs and wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filtration plants, purification plants, hydrants, meters, valves, and all necessary appurtenances and equipment and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. (Source: NCGS § 162A-2).

**WATER SYSTEM IMPROVEMENTS OR SEWER SYSTEM IMPROVEMENTS** - Such repairs, replacements, additions, extensions and betterments of and to a water system or a sewer system as are deemed necessary by the authority to place or to maintain such system in proper condition for its safe, efficient and economic operation or to meet requirements for service in areas which may be served by the authority and for which no existing service is being rendered. (Source: NCGS § 162A-2).

**WATER TREATMENT FACILITY** - Any facility or facilities used or available for use in the collection, treatment, testing, storage, pumping, or distribution of water for a public water system. (Source: NCGS 90A-20.1).

**WATERS** - Any stream, river, brook, swamp, lake, sound, tidal estuary, bay, creek, reservoir, waterway, or other body or accumulation of water, whether surface or underground, public or private, or natural or artificial, that is contained in, flows through, or borders upon any portion of the Town. (Source: NCGS § 143-212).

**WATERSHED** - A natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the North Carolina Environmental Management Commission. (Source: NCGS § 143-213).

~~**WATERSHED COMMISSION** – [The Cabarrus County Watershed Improvement Commission.](#)~~

**WET DETENTION POND** - As defined in 15A NCAC 2H.1002, which is hereby incorporated by this reference.

**WETLAND** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands shall be designated in accordance with the Corps of Engineers Wetlands Delineation Manual (United States Department of Commerce, National Technical Information Service, January 1987). Copies of the Wetland Delineation Manual may be obtained by contacting the National Technical Information Service.

~~**WHOLESALE & DISTRIBUTION** – [The sale of large quantities of goods to be retailed by others and the assembly and transport of such goods to retail outlets.](#)~~

~~**WIRELESS SUPPORT STRUCTURES** – [A new or existing structure, such as monopole, lattice, or guyed tower that is designed to support wireless telecommunications facilities, as defined by NCGS 160D-9-31, formerly 160A-400.51.](#)~~

**WOODLAND** - All forest areas, both timer and cut-over land, and all second-growth stands on areas that have at one time been cultivated. (Source: NCGS 113-57).

**YARD** - An open unoccupied space, other than a Court, unobstructed from the ground to the sky, on the Lot on which a Building is situated. (Source: North Carolina State Building Code, Vol. 1, § 202 and Vol. VII. § 202).

**YARD, FRONT** - A yard extending across the front width of a lot and being the minimum horizontal distance between the street line and the principal building or any projection thereof, other than steps, unenclosed balconies and unenclosed porches. The front yard of a corner lot is the yard adjacent to the designated front lot line.

**YARD, REAR** - A yard extending between the side yards of a lot or between the side lot lines in the absence of side

yards, and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof, other than steps, unenclosed balconies or unenclosed porches. On corner lots and interior lots the rear yard is in all cases at the opposite end of the lot from the front yard.

**YARD, REQUIRED** - The minimum open space as specified by the regulations of this Ordinance for front, rear and side yards, as distinguished from any yard area in excess of the minimum required. See "Buildable Area."

**YARD, SIDE** - A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building. This side yard definition may apply for three sides of a flag lot if the flag pole portion of the lot exceeds the front yard setback. Where a lot has sufficient land area, the side yard may exceed the minimum side setback as specified in § 4.7 of this Ordinance. (See Figure in definition of "required setback.") An interior side yard is defined as the side yard adjacent to a common lot line.

~~**YARD SETBACK**—The minimum horizontal distance between any building and the property line.~~

**ZERO LOT LINE** - The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

**ZONING CLEARANCE** - The issuance of a permit or authorization by the Zoning Inspector indicating that a proposed building, structure or use of land meets all of the standards, criteria, procedures and requirements contained in this Ordinance.

**ZONING DISTRICT** - Any portion of the area of the Town in which the same Zoning regulations apply.

**ZONING INSPECTOR** - The Administrator or his duty authorized representative.