

**ZONING ORDINANCE  
CATAWBA, NORTH CAROLINA**

**PURPOSE**

An ordinance regulating the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures, the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said Board; repealing conflicting ordinances; and for other purposes.

**ARTICLE 1  
AUTHORITY AND ENACTMENT CLAUSE**

The Town Council of the Town of Catawba, in pursuance of the authority granted by the General Statutes of North Carolina, particularly Article 14 of Chapter 160, hereby ordains and enacts into law the following Articles and Sections.

**ARTICLE 2  
SHORT TITLE**

This Ordinance (Articles 1 through 22) shall be known and may be cited as the Zoning Ordinance of the Town of Catawba, North Carolina.

**ARTICLE 3  
JURISDICTION**

**3.1 Extraterritorial Jurisdiction**

The provisions of this Ordinance shall be applicable not only within the corporate limits of the Town of Catawba, North Carolina, but also within the territory beyond such corporate limits, as now or hereafter fixed, for a distance of up to one (1) mile in all directions as shown on the Official Zoning Map.

**ARTICLE 4  
PROVISIONS FOR OFFICIAL ZONING MAP**

**4.1 Official Zoning Map**

The districts established in Article 6 of this Ordinance as shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance.

**4.2 Identification of Official Zoning Map**

The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bear the seal of the Town of Catawba.

**ARTICLE 5**  
**DEFINITIONS OF TERMS USED IN THIS ORDINANCE**

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. Unless otherwise expressly stated, the following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

**5.1 Interpretation of Certain Terms and Words**

- .1 Words used in the present tense include the future tense.
- .2 Words used in the singular number include the plural, and words used in the plural number include the singular.
- .3 The word "person" includes a firm, association, organization, partnership, corporation, trust and company, as well as an individual.
- .4 The word "lot" includes the word "plot" and "parcel."
- .5 The word "building" includes the word "structure."
- .6 The word "shall" is mandatory, not directory.
- .7 The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
- .8 The words "Map," "Zoning Map" or "Catawba Zoning Map" shall mean the "Official Zoning Map of the Town of Catawba, North Carolina."

**5.2 Definitions**

**ACCESSORY USE, ACCESSORY STRUCTURE.** A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure. Manufactured homes and tractor-trailers are not considered accessory uses or structures.

**ALLEY.** A public thoroughfare, which affords only a secondary means of access to abutting property.

**AGRICULTURAL INDUSTRY.** Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, and other similar activities.

**AMUSEMENT, COMMERCIAL OUTDOOR.** Any business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink

or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

**APARTMENT.** A room or suite of one or more rooms in a multiple structure intended for use as a residence by a single family.

**AUTOMOTIVE REPAIR.** A building and its premises used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. Minor repairs shall be limited to battery and tire changes, light and fuse replacement, wiper blade changes and similar activities. Also referred to as vehicle repair.

**AUTOMOTIVE SERVICE STATION (gas, filling station).** A building used for the sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto; facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building. Also referred to as retail sale of gasoline.

**AUTOMOTIVE WRECKING YARD.** The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of four or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute an automobile wrecking yard.

**BED & BREAKFAST.** A use that takes place within a building that, prior to such an establishment, was a single family residence, that consists of renting from one to six dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where the breakfast meal only is provided and is available only to guests. The homeowner shall reside on site and employment shall not exceed two full time employees in addition to the owner(s). Duration of stay may not exceed three (3) weeks.

**BEST MANAGEMENT PRACTICES (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**BILLBOARD.** An off-premise sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

**BOARDING HOUSE.** A dwelling unit with up to six rooms for rent to boarders, or designed and intended to be rented to boarders, but which rooms individually or collectively do not constitute separate dwelling units. No separate cooking facilities will be provided for any boarder. A building where, for compensation, lodging and/or meals are provided for not more than ten (10) persons.

**BUFFER STRIP.** A buffer strip shall consist of a planting strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart

and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner. No such buffer strip shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot.

**BUFFER, WATERSHED.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and from the bank of each side of free-flowing streams, river, branches, etc.

**BUILD-TO-LINE.** A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

**BUILDING.** An independent enclosed structure, anchored to a permanent foundation and having exterior or party walls and a roof designed for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**BUILDING, ACCESSORY.** A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith. Manufactured homes and tractor-trailers are not considered accessory buildings.

**BUILDING FACE.** The dominant structural feature of the elevation of any side of a building. For example, the building face of a two-story dwelling with one-story porch is the two-story elevation of the structure.

**BUILDING, HEIGHT.** The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in case of a flat roof; to the average height of the gables in the case of a pitched roof; and to the deck line in the case of a mansard roof.

**BUILDING LINES.** Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

**BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the lot on which said building is situated. In any residential district any structure containing a dwelling unit shall be defined to be the principal building on the plot on which the same is situated.

**BUILDING, SETBACK LINE.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five (5) feet of any overhang, uncovered

porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building.

**BUILT-UPON AREA.** That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel, recreation facilities, etc., excluding wooden slatted decks and the water area of a swimming pool.

**BUSINESS, CBD.** A business, office and mixed-use district that provides a full range of services and a variety of uses in a downtown atmosphere.

**BUSINESS, CONVENIENCE.** Commercial establishments designed to attract and to be dependent upon large volumes of stop-and-go traffic, including, but not limited to, all types of convenience stores and fast food restaurants, with or without drive-in windows.

**BUSINESS, GENERAL.** Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.

**BUSINESS, OFFICE-TYPE.** Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, and drafting occupations, and including offices of a charitable, philanthropic, religious, or educational nature.

**BUSINESS, NEIGHBORHOOD.** Small scale unified or independent commercial establishments with a per-unit floor area no more than three thousand (3000) square feet that generally serve the day-to-day commercial needs of a residential neighborhood, including but not limited to: small drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, food markets, beauty salons, and child daycare facilities.

**BUSINESS, WHOLESALE.** Commercial establishments that generally sell commodities in large quantities or by the price to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.

**CANOPY TREE.** Any large maturing tree which at maturity provides a crown width sufficient to shade a minimum of 1,200 square feet.

**CHURCH.** A structure in which persons regularly assemble for religious worship and which is maintained by a religious body organized to sustain public worship.

**CIVIC, SOCIAL SERVICE, OR FRATERNAL ORGANIZATION FACILITY.** A building or meeting facility, which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to

the public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

**CLINIC.** An organization of professional specialists such as physicians or dentists, who have their offices in a common building. A clinic may include laboratory facilities in conjunction with normal clinic services.

**CLUSTER DEVELOPMENT.** A development design technique that allows the subdivision of land into not more than the number of lots permissible in a conventional subdivision of the same property in the same zone, but where the size of individual lots may be reduced in order to gain land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**COMMERCIAL USE.** A category of uses that includes retail establishments, offices, professional and personal services, financial services, health care services, indoor motion picture theatres, conference centers, laboratories and associated research facilities whose products or waste products entail no special environmental handling requirements, studios, broadcast facilities (excluding towers), hotels and inns, theatres, restaurants without drive-through windows, bars, and day care facility as a principle use. Each use permitted in the commercial use category shall also meet any applicable conditions set out in Article 10, Conditions for Certain Uses. Excluded from the commercial use category are adult uses; vehicle, boat, or manufactured home sales, service, and repair; drive-through windows as a principal or accessory use; wholesale sales; heavy manufacturing; outdoor storage; outside commercial kennels, and other uses that, by their nature or service characteristics are auto dependent, have potential for environment degradation, or are otherwise incompatible with nearby residential use.

**COMPREHENSIVE PLAN.** A plan or any portion thereof, adopted by the Catawba Planning Board and Town Council, establishing goals, objectives and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the corporate limits and ETJ of Catawba.

**CONDITIONAL USE PERMIT.** A permit, granted by the Board of Adjustment after said Board holds a public hearing, which authorizes a use which would not generally be appropriate throughout a particular zoning district, but which, if controlled as to number, size, location, or relation to the neighborhood, would promote the public health, safety, and general welfare.

**CUSTODIAL CARE FACILITY.** A facility providing custodial care and treatment in a protective living environment for persons residing voluntarily or by court placement, including, without limitation, correctional and post-correctional facilities, juvenile detention facilities, and temporary detention facilities.

**DAY CARE CENTER.** Day care, as a principal use or an accessory use, provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child Day Care Center. An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who

are not the legal wards or foster children of, the supervising adult; usually serving more than 10 children at a time; not an accessory to residential use.

Adult Day Care Center. An individual, agency, or organization providing supervision or care on a regular basis for more than 6 adults in a place other than their usual place of abode, on less than a 24-hour basis.

DAY CARE HOME (small, accessory use). Day care provided on a less than 24-hour basis for either children or adults, according to the following limiting definitions.

Child Day Care Home (small, accessory use). Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for 6 to 10 children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Adult Day Care Home (small, accessory use). Care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for up to 6 adults who do not reside in the dwelling.

DEVELOPMENT. The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure; any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DWELLING, MULTIPLE OR MULTI-FAMILY. A building or portion thereof, containing three (3) or more dwelling units designed for occupancy by three (3) or more families living independently of each other.

DWELLING, SINGLE-FAMILY. A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

DWELLING, TWO-FAMILY OR DUPLEX. A building containing two (2) dwelling units designed exclusively for occupancy by two (2) families independent of each other, such as a duplex building unit.

DWELLING UNIT. A building, or portion thereof, designed and arranged, and used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

Detached House. A dwelling unit that is developed with no parti-walls and with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

Duplex House. Two dwelling units, including modular homes, placed one on top of another or attached side by side and sharing one or more common walls.



Attached House. Rowhouse, townhouse, duplex, triplex, or quadriplex houses, generally developed side by side for condominium unit sale, or where land is sold with the dwelling unit. Attached dwellings on individually deeded lots are excluded from the definition of (apartment) multi-family dwellings.

Apartment House. More than four dwelling units placed one on top of another and/or side-by-side and sharing common walls and common floors and ceilings, and which are located on a single lot of record.

Accessory Dwelling. A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than 650 square feet, is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single group home.

EASEMENT. The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

ELECTRONIC GAMING ESTABLISHMENT. A business which provides electronic gaming on computers or machines. This definition includes mixed use establishments which combine electronic gaming with other uses. This definition shall also include the terms sweepstakes, internet sweepstakes, electronic sweepstakes, internet gaming and internet café. This definition excludes traditional arcade games (i.e. Pac-man etc) and other games that do not provide prizes or other compensation.

ELEMENTARY AND SECONDARY SCHOOLS. Publicly-owned or privately-owned pre-schools, elementary schools, middle schools, junior high schools, and high schools; but not including institutions the primary function of which is child day care.

ESSENTIAL SERVICES. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential Services are divided into three classes:

Class 1 Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet);

Class 2 Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities.

Class 3 Generation, production, or treatment facilities such as power plants and sewage treatment plants.

**EXISTING DEVELOPMENT.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this Ordinance based on at least one of the following criteria:

- (1) having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

**EXTERIOR FEATURES.** The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

**FACADE.** The principal vertical surface of a building which is set along a frontage line. The elevation of a façade is the vertical surface area. Façades are subject to visual definition by building height, setback or build to lines, (a line prescribed for the full width of the façade above which the façade sets back; the location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the façade expressed by a variation of material or by a limited projection such as a cornice or balcony).

**FAMILY.** An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six (6) persons, one (1) or more of whom is not related by blood, marriage, or adoption to the others.

**FARM, BONA FIDE.** Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of "farm" and "bona fide farm" shall not include agricultural industries.

**FINANCIAL INSTITUTION.** A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (i.e. banks, credit unions, savings and loans, etc.), non-depository credit institutions (i.e. credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

**FLOOR AREA, GROSS.** The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, open patios, open atriums, open balconies, open carport garages, and breezeways.

**FLOOR AREA, RATIO.** Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

**GARAGE, RESIDENTIAL DETACHED.** A residential accessory building that meets the requirements of section 7.5 and section 7.11 and where the footprint does not exceed 50% of the gross floor area of the primary residence, used primarily for the storage of non-commercial motor vehicles and commercial motor vehicles that do not exceed a gross vehicle weight of 13,500 pounds.

**GOVERNMENT BUILDING.** A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

**HAZARDOUS MATERIAL.** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**HOME OCCUPATION.** A home occupation is defined as an accessory use of a dwelling unit for gainful employment that is clearly a customary, incidental and secondary use of a dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOTEL OR MOTEL.** A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services.

**INDOOR RECREATION.** Public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCA's, YWCA's or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. "Indoor recreation "structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

**INDUSTRIAL DEVELOPMENT.** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose manufacturing, assembling, finishing, cleaning or developing any product.

**JUNKED VEHICLE.** Any wrecked or non-operable automobile, truck, or other vehicle which does not bear a current license plate and current State inspection sticker.

**JUNKYARD.** The use of any unenclosed portion of a lot or tract for the storage or abandonment of junk, including scrap metals and other scrap material, or dismantling or abandonment of automobiles or other vehicles or machinery, but not including the temporary storage of damaged vehicles in connection with the operation of a repair garage. The deposit or the storage on a lot not in use as a repair garage of one or more wrecked or broken down vehicles titled in the name of the property owner for more than ninety (90) days shall also be deemed a junkyard.

**KENNEL, COMMERCIAL.** A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

**KENNEL, PRIVATE.** A structure used for the outdoor accommodation of small domestic animals and not operated on a commercial basis.

**LARGE MATURING TREE.** A tree whose height is greater than 35 feet at maturity and meets the specification of "American Standards for Nursery Stock" published by the American Association of Nurserymen. See also canopy tree.

**LIGHT MANUFACTURING.** The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place; where such processes are housed entirely within a building; or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25 percent of the floor area of all buildings on the property.

**LOADING, OFF-STREET.** Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

**LOT.** A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

**LOT, CORNER.** A lot that occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two street lines are equal; in which case the owner shall be required to specify which is the front when requesting a zoning permit.

**LOT, COVERAGE.** The percentage of a lot which may be covered with buildings or structures (excluding walks, drives, and other similar uses) and recreational facilities which are accessory to a permitted use (such as swimming pools). Properties within the critical or protected areas as defined by the Water Supply Watershed Protection Act shall include walks, drives, and all other impervious and graveled surfaces in the total lot coverage.

**LOT, DEPTH.** The mean horizontal distance between front and rear lot lines.

**LOT, WIDTH.** The distance between side lot lines measured at the building line.

**LOT OF RECORD.** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been so recorded.

**MAJOR WATERSHED VARIANCE.** A variance from the minimum statewide water supply watershed protection criteria that results in any one or more of the following:

- (1) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater system;
- (2) the relaxation, by a factor greater than ten percent (10%), of any management requirement under the low density option;
- (3) the relaxation, by a factor greater than five percent (5%), of any buffer or built-upon area requirement under the high density option.

**MANUFACTURED HOME.** A manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of forty (40) feet or more in length and eight (8) feet or more in width. It shall also comply with the National Mobile Home Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. This definition shall also include the term "mobile home."

**MANUFACTURED HOME PARK.** Land used or intended to be used, leased or rented for occupancy by two (2) or more manufactured homes which are mounted on wheels, anchored in place by a foundation or other stationary support, to be used for living purposes and accompanied by automobile parking spaces and incidental utility structures and facilities required and provided in connection therewith. This definition shall not include sales lots on which unoccupied manufactured homes are parked for purposes of inspection and/or sale.

**MINOR WATERSHED VARIANCE.** A variance that does not qualify as a major variance from the minimum statewide watershed protection rules that results in a relaxation by a factor up to five (5) percent of any buffer, density, or built-upon requirements under the high density option; or that results in a relaxation, by a factor up to ten (10) percent, of any management requirement under the low density option.

**MIXED USE.** The combination of both commercial and residential uses within a single building of two or more stories, wherein at least 50% of the heated floor area contains residential dwelling unit(s).

**MODULAR HOME.** A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**NEIGHBORHOOD GASOLINE STATION.** A building and use for the sale of gasoline primarily to non-commercial vehicle operators, having no more than one pumping canopy, with no more than 4 pumping stations allowing a maximum simultaneous fueling of 8 motor vehicles.

**NEIGHBORHOOD RECREATION.** Public or private neighborhood, tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. "Neighborhood Recreation" structures shall 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.

**NON-CONFORMING LOT OF RECORD.** A lot described by a plat or deed that was recorded prior to and lawfully existed prior to the adoption of this Ordinance, but which does not meet the limitations on size, depth, width, street frontage, or other development requirements of the statewide watershed protection rules for the district in which such lot is located.

**NON-CONFORMING USE.** A building or land lawfully occupied by a use that does not conform with use regulations of the district in which it is situated.

**NON-CONFORMING STRUCTURE.** A building that does not conform to dimensional regulations of the district in which it is situated.

**NON-RESIDENTIAL DEVELOPMENT.** All development other than residential development, agriculture and silviculture.

**NURSING HOME.** A home for the aged or ill persons in which three (3) or more persons not of the same immediate family are provided with food, shelter and care for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment.

**OFFICE.** A building or portion thereof wherein services are performed involving predominately administrative, professional, or clerical operations.

**OPEN SPACE.** Any front, side, or rear yards, courts, or usable open space provided around a building in order to meet the requirements of this Ordinance.

**OPEN STORAGE.** The storing, depositing or accumulating (for more than twenty-four (24) hours) of materials, goods, equipment, etc., for any use or sale, within any uncovered area, whether enclosed by a fence, etc., or not.

**PARKING LOT.** Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, for a fee or as a service.

**PARKING SPACE.** An area of appropriate dimensions, exclusive of drives, of not less than nine (9) feet by eighteen (18) feet to be used exclusively as a temporary storage space for private motor vehicles.

**PLANNED UNIT DEVELOPMENT (PUD).** A form of development characterized by a unified site design for a number of housing units, clustering of buildings and providing common space, density increase, and a mix of building types and uses. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site plan must include two or more principal buildings. Such development shall be based on a plan, which allows for flexibility of design not available under normal district requirements.

**PROTECTED AREA (PA) or BALANCE OF THE WATERSHED.** Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles upstream of and draining to a water supply reservoir, or to the ridge line of the watershed, whichever comes first; or within ten miles of and draining to a water intake in a stream or river, or to the ridgeline of the watershed, whichever comes first.

**RELIGIOUS INSTITUTION.** A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

**RESIDENTIAL DEVELOPMENT.** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

**RESIDENTIAL CARE FACILITY.** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**SOLAR ENERGY SYSTEM, SMALL.** Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy for use onsite. However, the energy output may be delivered to a power grid to offset the cost of energy on site. Small systems will typically generate less than 10 kilowatts per hour (rated 10kW system) and will be an accessory use to a lawful, principle use. Small systems shall be located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of neighboring property. Roof-mounted small systems shall not extend more than 10 feet from the top of the roof. The total height of the building including the solar collection devices shall comply with the height regulations. No front-yard systems are allowed.

**SOLAR ENERGY SYSTEM, UTILITY-SCALE (SOLAR FARM).** Any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for generating energy primarily for use off-site or for resale. Energy generated may be used to serve on-site power needs. This will typically be the primary use of a property and generate more than 10 kilowatts per hour (rated 10kW system) of electricity.

Use	R-1	RA	B-1	H-B	O-I	M-I	MHO	SR
Solar Energy System, Small	P	P	P	P	P	P	P	10.29
Solar energy System, Utility-Scale	Not Permitted	CU	Not Permitted	P	Not Permitted	P	CU	10.29

**SIGN.** Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

**SINGLE FAMILY RESIDENTIAL.** Any development where: 1) no building contains more than one dwelling unit; 2) every dwelling unit is on a separate lot; and 3) where no lot contains more than one dwelling unit.

**SITE PLAN.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features for a specific parcel of land.

**STORY.** That portion of a building comprised between a floor and a floor or roof next above. The first floor of a two- or multi-story building shall be deemed the story that has no floor immediately below it that is designed for living quarters or for human occupancy. Those stories above the first floor shall be numbered consecutively.

**STREET (PUBLIC ROAD, PUBLIC STREET, LANE, WAY, TERRACE, DRIVE).** A dedicated and accepted public right-of-way used, or intended to be used, for passage or travel by motor vehicles which affords the principal means of access to abutting properties.

**STREET, PRIVATE.** Any right-of-way or area set aside to provide vehicular access which is not dedicated or intended to be dedicated to the Town of Catawba or the State of North Carolina, and which is not maintained by the Town of Catawba or the State of North Carolina.

**STRUCTURE.** Anything constructed or erected the use of which required more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.



**STRUCTURAL ALTERATIONS.** Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

**VARIANCE, ZONING.** A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

**VARIANCE, WATERSHED.** A permission to develop or use property granted by the Board of Adjustment or Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this Ordinance. A watershed variance shall be either major or minor.

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

**WATERSHED.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

**WATERSHED ADMINISTRATOR.** An official designated by the Town of Catawba responsible for administration and enforcement of Article 17. This term shall also include the term "Zoning Enforcement Officer."

**YARD.** A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

**YARD, FRONT.** An open space on the same lot with a principal building, extending the full width of the lot, and situated between the front property or street right-of-way line and the front line of the building (exclusive of steps) projected to the sidelines of the lot.

**YARD, REAR.** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

**YARD, SIDE.** An open, unoccupied space on the same lot with the principal building between the side line of the building and the side line of the lot and extending from the front yard line to the rear yard line.

**ZONING ENFORCEMENT OFFICER.** The Town of Catawba official charged with the responsibility of enforcing this Ordinance. This term shall also include the term "Watershed Administrator." This shall also mean the same as "Zoning Administrator."

ZONING PERMIT. Permit issued by the Zoning Enforcement Officer indicating proposed use is in compliance with the requirements of this Ordinance. This term shall also include the term "Watershed Protection Permit."

**ARTICLE 6  
ESTABLISHMENT OF DISTRICTS**

**6.1 Use Districts**

For the purpose of this Ordinance, the Town of Catawba and its Extraterritorial Zoning Jurisdiction are hereby divided into seven (7) base districts and one overlay district designated as follows:

Neighborhood Residential District (R-1)  
Residential-Agricultural District (RA)  
Central Business District (B-1)  
Highway Business District (H-B)  
Office and Institutional District (O-I)  
Manufacturing Industrial District (M-I)  
Manufactured Home Overlay District (MHO)

**6.2 District Boundaries**

The boundaries of these districts are hereby established as shown on a map entitled "Official Zoning Map, Town of Catawba, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set forth herein. The zoning map shall be retained in the office of the Town Clerk.

**6.3 Rules Governing Boundaries**

Where, due to the scale, lack of detail or illegibility of the zoning map, there is uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereof, the Zoning Enforcement Officer shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Board of Adjustment. The Zoning Enforcement Officer and the Board of Adjustment, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

- .1 Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or railroad right-of-way lines or such lines extended, such centerlines, street lines or railroad right-of-way lines shall be construed to be such boundaries.
- .2 Where district boundaries are so indicated that they approximately follow lot lines; such lot lines shall be construed to be said boundaries.
- .3 Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance there from as

indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

- .4 Where a district boundary line divides a lot in single ownership, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line. The term "least restrictive" shall refer to zoning restrictions, not lot or tract size.

**ARTICLE 7  
GENERAL PROVISIONS**

**7.1 Application**

- .1 Use. No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance or amendments thereto, for the district in which it is located.
- .2 Height and Density. No building shall hereafter be erected or altered so as to exceed the height limit, or to exceed the density regulations of this Ordinance for the district in which it is located.
- .3 Lot Size. No lot shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family or other requirements of this Ordinance are not maintained, except in cases of street widening.
- .4 Yard Use Limitations. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.
- .5 One Principal Building on Any Lot. Every building hereafter erected, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, or commercial buildings in an appropriate zoning district, as permitted by Article 16 of this Ordinance. Furthermore, no building shall be constructed or erected upon any lot which does not abut a public street by twenty-five (25) feet.
- .6 Necessary Repairs Permitted. Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the Building Inspector, the Fire Chief, or any other duly authorized Town officials.

**7.2 Nonconforming Uses**

After the effective date of this Ordinance, existing structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of this Ordinance), shall be considered as nonconforming. Nonconforming structures or uses (as defined in Article 5 of this Ordinance) may be continued provided they conform to the following provisions:

## **7.2.1 Conforming Structures with Nonconforming Use**

- .1 Extension of Use. The enlargement, expansion or extension of a conforming structure which is occupied by a nonconforming use is discouraged; however, a conforming structure which is occupied by a nonconforming use may be enlarged, expanded or extended once by the Board of Adjustment provided the following:
  - a. An application for a conditional use permit must be filed with the Board of Adjustment and a public hearing held. The application shall include a site plan with sufficient detail of the enlargement, expansions, extension or any alterations to be made.
  - b. Enlargements, expansions, extensions or alterations may not exceed twenty-five percent (25%) of the original floor area existing at the time of enactment of this Ordinance.
  - c. The Board of Adjustment determines, in its discretion, that the intensity of the current use will not be increased substantially by the expansion, extension or enlargement of the structure. In determining whether the degree of intensity is increased substantially, the Board of Adjustment shall consider:
    1. Probable adverse effect to traffic.
    2. Probable adverse effect to the environment.
    3. Probable adverse effect to the provision of services and utilities.
    4. Probable adverse effect on other property values.
    5. The use or structure will not impair the health, safety and general welfare of the surrounding neighborhood.
  - d. Under no circumstances shall more than one expansion, enlargement or extension be granted for any conforming structure which is occupied by a nonconforming use, regardless of whether a nonconforming use of said structure is changed to another nonconforming use.
  - e. All dimensional requirements of the district in which the nonconforming use is located must be met.
- .2 Change of Use. Any nonconforming uses may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district in question.
- .3 Cessation of Use. When a non-conforming use is discontinued for a consecutive period of one hundred eighty (180) days the property involved may thereafter be used only for conforming purposes.

## **7.2.2 Nonconforming Structures with Nonconforming Use**

- .1 Extension of Use. The enlargement, expansion or extension of a nonconforming structure which is occupied by a nonconforming uses is discouraged; however, nonconforming structures occupied by nonconforming uses may be enlarged, expanded or extended once by the Board of Adjustment provided the following:
  - a. An application for a conditional use permit must be filed with the Board of Adjustment and a public hearing held. The application shall include a site plan with sufficient detail of the enlargement, expansions, extensions or any alterations to be made.
  - b. Enlargements, expansions, extensions or alterations may not exceed twenty-five percent (25%) of the original floor area existing at the time of enactment of this Ordinance.
  - c. The Board of Adjustment determines, in its discretion, that the intensity of the current use will not be increased substantially by the expansion, extension or enlargement of the structure. In determining whether the degree of intensity is increased substantially, the Board of Adjustment shall consider:
    1. Probable adverse effect to traffic.
    2. Probable adverse effect to the provision of services and utilities.
    3. Probable adverse effect to the environment.
    4. Probable adverse effect on other property values.
    5. The use or structure will not impair the health, safety and general welfare of the surround neighborhood.
  - d. Under no circumstances shall more than one expansion, extension or enlargement be granted for any nonconforming structure which is occupied by any nonconforming use, regardless of whether a nonconforming use of said structure is changed to another nonconforming use.
  - e. All dimensional requirements of the district in which the nonconforming use is located must be met.
  - f. All expansions, enlargements and extensions of any structure must conform to meet the requirements of the Town's Zoning Ordinance and cannot increase the preexisting structural nonconformity.
- .2 Change of Use. Any nonconforming uses may be changed to a conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district in question.

- .3 Cessation of Use. When a non-conforming use is discontinued for a consecutive period of one hundred eighty (180) days the property involved may thereafter be used only for conforming purposes.

### **7.2.3 Nonconforming Structures with Conforming Use**

- .1 Extension of Use. The enlargement, expansion or extension of a nonconforming structure, which is occupied by a conforming use, may be enlarged, expanded or extended provided the following:
- a. All dimensional requirements of the district in which the nonconforming structure is located must be met.
  - b. All expansions, enlargements and extensions of any structure must conform to meet the requirements of the Town's Zoning Ordinance and cannot increase the preexisting structural nonconformity.

### **7.2.4 Change of Use**

- .1 Change of Use. Subject to all other provisions of this Article, lawful uses existing at the time of the adoption of this Ordinance may be continued, even though such uses does not conform to the provisions of this Ordinance. The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, business district uses, and industrial district uses as permitted by the Ordinance. Furthermore, the Board of Adjustment may allow a change of use provided the following:
- a. A nonconforming use may be changed to a use of higher classification but not to a use of lower classification.
  - b. A nonconforming use may not be changed to another use of the same classification unless the new use shall be deemed by the Board of Adjustment, after public notice and hearing, to be less harmful to the surrounding neighborhood, than the existing nonconforming use.

### **7.2.5 Rebuilding or reestablishment of a nonconforming use or structure after accidental damage or destruction by natural causes.**

- .1 Applicability. This Section applies only to all structures accidentally damaged or destroyed by natural causes or fire which is not intentionally or recklessly set as determined by investigating authorities. Examples include, but are not limited to, wind or flooding. Time related deterioration, or damage caused by animal or insect infestation does not constitute accidental damage or destruction by natural causes.
- .2 Single-Family and Two-Family Residences. Nonconforming single-family or two-family residential uses or structures which are partially or fully destroyed as set forth here in may be rebuilt or repaired by right provided the footprint of the replacement structure is



not enlarged, expanded, or extended except as provided in 7.2.1, 7.2.2, or 7.2.3 whichever is applicable. The footprint of the replacement structure can be enlarged but cannot increase the pre-existing nonconformity.

.3 Non-residential and Multifamily Structures.

- a. Nonconforming non-residential and multi-family (three or more dwelling units) uses or structures, which are partially or fully destroyed, may be rebuilt or repaired provided that the footprint of the replacement structure is not enlarged, expanded, or extended except as provided in 7.2.1, 7.2.2, or 7.2.3 whichever is applicable, and further provided that the board of adjustment makes the following findings of fact:
  - 1. Use or structure will not adversely affect traffic;
  - 2. Use or structure will not adversely affect the physical environment pertaining to water pollution, air pollution, and noise pollution;
  - 3. Use or structure will not adversely affect the provision of services and utilities;
  - 4. Use or structure will not create a health or safety hazard;
  - 5. Use or structure will not adversely affect other property values; and
  - 6. Use or structure will not impair the health, safety and general welfare of the surrounding neighborhood.
- b. In permitting such reconstruction, the Board of Adjustment may require appropriate conditions and safeguards to protect the purpose and intent of this Article.

<b>7.3 Interpretation of District Regulations</b>
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- .1 Uses by Right. Uses not designated as permitted by right or subject to additional conditions shall be prohibited. Conditional uses are permitted according to the additional regulations imposed. These conditional uses can be approved only by the Board of Adjustment. Additional uses when in character with the district may be added to the Ordinance by amendment.
- .2 Minimum Regulations. Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this section are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.
- .3 Land Covenants. Unless restrictions established by covenants for the land are prohibited by or are contrary to the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

#### **7.4 Zoning of Annexed Areas**

Any areas annexed into the Town of Catawba, upon annexation, shall be rezoned to an appropriate zoning district, upon recommendation by the Planning Board and approval by the Town Council and following notifications and public hearings as required by North Carolina General Statutes. When property that was previously assigned a municipal zoning classification by the Town of Catawba because it was located within the extra-territorial jurisdiction prior to annexation, it will not be necessary to rezone the property.

#### **7.5 Standards for Residential Garages and Parking in Residential Districts**

- .1 On lots greater than 60 feet in width, front loading garages may be built flush with, but may not project in front of, the primary plane of the front facade of the structure.
- .2 On lots 60 feet or less in width, alley access is required if on-site parking is provided.
- .3 In no case shall on-site residential parking extend into the public right of way, or into an easement for a public sidewalk on private property.
- .4 On-street parking at lot front, when specifically provided, may be counted toward all or part of the parking requirement of a dwelling unit.
- .5 Detached residential garages may only be placed in the established rear or side yard. If the garage is located in the side yard it must be constructed of similar materials as the principal residence located on the lot and meet the minimum setbacks required for a principal structure. At minimum it will have at least one door that is large enough to allow entry of an automobile with two axles. In addition, the outside walls shall not be clad with metal siding and the building shall be completely enclosed.
- .6 The gross floor area of residential garages shall not exceed fifty (50) percent of the gross floor area of the residence.
- .7 Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking on streets, in driveways, or on private property in residential districts. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services.

#### **7.6 Lot of Record**

Where the owner of property consisting of one (1) or more lots of record in any district at the time of adoption of this Ordinance or his successor in title does not own sufficient contiguous land to conform to the minimum area and width requirements of this Ordinance, such property may be used as a building site, provided that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this Ordinance for the district in which such lots are located.

Every lot to be built upon shall abut, by at least twenty-five (25) feet, a public street or other public way, and no dwelling shall be placed or built upon a lot that does not abut upon a public street or other public way by the same distance except as provided in Section 7.12.

### **7.7 Front Yard Setbacks for Dwellings**

The front yard setback requirements of this Ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use district as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

### **7.8 Height Limitations**

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, chimneys, smokestacks, conveyors, flag poles, masts, serials and similar structures except as otherwise noted in the vicinity of airports. Telecommunications towers shall adhere to the height restrictions of Article 14.

### **7.9 Visibility at Intersections**

On a corner lot in any district no planting, structure, fence, wall or obstruction to vision more than three (3) feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines each of which is twenty-five (25) feet in distance from the point of intersection. Utility poles and street signs shall be permitted if located in a non-obstructive position.

### **7.10 Corner Lots**

In any residential district the side yard requirements for corner lots along the side street line shall have an extra width of five (5) feet. Accessory buildings shall have an extra width of five (5) feet added to the sideyard setback requirement. In addition, no wall, fence, or shrubbery shall be erected, placed, planted, or maintained on any lot, which unreasonably obstructs or interferes with traffic visibility on a curve or street intersection.

### **7.11 Location of Accessory Buildings**

On any lot, accessory buildings shall be located in the rear yard (except as allowed in Section 7.5 above), shall not cover more than thirty percent (30%) of any required rear yard and shall be at least five (5) feet from any other building on the same lot and at least fifteen (15) feet from any buildings used for human habitation on adjoining lots. All parts of the building, including the footings and roof overhang, shall be a minimum of five (5) feet from any lot line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty (20) feet from any side line right-of-way line. Accessory buildings shall be placed according to Article 9.

### **7.12 Provisions for Landlocked Lots**

Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street and therefore does not meet the requirements that the lot have a minimum frontage on a public street of twenty-five (25) feet, may nevertheless be developed for one single family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:

- .1 A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners;
- .2 An easement with a minimum continuous width of less than twenty-five (25) feet may be permitted only in situations where an easement with a minimum continuous width of twenty-five (25) feet would create a nonconformity with respect to this Ordinance;
- .3 The recorded documents creating the easement shall specify that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress from the landlocked property;
- .4 The recorded documents shall also specify that public utilities (water, sewer, electricity, telephone, cable, etc.) may be located within the easement;
- .5 The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;
- .6 The easement must have an all weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;
- .7 Easements existing prior to the adoption of this Ordinance with widths less than twenty-five (25) feet may be used to access landlocked lots provided that such easements abut a dedicated street;

- .8 Subdivision of landlocked parcels will require a publicly dedicated street constructed to Town Standards and must meet all requirements of the Town's Subdivision Regulations.

### **7.13 Vested Rights**

The purpose of this section is to implement the provisions of NCGS 160A-385.1 pursuant to which a statutory zoning vested right is established upon approval of a site specific development plan.

.1 Definitions.

- a) Approval Authority. The Town Council, Planning Board, Board of Adjustment, Town Clerk, Zoning Administrator, or other board or official designated by this Ordinance as being authorized to grant the specific zoning or land use permit approval that constitutes a site specific development.
- b) Site Specific Development Plan. A plan of land development submitted to the Town of Catawba for purposes of obtaining one of the following zoning or land use permits or approvals:
1. Zoning Permit as provided by this Ordinance
  2. Conditional Use Permit as provided by this Ordinance
  3. Variance as provided by this Ordinance
  4. Minor Subdivision approval
  5. Major Subdivision approval

Notwithstanding the foregoing, neither a variance, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

- c) Zoning Vested Rights. A right pursuant to NCGS 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right. Under the terms of this Ordinance, a two (2) year zoning vested right shall be established upon issuance of a zoning permit.

### **7.14 Permitted Accessory Uses in All Districts**

- .1 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot (7.11).
- .2 Fences and Walls

- a) Fences consisting of either masonry, rock, wire or wooden material and hedges may be installed on the boundaries of any residential lot, provided that the height of such fencing, walls or hedges shall be limited to a maximum height of five (5) feet between the street right-of-way line and the normal building line for that section adjacent to the street. Fencing, walls and hedges on all other boundaries of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls and required screenings shall not be subject to the above height requirements.

### **7.15 Transportation Impact Study**

A Transportation Impact Study (TIS) may be required by the Town of Catawba for any development or property that has experienced a change in zoning classification after June 24<sup>th</sup>, 2002 and are projected to generate one thousand (1,000) daily trips. A TIS shall be required for all developments that have experienced a change in zoning classification after June 24<sup>th</sup>, 2002 and are projected to generate fifteen hundred (1,500) daily trips. A TIS may be required by the Town of Catawba for any redevelopment or change in use of an existing occupied development that has experienced a change in zoning classification after June 24<sup>th</sup>, 2002 which would generate one thousand (1,000) additional daily trips, and shall be required when the subject development is expected to generate fifteen hundred (1,500) additional daily trips, subject to the exception set out below.

When sufficient information on the proposed development is available for the Town of Catawba to determine that the aforementioned criteria is met, a TIS shall be submitted with all preliminary plats, site plans, site plan revisions, Special Use Permit applications, and Conditional Use Permit applications. The trip rates shall be based on trip generation rates contained in the latest edition of *Trip Generation* published by the Institute of Transportation Engineers or any local trip generation rates either published or approved by the Town of Catawba. Additional trips shall be determined by subtracting the gross trip generation of the existing use from the gross trip generation of the proposed use. The additional trip calculation shall apply to property that is occupied at the time of submittal or has been occupied at any time prior to submittal.

If a development or property has experienced a change in zoning classification after June 24<sup>th</sup>, 2002 and special circumstances exist, the Town of Catawba may require a TIS without regard to the expected trip generation of the development. Factors that would warrant such a requirement are: 1) There are existing levels of service deficiencies in the area of the proposed development. (*"Level of Service" as defined in the Highway Capacity Manual - Transportation Research Board Special Report 209*) and/or 2) Available accident data and/or operational and geometric factors indicate safety concerns.

Notwithstanding the above, a TIS shall not be required if the property to be rezoned or developed has been the subject of a TIS within the previous three (3) years and the projected trip generation of the newly proposed development is equal to or less than the previous study performed and the trip distribution has not significantly changed. As a part of subdivision, site plan and driveway permit approval, the Town of Catawba may require needed transportation improvements for the property requesting development approval; however, a TIS shall not be utilized as a means for

staff to require the party developing the property to make needed transportation improvements remote from the property for which the TIS is submitted, nor shall identified deficiencies in level of service automatically preclude approval of the proposed development.

The TIS shall address the proposed land use, the trip generation therefrom, site access, modal splits if appropriate, impacts on the transportation system from the proposed development, and physical improvements or enforceable management strategies to mitigate negative impacts. At a minimum, the TIS shall identify the improvements necessary to maintain Level Of Service D for streets and intersections as defined in the Highway Capacity Manual - Transportation Research Board Special Report 209. Any TIS, whether required or voluntarily prepared, must be prepared by a licensed engineer in accordance with Town guidelines. Additionally, the TIS should be reviewed and approved by Town Staff before being considered by City Council or any planning agency of the Town.

Developments/properties that have not experienced a change in zoning classification since June 24th, 2002 will not be required to prepare a TIS as a part of their site plan approval.

**ARTICLE 8  
USE REQUIREMENTS BY DISTRICT**

**8.1 Neighborhood Residential District (R-1)**

Intent: The district shall provide for town-scaled residential development within walking distance (generally one-fourth ( $\frac{1}{4}$ ) mile) of services. Streets shall be interconnected and a range of lot sizes is encouraged. The Neighborhood Residential District permits the completion and conformity of residential subdivisions.

**8.1.1 Permitted Uses.**

(a) Uses permitted by right:

- Single-family dwellings excluding manufactured homes

Uses permitted with conditions:

- Cemeteries (10.7)
- Churches (10.8)
- Essential services 1 and 2 (10.13)
- Government buildings up to 5,000 square feet of gross floor area
- Neighborhood and outdoor recreation (10.16)
- Parks (10.22)
- Parking lot as a principal use (10.21)

(b) Uses permitted with a conditional use permit (20.7.2)

- Multi-family dwellings
- Planned Unit Development – Residential (16.1)
- Elementary and Secondary Schools (10.24)
- Essential Services 3 (10.14)
- Commercial Marinas and Accessory Commercial Uses (10.18)
- Indoor Recreation
- Bona-fide Farms

(c) Permitted building and lot types:

- Civic building (9.13, 9.14)
- Detached house (9.9, 9.10)
- Attached house (9.11, 9.12)
- Apartment building (9.7, 9.8)

(d) Permitted accessory structures and uses:

- Accessory dwellings (10.1)



- Day care home (small) (10.10)
- Home occupations (10.15)
- Marinas accessory to a residential use (10.28)
- Accessory uses permitted in all districts (7.14)

(e) General requirements:

- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
  - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
  - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- (2) On new streets, allowable building and lot types will establish the development pattern.

**8.1.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

**8.1.3 Sign Requirements.**

See Article 12 of this Ordinance.

**8.1.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

**8.2 Residential Agriculture District (RA)**

Intent: The district shall provide for agricultural uses as well as single-family development. The purpose of the RA District is to provide an adequate amount of land for agricultural uses while also making provisions for single-family residential development that is rural in character. Multi-family and commercial uses are not appropriate in this district. Manufactured homes are allowed in the RA District only where the Manufactured Home Overlay (MHO) District is present.

## 8.2.1 Permitted Uses.

(a) Uses permitted by right:

- Single-family dwellings built in accordance with the N.C. Building Code (Manufactured homes are only allowed where the MHO District is present)
- Bona fide farms

Uses permitted with conditions:

- Cemeteries (10.7)
- Churches (10.8)
- Essential services 1 and 2 (10.13)
- Government buildings up to 5,000 square feet of gross floor area
- Neighborhood and outdoor recreation (10.16)
- Parks (10.22)

(b) Uses permitted with a conditional use permit (20.7.2)

- Elementary and Secondary Schools (10.24)
- Essential Services 3 (10.14)
- Indoor Recreation

(c) Permitted building and lot types:

- Civic building (9.13, 9.14)
- Detached house (9.9, 9.10)

(d) Permitted accessory structures and uses

- Accessory dwellings (10.1)
- Day care home (small) (10.10)
- Home occupations (10.15)
- Marinas accessory to a residential use (10.28)
- Accessory uses permitted in all districts (7.14)

(e) General requirements:

- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
  - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.

- New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- (2) On new streets, allowable building and lot types will establish the development pattern.

**8.2.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

**8.2.3 Sign Requirements.**

See Article 12 of this Ordinance.

**8.2.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

**8.3 Central Business District (B-1)**

Intent: The Central Business District is intended to be the central commercial area of town. A broad array of uses is expected in a pattern which integrates shops, restaurants, services, work places, civic, educational, and religious facilities, and higher density housing in a compact, pedestrian-oriented environment. The Central Business District anchors the surrounding residential neighborhoods while also serving the broader community.

**8.3.1 Permitted Uses.**

- (a) Uses permitted by right:
- Bed and breakfast inns
  - Boarding or rooming houses for up to six boarders
  - Civic, fraternal, cultural, community, or club facilities
  - Commercial uses
  - Financial services
  - Government buildings
  - Hotels
  - Indoor amusement
  - Offices
  - Professional services

- Single-family dwellings

Uses permitted with conditions:

- Automobile and/or motorcycle sales with associated service and repair, up to 2 acres in size, with a principal building of at least 3,500 square feet
- Cemeteries (10.7)
- Churches (10.8)
- Essential services 1 and 2 (10.13)
- Neighborhood gasoline stations, excluding major service and repair of motor vehicles (10.17)
- Parking lot as a principal use (10.21)
- Parks (10.22)
- Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales) (10.25)

(b) Uses permitted with a conditional use permit (20.7.2)

- Multi-family dwellings
- Elementary and Secondary Schools (10.24)
- Planned Unit Development – Business (16.2)
- Planned Unit Development – Residential (16.1)
- Essential Services 3 (10.14)

(c) Permitted building and lot types:

- Apartment building (9.7, 9.8)
- Attached house (9.11, 9.12)
- Civic building (9.13, 9.14)
- Detached house (9.9, 9.10)
- Mixed use up to 15,000 square feet of first floor area<sup>1</sup> (9.3, 9.4)
- Shopfront up to 15,000 square feet of first floor area (9.3, 9.4)
- Workplace up to 15,000 square feet of first floor area (9.1, 9.2)

<sup>1</sup>The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% if the habitable area of the building shall be in residential use, the remainder shall be in commercial use.

(d) Permitted accessory structures and uses

- Accessory dwellings (10.1)
- Day care home (small) (10.10)
- Drive through windows, excluding those associated with restaurants (10.11)
- Home occupations (10.15)
- Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage is expressly prohibited<sup>2</sup>
- Accessory uses permitted in all districts (7.14)

<sup>2</sup> Items for outdoor sales are returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.

(e) General requirements:

- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
  - New buildings, which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets, exhibit demonstrable compatibility.
  - New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- (2) On new streets, allowable building and lot types will establish the development pattern.
- (3) New construction favors retail on first floor, office and/or residential on upper floors.
- (4) Every building lot shall have frontage upon a public street or square.

**8.3.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

**8.3.3 Sign Requirements.**

See Article 12 of this Ordinance.

**8.3.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

**8.4 Office and Institutional District (O-I)**

Intent: The Office and Institutional District (O-I) is intended for the use of those businesses and other uses which are properly and necessarily located near residential areas and which cater to the everyday needs the surrounding residential neighborhoods.

#### 8.4.1 Permitted Uses.

(a) Uses permitted by right:

- Bed and breakfast inns
- Boarding or rooming houses for up to six boarders
- Civic, fraternal, cultural, community, or club facilities
- Commercial uses
- Financial services
- Government buildings
- Offices
- Professional services
- Single-family dwellings

Uses permitted with conditions:

- Cemeteries (10.7)
- Churches (10.8)
- Day Care Center (10.10)
- Essential services 1 and 2 (10.13)
- Neighborhood gasoline stations, excluding major service and repair of motor vehicles (10.17)
- Parking lot as a principal use (10.21)
- Parks, (10.22)
- Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales) (10.25)

(b) Uses permitted with a conditional use permit (20.7.2)

- Multi-family homes
- Elementary and Secondary Schools, (10.24)
- Planned Unit Development – Residential (16.1)
- Planned Unit Development – Business (16.2)
- Essential Services 3 (10.14)
- Commercial Marinas and Accessory Commercial Uses (10.18)
- Indoor Recreation
- Bona-fide Farms

(c) Permitted building and lot types:

- Apartment building (9.7, 9.8)
- Attached house (9.11, 9.12)
- Civic building (9.13, 9.14)
- Detached house (9.9, 9.10)
- Mixed use up to 15,000 square feet of first floor area<sup>3</sup> (9.3, 9.4)

- Shopfront up to 15,000 square feet of first floor area (9.3, 9.4)
- Workplace up to 15,000 square feet of first floor area (9.1, 9.2)

<sup>3</sup> The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% if the habitable area of the building shall be in residential use, the remainder shall be in commercial use.

(d) Permitted accessory structures and uses

- Accessory dwellings (10.1)
- Day care home (small) (10.10)
- Drive through windows, excluding those associated with restaurants, (10.11)
- Home occupations (10.15)
- Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage is expressly prohibited<sup>4</sup>
- Accessory uses permitted in all districts (7.14)

<sup>4</sup> Items for outdoor sales are returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.

(e) General requirements:

- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
  - New buildings, which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets, exhibit demonstrable compatibility.
  - New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- (2) On new streets, allowable building and lot types will establish the development pattern.
- (3) New construction favors retail on first floor, office and/or residential on upper floors.
- (4) Every building lot shall have frontage upon a public street or square.

<b>8.4.2 Off-Street Parking and Loading Requirements.</b>
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Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

### **8.4.3 Sign Requirements.**

See Article 12 of this Ordinance.

### **8.4.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

## **8.5 Highway Business District (H-B)**

Intent: The Highway Business District (H-B) is established to provide primarily for auto-dependent uses in areas not amenable to easy pedestrian access and a comfortable pedestrian environment. It is expected that the Highway Business District (H-B) will serve not only the Catawba Community, but interstate and highway travelers as well. Because of the scale and access requirements of uses for this category, they often cannot be compatibly integrated with the Central Business and Office and Institutional Districts. Development at district boundaries must provide a compatible transition to uses outside the district; property boundaries adjacent Interstate 40 will require a 50-foot foliated buffer yard; and frontages on major or minor arterials will require formal street tree planting.

### **8.5.1 Permitted Uses.**

(a) Uses permitted by right:

- Amusement facilities: all indoor uses
- Bed and breakfast inns
- Boarding or rooming houses for up to six boarders
- Civic, fraternal, cultural, community, or club facilities
- Commercial uses
- Government buildings
- Indoor and outdoor recreation
- Motels
- Single-family dwellings
- Wholesale sales with related offices, storage and warehousing entirely within an enclosed building; truck terminals not permitted

Uses permitted with conditions:

- Car wash (10.6)
- Cemeteries (10.7)
- Churches (10.8)
- Commercial outdoor kennel (10.9)
- Day Care Center (10.10)
- Essential services 1 and 2 (10.13)
- Gas service stations, including service and repair of motor vehicles (10.17)



- Parks (10.22)
  - Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales) (10.25)
  - Vehicle and boat sales, service, rental, cleaning, mechanical repair and body repair (10.18).
- (b) Uses permitted with a conditional use permit (20.7.2)
- Multi-family dwellings
  - Electronic Gaming Establishments
    - a) Limited to a maximum of twenty (20) computers, machines or stations.
    - b) Shall not be located closer than five-hundred (500) feet to the nearest: house of worship, child care facility, school or park
  - Vocational and technical schools
  - Planned Unit Development – Residential (16.1)
  - Planned Unit Development – Business (16.2)
  - Essential Services 3 (10.14)
  - Bona-fide Farms
- (c) Permitted building and lot types:
- Apartment building (9.7, 9.8)
  - Attached house (9.11, 9.12)
  - Civic building (9.13, 9.14)
  - Detached house (9.9, 9.10)
  - Highway commercial up to 65,000 square feet of first floor area on major thoroughfare; up to 15,000 square feet of first floor area on minor thoroughfare<sup>7</sup> (9.5, 9.6)
  - Mixed use<sup>8</sup> up to 65,000 square feet of first floor area on major thoroughfare; up to 15,000 square feet of first floor area on minor thoroughfare (9.3, 9.4)
  - Shopfront, up to 65,000 square feet of first floor area on major thoroughfare; up to 15,000 square feet of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses (9.3, 9.4)
  - Workplace up to 65,000 square feet of first floor area on major thoroughfare; up to 15,000 square feet of first floor area on minor thoroughfare; second floor apartments or offices encouraged for most uses (9.1, 9.2)
- <sup>7</sup>The maximum first floor area for highway commercial buildings may be exceeded only where massing of building is varied to reduce perceived scale and volume.
- <sup>8</sup>The mixed-use building duplicates the shopfront building type and has at least two occupiable stories; at least 50% of the habitable area of the building shall be in residential use, the remainder shall be in commercial use.
- (d) Permitted accessory structures and uses
- Accessory dwellings (10.1)
  - Day care home (small) (10.10)
  - Drive through windows associated with any use (10.11)
  - Outdoor storage (10.19)

- Stalls or merchandise stands for outdoor sale of goods at street front (encroachment onto sidewalk may be permitted by agreement with town); outdoor storage is expressly prohibited<sup>9</sup>
- Warehousing accessory to merchandise showroom, within an enclosed building
- Accessory uses permitted in all districts (7.14)

<sup>9</sup> Items for outdoor sales are returned to inside the building at the end of each business day; goods not brought in at the close of business each day are considered outdoor storage.

(e) General requirements:

- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
  - New buildings, which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets, exhibit demonstrable compatibility.
  - New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
- (2) On new streets, allowable building and lot types will establish the development pattern.
- (3) Where screening is required by Article 10 for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Article 15 shall apply.
- (4) Any Highway Business District shall be bordered on at least one (1) side by a major or minor thoroughfare.
- (5) The arrangement of multiple buildings on a single lot shall establish facades generally parallel to the frontage property lines along existing streets and proposed interior streets.
- (6) Every building lot shall have frontage upon a public street or square.

**8.5.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

### **8.5.3 Sign Requirements.**

See Article 12 of this Ordinance.

### **8.5.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

## **8.6 Manufacturing - Industrial District (M-I)**

Intent: The Manufacturing - Industrial (M-I) District is established as a district in which the principal use of land is for industrial and warehousing uses which normally seek locations on large tracts where the operation involved does not detract from the development potential of nearby undeveloped properties. Development at district boundaries must provide a compatible transition to uses outside the district. Frontages on major or minor arterials will require formal street tree planting.

### **8.6.1 Permitted Uses.**

- (a) Uses permitted by right:
- All uses permitted by right in the Central Business (B-1) District except residential uses
  - Asphalt products
  - Automobile and truck repair
  - Bakeries, wholesale
  - Bedding/Carpet manufacturing
  - Boat works
  - Bottling plants
  - Brick, tile & pottery yard
  - Building/cleaning/maintenance service
  - Cabinet shops
  - Canvas goods manufacturing
  - Clothing/Textile manufacturing
  - Concrete production
  - Contractor storage yards
  - Electrical equipment manufacturing and repair
  - Exterminators
  - Farm machinery manufacturing and repair
  - Food manufacturing
  - Furniture manufacturing and repair
  - Greenhouse, Commercial
  - Ice manufacturing
  - Landscaping and lawn services
  - Leather product manufacturing
  - Linen/Uniform service

- Lumberyards
- Machine/Welding shop
- Mini-warehouses
- Monument works/sales
- Nurseries, Agriculture (Commercial)
- Plastic products manufacturing
- Publishing and printing
- Rubber product manufacturing
- Sawmills
- Sheet metal shops
- Springs manufacturing
- Stone and clay product manufacturing
- Tobacco products manufacturing
- Warehouses
- Wholesale distribution facilities
- Woodworking shops

Uses permitted with conditions: (20.7.2)

- Amusement facilities, outdoor (10.5)
- Car wash (10.6)
- Cemeteries (10.7)
- Churches (10.8)
- Commercial outdoor kennel (10.9)
- Essential services 1 and 2 (10.13)
- Gas service stations, including service and repair of motor vehicles (10.17)
- Parks (10.22)
- Temporary sales of seasonal agricultural products and customary accessory products (example: farmers' markets, Christmas tree/pumpkin sales) (10.25)
- Truck terminals (10.27)
- Vehicle and boat sales, service, rental, cleaning, mechanical repair and body repair (10.18).

(b) Uses permitted with a conditional use permit (20.7.2)

- Agricultural industry (10.3)
- Airports (10.4)
- Essential Services Class 3 (10.14)
- Chemical manufacturing
- Petroleum storage facilities (10.23)
- Planned Unit Development – Business (16.2)
- Other industrial or manufacturing uses not listed <sup>10</sup>

<sup>10</sup> Only permitted upon finding by the Board of Adjustment that the proposed use is not likely to be dangerous, offensive or detrimental to the health, safety, welfare, or general character of the zoning district or community by reason of the emission of dust, gas, fumes, odors, glare, noise, vibrations, low-level radioactive waste, or otherwise.

- (c) Permitted building and lot types:
- Civic building (9.13, 9.14)
  - Highway commercial (9.5, 9.6)
  - Shopfront (9.3, 9.4)
  - Workplace (9.1, 9.2) Note: Due to the unique nature of manufacturing and industrial uses, the dimensional and design requirements may be modified to meet the needs of the business in the M-I Zoning District. The Zoning Administrator may authorize modification of the requirements if the applicant can justify a legitimate need. In no case, however, shall the minimum setbacks or buffer requirements be reduced unless a variance is approved by the Board of Adjustment.
- (d) Permitted accessory structures and uses
- Drive through windows associated with any use (10.11)
  - Outdoor storage (10.19)
  - Accessory uses permitted in all districts (7.14)
- (e) General requirements:
- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
    - New buildings, which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets, exhibit demonstrable compatibility.
    - New buildings, which exceed the scale and volume of existing buildings, may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
  - (2) On new streets, allowable building and lot types will establish the development pattern.
  - (3) Where screening is required by Article 10 for activities involving any sale, use, repair, storage, or cleaning operation, the specified standard of Section 15 shall apply.
  - (4) The arrangement of multiple buildings on a single lot shall establish facades generally parallel to the frontage property lines along existing streets and proposed interior streets.

- (5) Every building lot shall have frontage upon a public street or square.

### **8.6.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

### **8.6.3 Sign Requirements.**

See Article 12 of this Ordinance.

### **8.6.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.

## **8.7 Manufactured Home Overlay District (MHO)**

**Intent:** The Manufactured Home Overlay District is established to provide for existing and proposed neighborhoods, which include or are proposed to include manufactured homes. The requirements herein are intended to ensure compatibility with existing housing stock by imposing supplemental appearance standards for manufactured housing. The Manufactured Home Overlay district may be applied to tracts zoned Residential Agriculture (RA). It supplements the range of residential types permitted in the underlying district. For existing neighborhoods, the MHO district may be established by map adoption; for proposed neighborhoods, the MHO district requires zoning approval accompanied by a detailed development plan and supporting materials.

### **8.7.1 Permitted Uses.**

- (a) Uses permitted by right:

- All uses permitted by right in the underlying district, according to the standards of the underlying district

Uses permitted with conditions:

- All uses permitted with conditions in the underlying district, according to the standards and conditions associated with the underlying district
- Manufactured homes on individual lots in accordance with the standards of Article 13

- (b) Uses permitted with a conditional use permit (20.7.2):

- All conditional uses permitted in the underlying district, according to the standards and conditions associated with the underlying district

- (c) Permitted building and lot types:
- All building and lot types permitted in the underlying zoning district.
  - Manufactured homes will be placed according to the standards for a detached house
- (d) Permitted accessory structures and uses:
- Accessory dwellings (10.1)
  - Day care home (small) (10.10)
  - Home occupations (10.15)
  - Accessory uses permitted in all districts (7.14)
- (e) General requirements:
- (1) Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
    - New buildings which adhere to the scale, massing, volume, spacing, and setback of existing buildings along fronting streets exhibit demonstrable compatibility.
    - New buildings which exceed the scale and volume of existing buildings may demonstrate compatibility by varying the massing of buildings to reduce perceived scale and volume. Building massing illustrates the application of design techniques to reduce the visual perception of size and integrate larger buildings with pre-existing smaller buildings.
  - (2) On new streets, allowable building and lot types will establish the development pattern.
  - (3) All subdivision standards shall be met.
  - (4) For proposed neighborhoods, an application to classify property to the MHO district shall require a master plan that shows the location and hierarchy of streets and public spaces, location of residential, non-residential, and civic building lots, street sections and/or plans, phasing, and any other information which may be required to evaluate the subdivision's adherence to the standards of this ordinance and the subdivision ordinance.
  - (5) Minimum size for new developments shall be 5 acres.
  - (6) Maximum size for new developments shall be 20 acres.

**8.7.2 Off-Street Parking and Loading Requirements.**

Off-street parking and loading requirements shall be provided for all uses as required by Article 11 of this Ordinance.

**8.7.3 Sign Requirements.**

See Article 12 of this Ordinance.

**8.7.4 Dimensional Requirements.**

See Articles 9 (Building and Lot Types) and 17 (Watershed) of this Ordinance.



<b>ARTICLE 9 BUILDING AND LOT TYPES</b>
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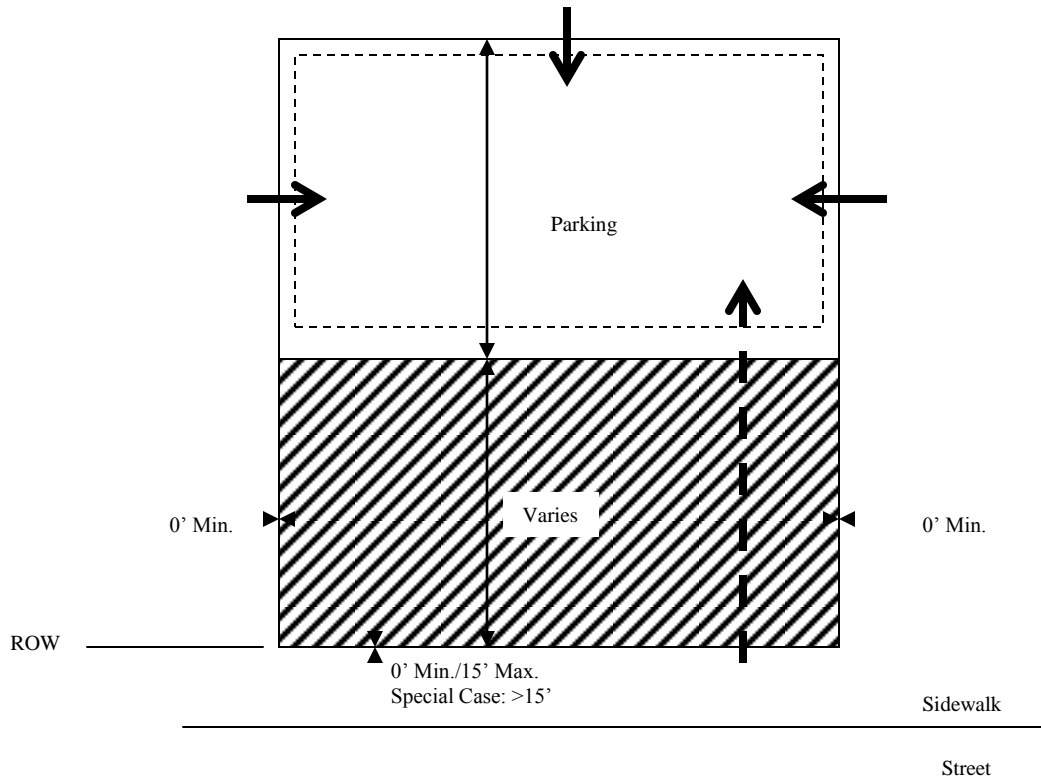
Buildings and Lots:

- (a) All lots shall share a frontage line with a street or square; lots fronting a square shall be provided rear alley access.
- (b) Consistent build-to-lines shall be established along all streets and public space frontages; build-to-lines determine the width and ratio of enclosure for each public street or space. A minimum percentage build-out at the build-to-line shall be established on the plan along all streets and public square frontages.
- (c) Building and lot types shall comply with this section.

Large scale, single use facilities (conference spaces, theaters, athletic facilities, for example) shall generally occur behind or above smaller scale uses of pedestrian orientation. Such facilities may exceed maximum first floor area standards if so cited.

## 9.1 Lot type / Urban Workplace:

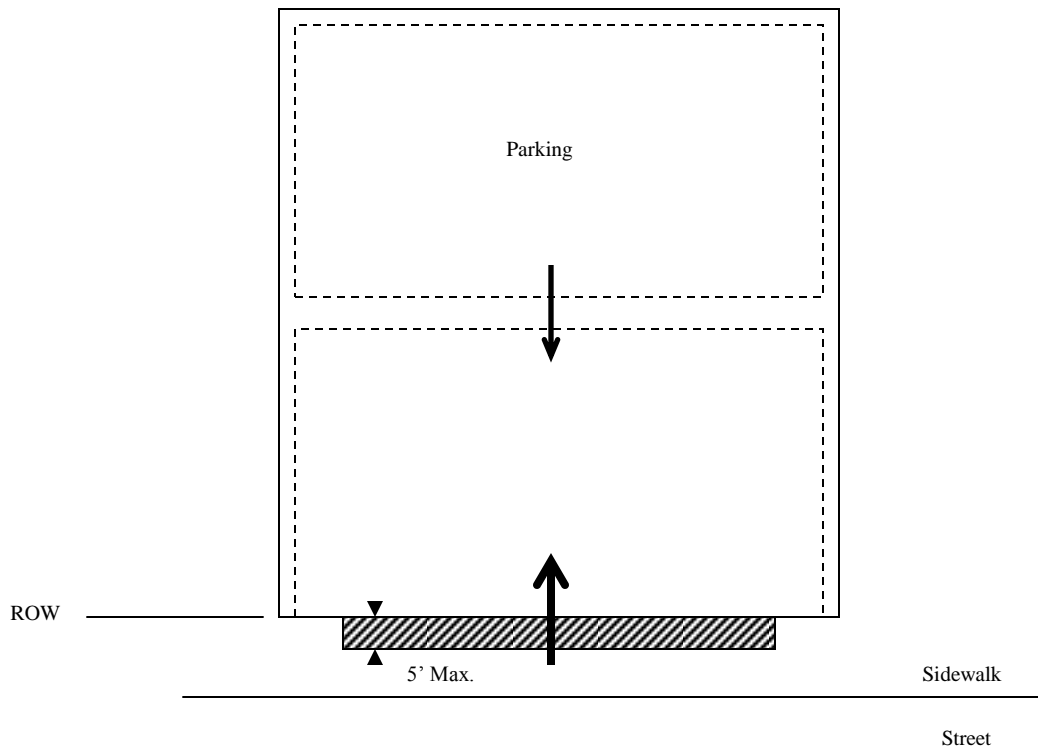
(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will range from zero (0) feet to fifteen (15) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback.
2. Building facades generally shall be parallel to front property lines.
3. Parking shall be located primarily to the rear of the building; side yard parking shall occupy no more than thirty-five (35) percent of the primary frontage line and shall not be placed in any side yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side yard parking may be modified.
4. Points of permitted access to parking are indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

6. Parking areas on adjacent lots shall be connected wherever practical.
7. Trash containers shall be located in a rear parking area (Article 11) and shall be screened from the right-of-way.
8. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.
9. Building facades at street frontage lines shall be pedestrian oriented and of pedestrian scale.

(b) Encroachment / pedestrian access to building:



1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (minimum seven (7) feet six (6) inches) are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover the entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).

3. Concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to Town specifications (four inches thick except at non-residential driveways it shall be six inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

Description:

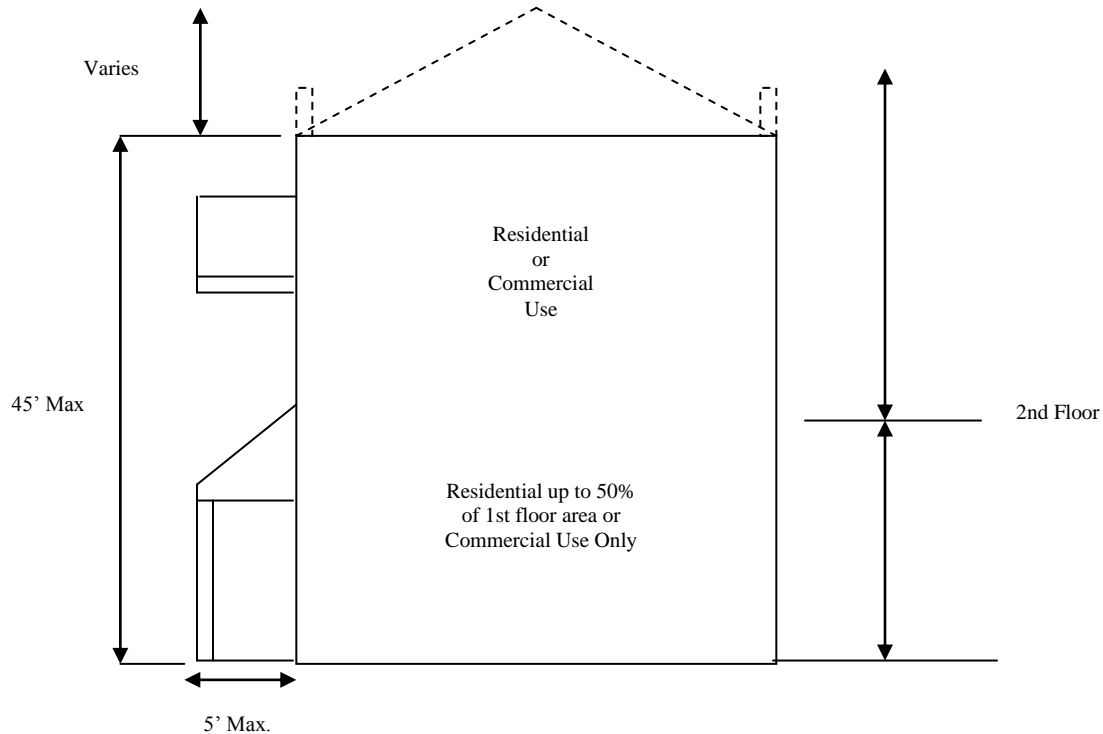
The workplace building may be a large structure (fifteen thousand (15,000) plus square feet) and may have a single use tenant. Office, industrial, and commercial tenants are typical. Southern mill villages often provide examples of how these buildings can reasonably coexist with other businesses and homes. Locke Mill Plaza, in Concord, provides a good example with its placement at the end of prestigious Union Street. These buildings are critical to the town as employment centers and commercial service locations. The buildings will provide space for industry, large offices, as well as large retail uses such as a full service grocery store.

Special Conditions:

1. Buildings in all locations should relate the principal façade to the sidewalk and public space of the street.
2. Corners: Setback at street corners will generally replicate frontage conditions. Side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner that encourages pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

## 9.2 Building Type / Urban Workplace:

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment.

2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, similar material. Metal paneling may not comprise a street fronting building face. Building elevations fronting or visible from public streets shall not be covered with vinyl siding in the Central Business District (B-1).
3. The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
5. Trailers (mobile units) may not be used as permanent workplace buildings.
6. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

Configurations:

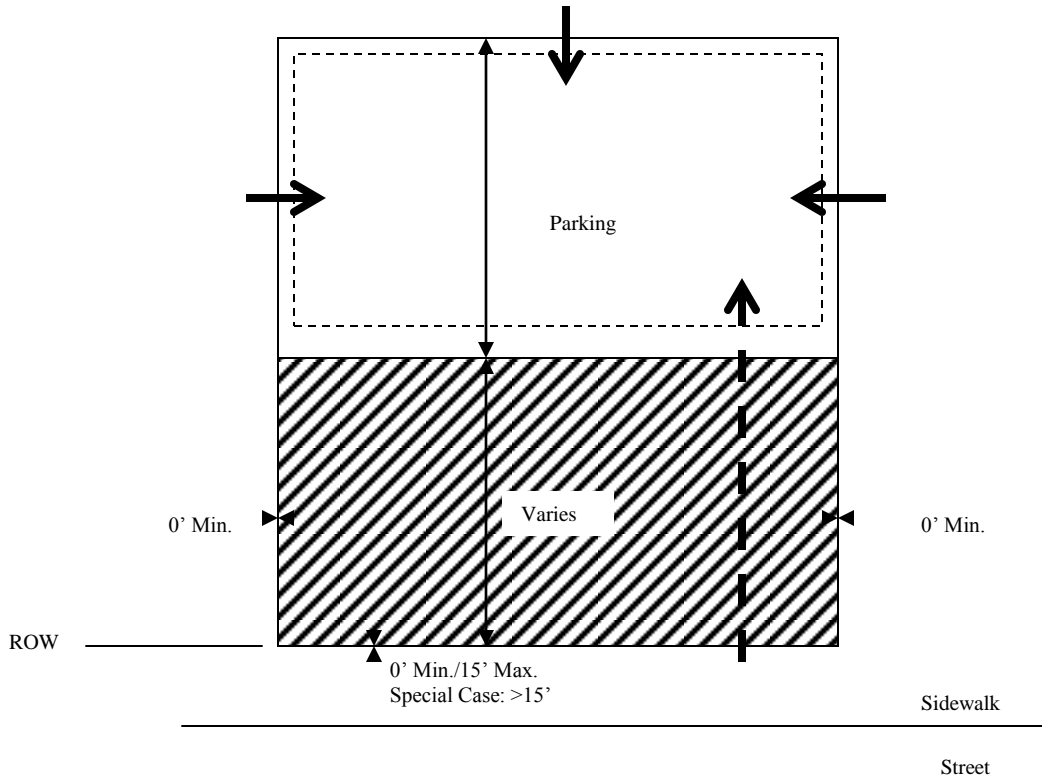
7. Two (2) wall materials may be combined horizontally on one (1) façade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).
8. Street level windows shall be untinted. Tinted glass with minimum visual transmittance factor of 35 is permitted. Mirrorized glass is not permitted in any location.
9. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

Techniques:

10. Windows should be set to the inside of the building face wall.
11. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.

### 9.3 Lot Type/ Shopfront Building:

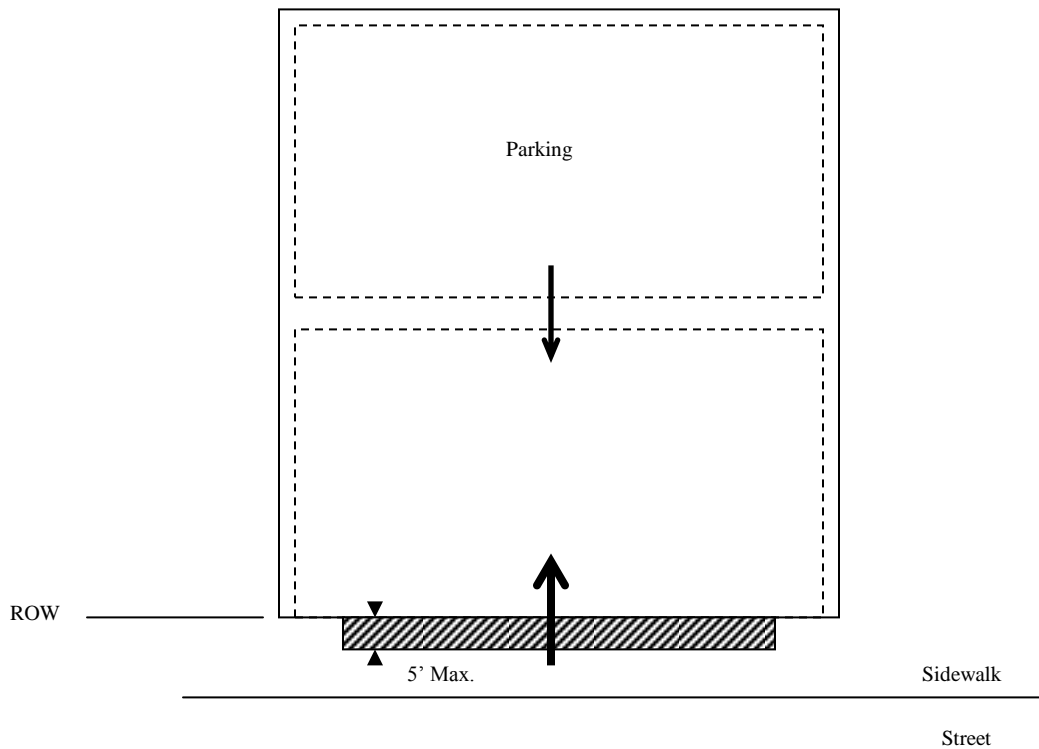
(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to-line will range from zero (0) feet to fifteen (15) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback.
2. Building facades shall be generally parallel to front property lines.
3. Parking shall be located primarily to the rear of the building; side yard parking shall occupy no more than twenty-five (25) percent of the primary frontage line and shall not be placed in any side yard abutting an intersecting street. Where dimensions of existing lots restrict parking behind buildings, the limitations on side yard parking may be modified.
4. Points of permitted access to parking are indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

6. Parking areas on adjacent lots shall be connected wherever practical.
7. Trash containers shall be located in a rear parking area (Article 11) and shall be screened from the right-of-way.
8. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.

(b) Encroachment / pedestrian access:



1. Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height (minimum seven (7) feet six (6) inches) are permitted within the sidewalk as shown by the hatched area. Encroaching arcades should cover the entire sidewalk.
2. Primary pedestrian access into the building shall be from the street frontage line (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).
3. Concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to Town specifications (four inches thick except at non-residential driveways it shall be six inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless



on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

Description:

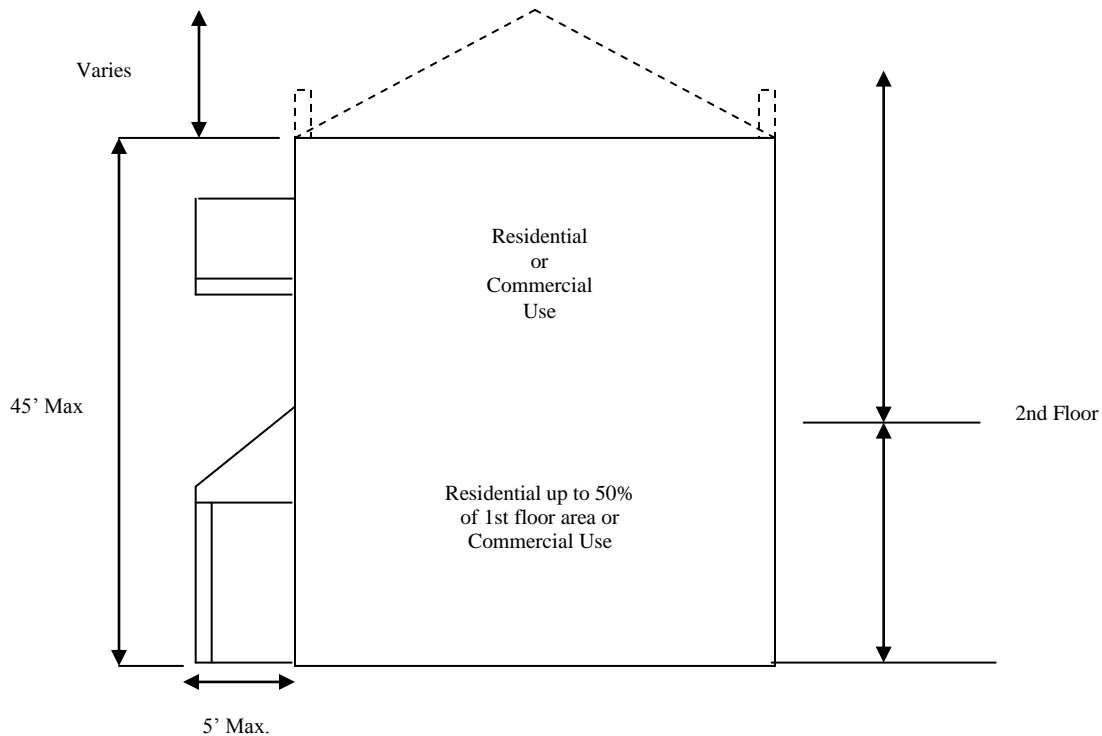
The shopfront building is a small-scale structure, which can accommodate a variety of uses. The structure is typically a maximum of 15,000 square feet. A group of shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be combined to form a mixed-use neighborhood center. Individual shopfront buildings can be used to provide some commercial service, such as a convenience food store, in close proximity to homes. Traditional commercial buildings in the downtown provide good examples.

Special conditions:

1. The intention of buildings in all locations must be to relate the principal façade to the sidewalk and public space of the street.
2. Drive-through customer services, if permitted in the district, must be located at the rear of the building or on a side that does not abut a street.
3. Corners: Setbacks at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
4. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner that encourage pedestrian activity. For example, squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

## 9.4 Building Type / Shopfront Building:

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are compatible to the historic architectural vocabulary of the area in their massing and external treatment.

2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face. Building elevations fronting or visible from public streets shall not be covered with vinyl siding in the Central Business District (B-1).
3. The front elevations facing the street and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
5. Trailers (mobile units) may not be used as permanent workplace buildings.
6. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

Configurations:

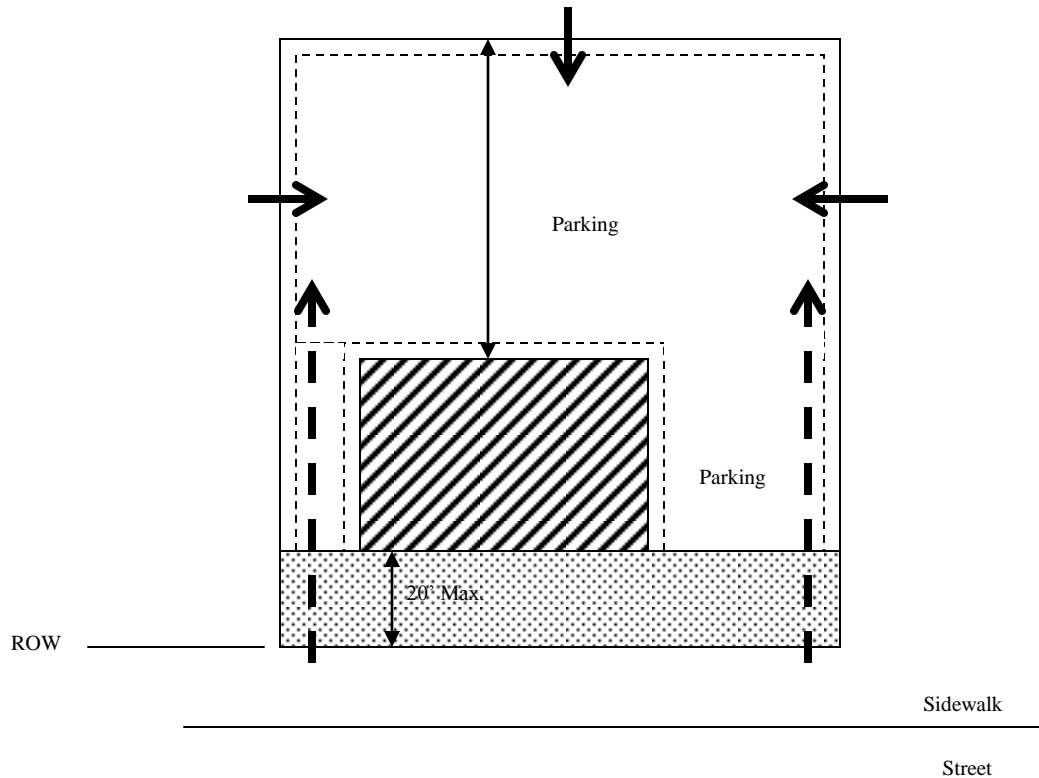
7. Two (2) wall materials may be combined horizontally on one (1) façade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).
8. Street level windows shall be untinted. Mirrorized glass is not permitted in any location.
9. Windows shall be of square or vertical proportion. Special windows may be circular or regular polygons.

Techniques:

10. Windows should be set to the inside of the building face wall.
11. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.

## 9.5 Lot Type/ Highway Commercial:

(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build to line will be twenty (20) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback.
2. Setbacks may vary according to setting within limits indicated.
3. Building facades shall be generally parallel to front property lines.
4. Parking shall be located primarily to the rear of the building; side yard parking shall occupy no more than forty-five (45) percent of the primary frontage line. Where dimensions of existing lots restrict parking behind buildings, the limitations on side yard parking may be modified.
5. Points of permitted access to parking are indicated by arrows.
6. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.

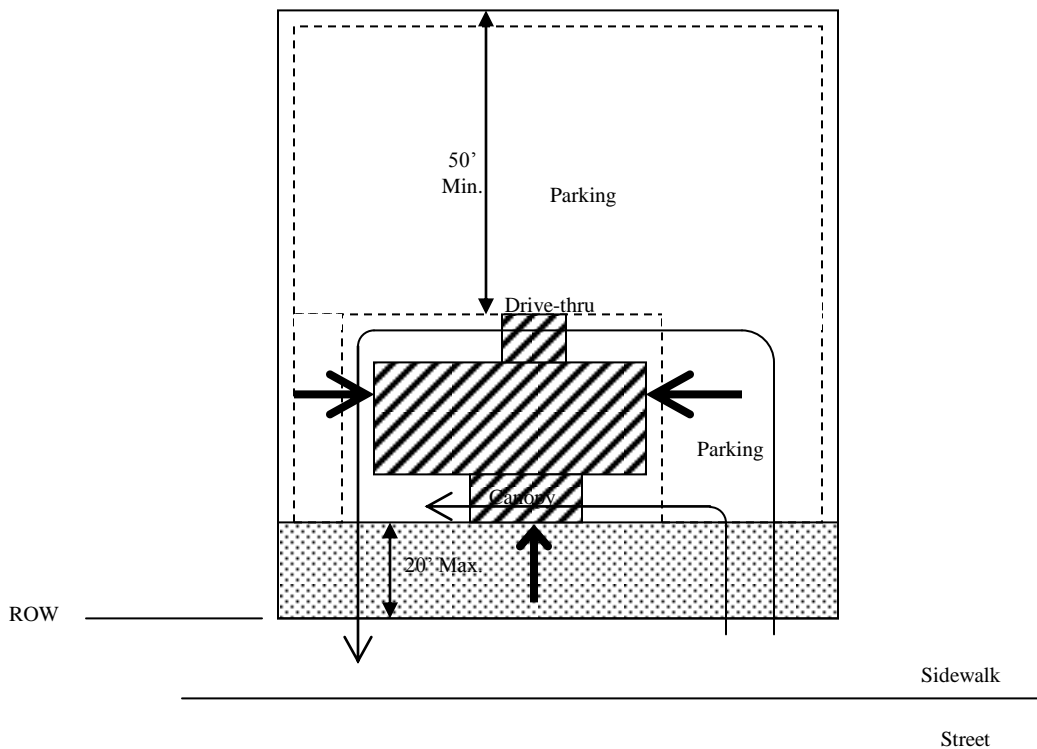
7. Parking areas on adjacent lots shall be connected wherever practical.
8. Trash containers shall be located in a rear parking area (see parking regulations) and shall be screened from the right-of-way.
9. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.

As an option, mechanical equipment may be placed at the rear or side of a building where screening around the equipment is provided. Screening must be either an opaque fence at least six (6) feet in height or plantings of species that will reach a minimum height of six (6) feet and form a continuous year-round opaque screen within three (3) years after planting.

All screening must be maintained at all times by the property owner.

In no case shall mechanical equipment be placed in any yard abutting a street.

(b) Vehicular circulation / pedestrian access:



1. Main pedestrian access to the building may be from the side (indicated by the larger arrows). Secondary access must be from the street frontage (indicated by smaller arrows).

2. Drive-throughs shall be located to the rear of the building.
3. Entrance canopies (for motels, etc.) shall face the street.
4. Typical vehicular circulation movement is indicated by thin line arrows.
5. Where the adopted sidewalk plan shows proposed sidewalks concrete sidewalks, minimum five (5) feet wide, shall be built along street frontages of the lot according to Town specifications (four inches thick except at non-residential driveways it shall be six inches thick). The sidewalk shall be separated from the street by a minimum four (4) foot wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

Where the Carolina Thread Trail Plan shows a proposed route, the developer may choose to either construct the pedestrian facility according to the Town's specifications or to provide a public access easement of at least 15' in width dedicated to the Town of Catawba.

#### Description:

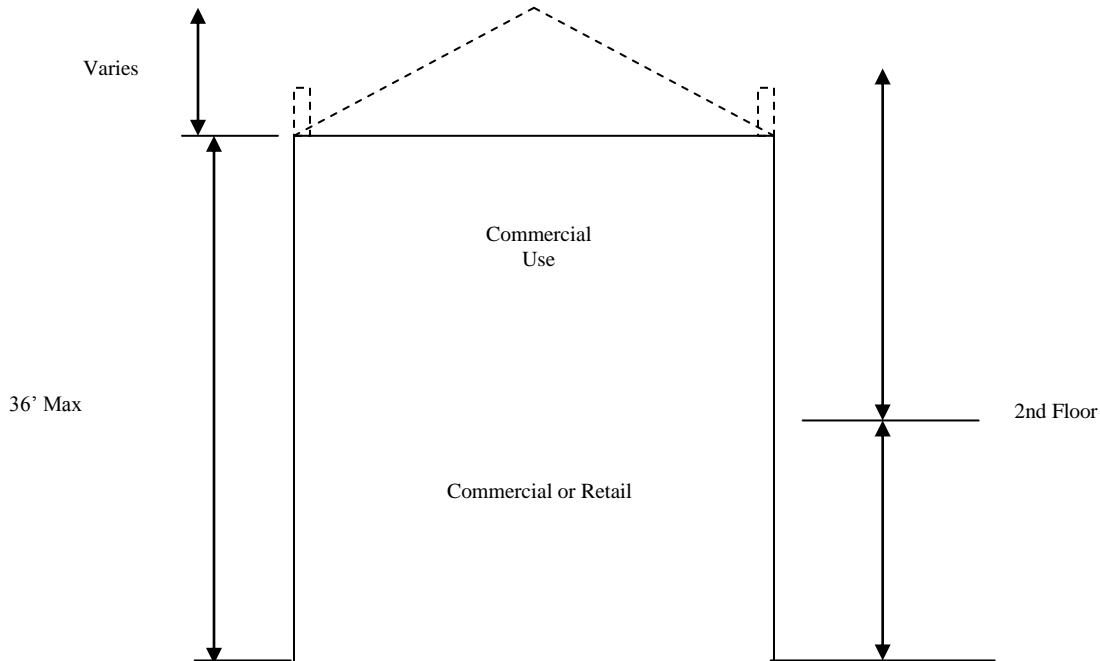
This building type generally comprises fast food retail, drive through banks, motels and other highway dependent uses. These regulations are designed to bring these building types into a framework of town streets. This building type shall be limited to the Highway Business District.

#### Special conditions:

1. Buildings in all locations should relate a principal façade to the sidewalk and public space of the street.
2. Corners: Setback at street corners will generally replicate frontage conditions.

## 9.6 Building Type / Highway Commercial:

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending upon the need to screen mechanical equipment.
3. Building height to the ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

(b) Architectural standards:

Principles:

1. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
2. All walls not visible from a public right-of-way may be constructed of split face block, bricks, wood or vinyl siding, or metal paneling but shall be painted to match the overall scheme of the rest of the building.

3. Trailers (mobile units) may not be used as permanent workplace buildings.
4. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

Configurations:

5. Two (2) wall materials may be combined horizontally on one (1) façade. The “heavier” material should be below and can cover the first floor only (i.e. brick below wood siding).

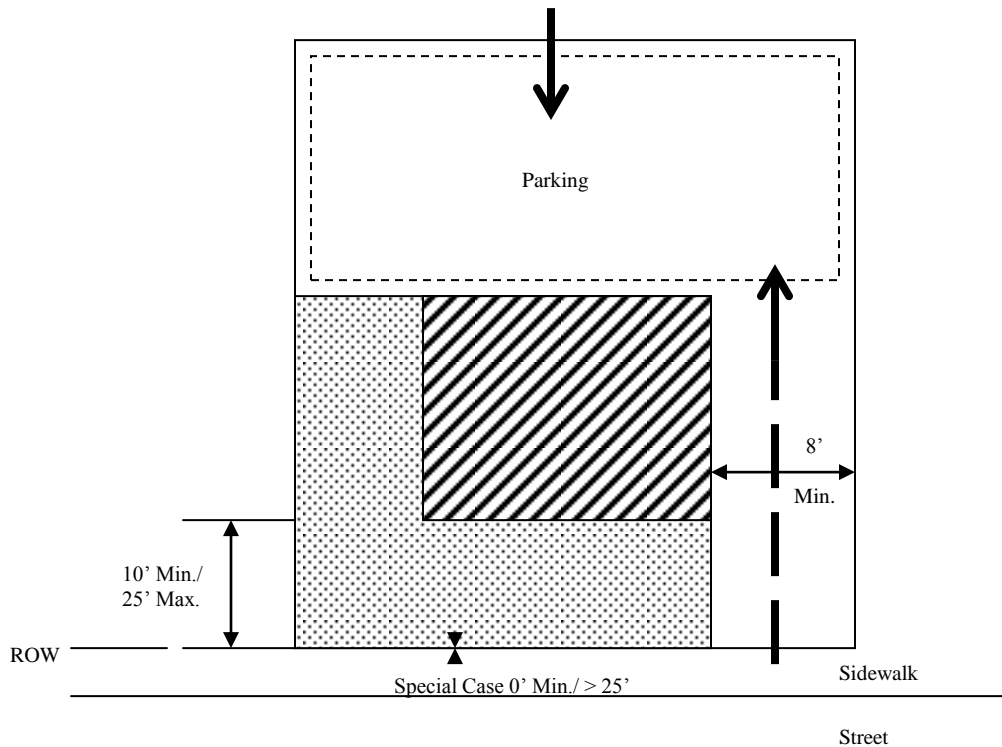
Techniques:

6. All rooftop equipment shall be enclosed in a building material that matches the structure or is visually compatible with the structure.



## 9.7 Lot Type / Apartment Building:

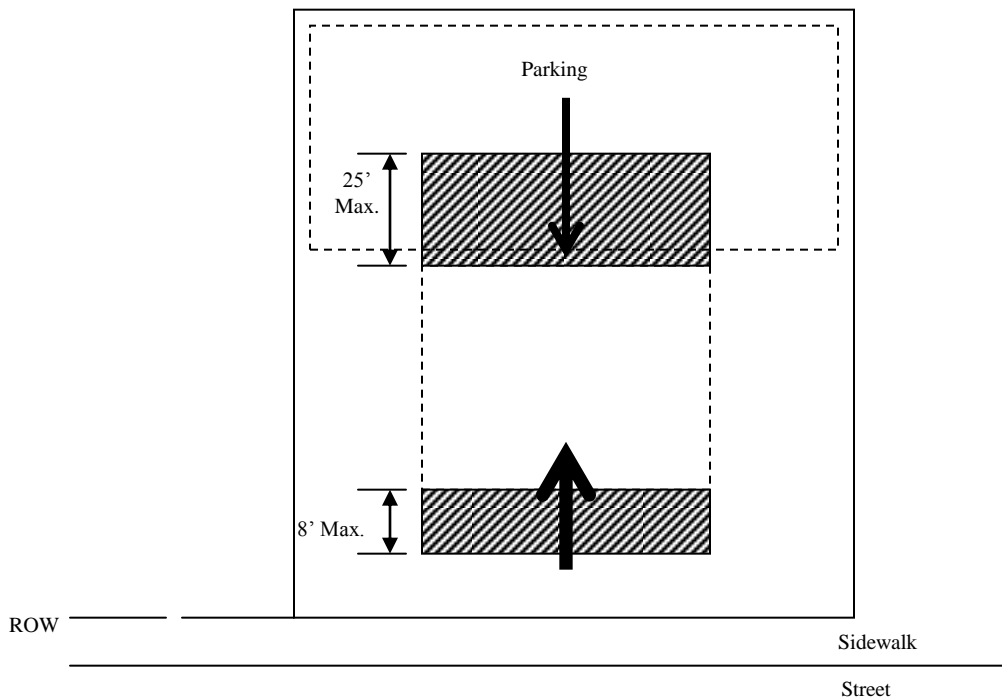
(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to-line will range from ten (10) feet to twenty-five (25) feet behind street right-of-way. Special site conditions such as topography, pattern of lot widths, or setbacks of existing buildings permit a smaller or larger building setback. In urban conditions, apartments may be set up to the property line at the sidewalk, including corner conditions.
2. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street.
3. Parking shall be located to the rear of the building.
4. Points of permitted access to the parking are indicated by arrows.
5. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.
6. Trash containers shall be located in the rear parking area (see parking regulations).

7. Mechanical equipment at ground level shall be placed on the parking lot side of building and away from buildings on adjacent sites.
8. Apartment buildings are only permitted as a Planned Unit Development – Residential.
9. Only permitted where both municipal water and sewer serve the site.
10. The density shall not exceed 12 units per acre for any development.

(b) Encroachment / pedestrian access:



1. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to eight (8) feet.
2. Decks, porches, and balconies are permitted to encroach into the established rear yard up to twenty-five (25) feet.
3. For buildings set up to the sidewalk, upper level balconies and bay windows may encroach a maximum of five (5) feet zero (0) inches over the sidewalk.

4. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas (indicated by smaller arrow).
5. Concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to Town specifications (four inches thick except at non-residential driveways it shall be six inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

Description:

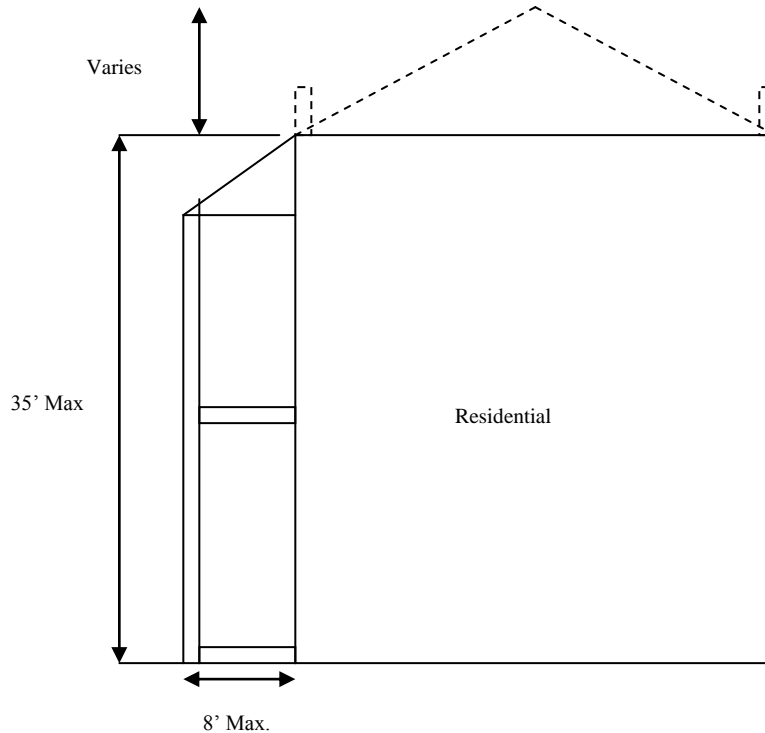
The apartment building is a residential building accommodating several households. In traditional towns, this building type coexists with a variety of other building types. A successful contemporary design permits its integration with other residential types through the coordination of site and building design (see architectural regulations). Apartment complexes should be one (1) or more separated buildings similar in their scale on the public street to large detached housing.

Special conditions:

1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Within the limits described, front and side setbacks will vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity. Squares or spatially defined plazas within building setback areas can act as focal points for pedestrians.

## 9.8 Building Type / Apartment Building:

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet walls may vary depending on the need to screen mechanical equipment.
3. Building height to ridge may vary depending on the roof pitch.
4. Permitted uses are indicated above.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.

2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
3. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
5. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.
6. Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least fifteen (15) percent of the front facade. All porches, should be constructed of materials in keeping with those of the main building.
7. Front loaded garages, if provided, shall meet the standards of section 7.5.
8. At a minimum, the Americans with Disabilities Act standards for accessibility shall be met.

Configurations:

9. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building.
10. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.
11. Two (2) wall materials may be combined horizontally on one (1) facade. The "heavier" material should be below.
12. Exterior chimneys should be finished in brick or stucco or compatible material to structure.

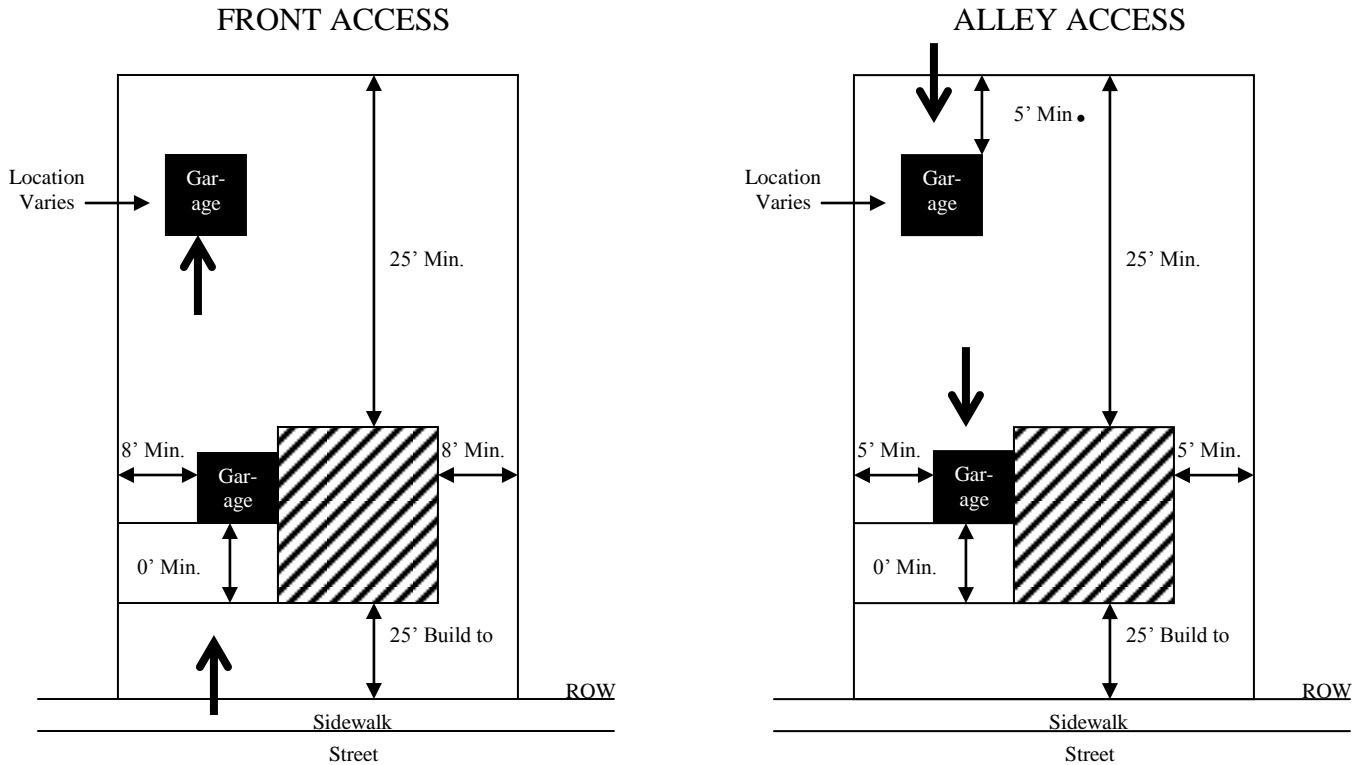
Techniques:

13. Overhanging eaves may expose rafters.
14. Flush eaves should be finished by profiled molding or gutters.

**9.9 Lot Type / Detached House:**

(a) Building placement / parking / vehicular access:

Type “A” Typical Condition – All Residential



1. Buildings shall be placed on the lot within the zone represented by the hatched area.

Along new streets, the build-to line is twenty-five (25) feet behind the street right-of-way. Special site conditions such as topography or lot widths permit a larger setback with Planning Department approval.

Along existing streets, front build-to lines shall be equal to the average setbacks for buildings on the same side of the street within three hundred (300) feet. Only in the most exceptional circumstances having to do with extreme topography or very special design composition may such placement be varied with approval from the Planning Department.

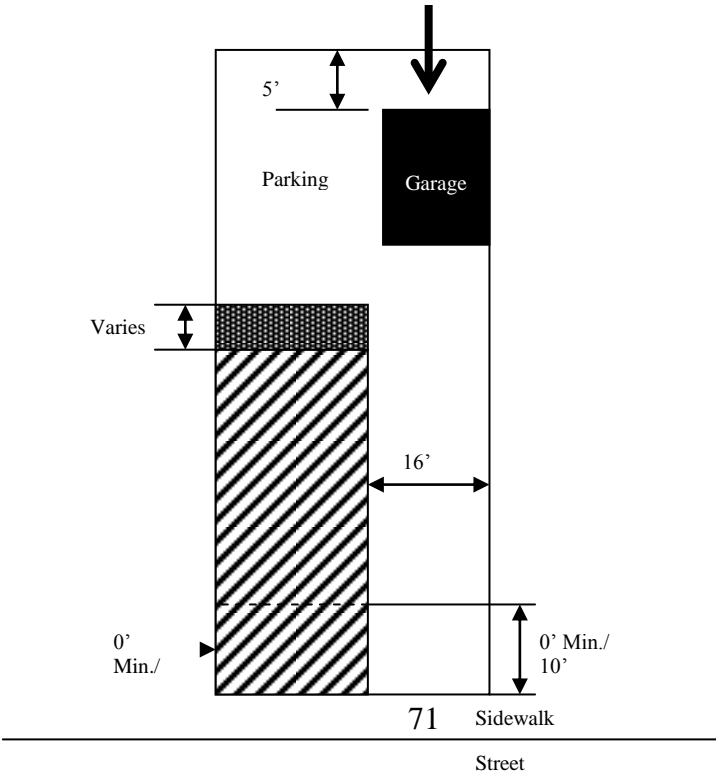
As an option, where a lot is greater than 3 acres or has frontage on the Catawba River a minimum front setback of twenty-five (25) feet from the right-of-way is allowed. Otherwise, front setbacks shall adhere to the requirements as stated above in 9.9(a) 1.

Side setbacks shown may be revised to twelve (12) feet on one side and four (4) feet on the other adjacent side to accommodate driveways as necessary in certain site conditions as determined by the Planning Department in new subdivision development only.

2. Garages may be detached (entered from front or rear), or attached to the main dwelling, with or without habitable rooms above. Front loaded garages, if provided, shall meet the standards of section 7.5
3. A detached garage may be located only in the rear yard, except as provided in Section 7.5.
4. Points of permitted front or rear access to parking indicated by arrows.
5. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
6. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
7. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to twenty-five (25) feet.

(b) Building placement / parking / vehicular access:

Type "B" Sideyard



1. Generally, buildings shall be placed on the lot within zone represented by the hatched area.

The build-to line will range from zero (0) feet to ten (10) feet behind street right-of-way. Special site conditions such as extreme topography may require a larger setback. Sideyard houses are not permitted on in-fill sites abutting existing all-yard houses.

2. A garage may be located only in the side or rear yard (section 7.5).
3. Points of permitted rear access to parking indicated by arrow.
4. Main pedestrian access to the building is from the street. Secondary access may be from parking areas.
5. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
6. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to fifty (50) percent of required setback.
7. The Sideyard Condition is only permitted as a part of a Planned Unit Development - Residential (section 16.1)
8. The Sideyard Condition is only permitted where both municipal water and sewer serve the site.

#### Description:

The detached house may coexist with other, similarly scaled buildings along town streets. When other building types are integrated with the detached house, the scale of the detached house type and lot shall control. Civic buildings, however, may exceed the scale of the detached house.

#### Special conditions:

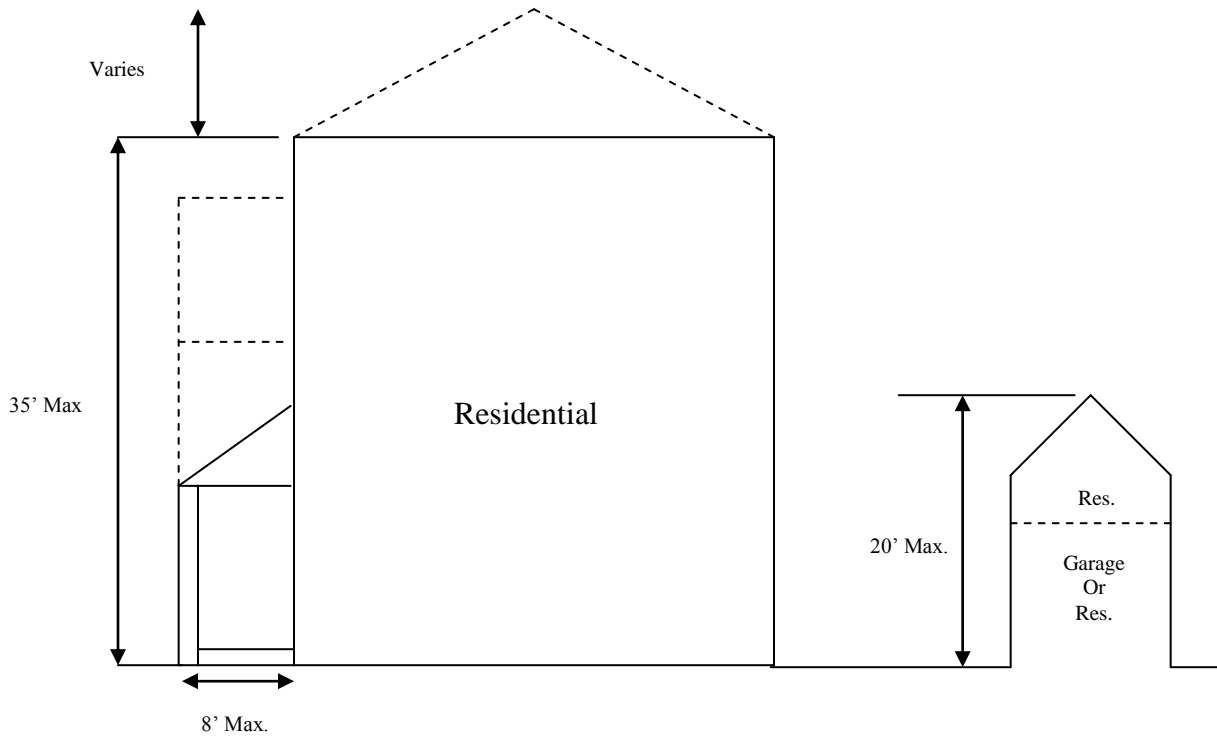
1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.



2. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be fifty (50) percent of the front dimension.
3. Within the limits described, these regulations apply to all houses built on public streets. For detached homes on large lots accessed by a private drive in rural neighborhoods, building placement and site planning will be dictated by landscape features and landscape preservation.

## 9.10 Building Type / Detached House:

(a) Permitted height / uses / encroachments:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.
2. Building height of main dwelling to ridge may vary depending on the roof pitch.
3. Permitted uses are indicated above.
4. Maximum footprint for a building housing a detached accessory dwelling is six hundred fifty (650) square feet.
5. Balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into setback area up to eight (8) feet.
6. Decks, balconies, and porches are permitted to encroach into rear yard setback up to fifty (50) percent of required.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.
2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
3. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated. Adjacent buildings should thus be of similar scale, height, and configuration.
5. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.
6. Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they shall extend over at least fifteen (15) percent of the front facade. All porches shall be constructed of materials in keeping with those of the main building.
7. Front loaded garages, if provided, shall meet the standards of section 7.5.

Configurations:

8. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main building.
9. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.
10. Two (2) wall materials may be combined horizontally on one (1) facade. The "heavier" material should be below.

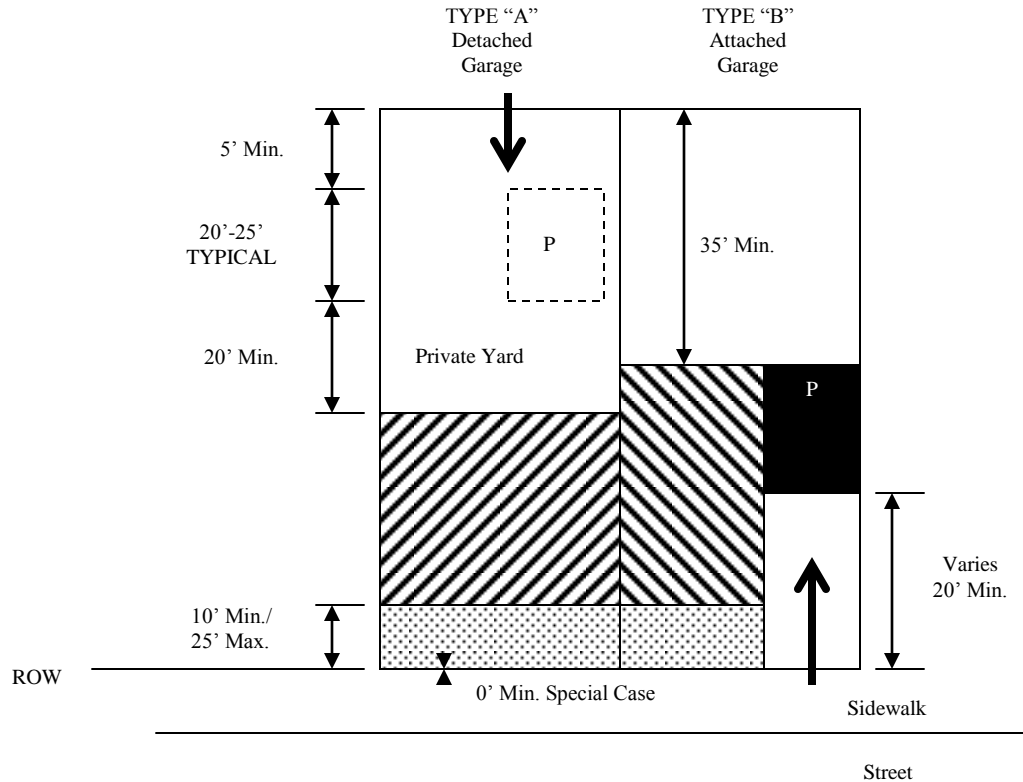
11. Exterior chimneys shall be finished in brick or stucco or similar material to building.
12. Columns should be simple wooden posts, typically five (5) inches square; or if columns with classical details, the dimensions and moldings should be of correct proportions. Extended and distorted classical proportions are not acceptable.

Techniques:

13. Overhanging eaves may expose rafters.
14. Flush eaves should be finished by profiled molding or gutters.
15. Homes shall install a continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, un-pierced except for required ventilation and access under the perimeter of the home. This shall not apply to homes constructed directly on a concrete foundation (sometimes called slab or patio homes). Front porches shall also be constructed with a continuous, permanent masonry wall, having the appearance of a conventional load bearing wall, un-pierced except for required ventilation and access or the front porch may be built upon brick or rock piers if the porch is completely covered by a roof.
16. Homes shall be oriented to the street with the primary façade generally parallel with the street.

## 9.11 Lot Type / Attached House:

(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within zone represented by the hatched area.
2. Along new streets, the build-to line will range from ten (10) feet to twenty-five (25) feet behind street right-of-way. Special site conditions such as topography or lot widths permit a larger setback.

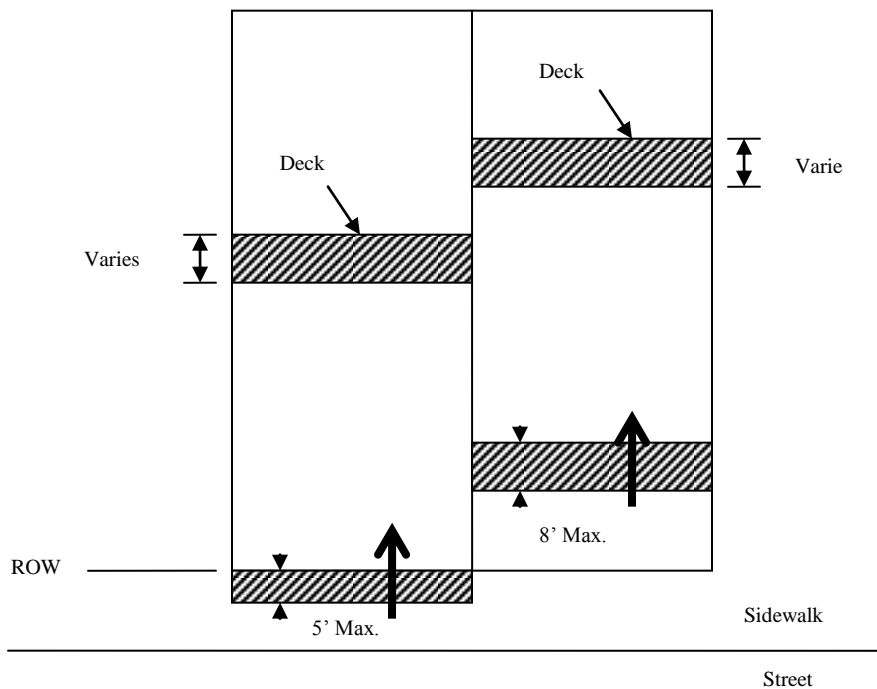
Along existing streets, front build-to lines shall typically be equal to the average setbacks for buildings on the same side of the street within three hundred (300) feet.

However, in more urban conditions, dwellings may be set up to the property line at the sidewalk.

3. Building facades shall be generally parallel to front property lines. All buildings shall front onto a public street.
4. Front loaded garages, if provided, shall meet the standards of section 7.5.

5. Points of permitted access to parking indicated by arrows. Front access to parking at rear of Type 'A' is permitted for duplexes only.
6. Attached Houses are only permitted as a Planned Unit Development – Residential (16.1) for three (3) or more dwelling units.
7. Attached Houses are only permitted where both municipal water and sewer serve the site.
8. The density shall not exceed 12 dwelling units per acre for any development.

(b) Encroachment / pedestrian access:



1. For buildings set up to the sidewalk, balconies and upper level bay windows may encroach over the sidewalk area up to five (5) feet.
2. For buildings set back from sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into the front setback area up to eight (8) feet.
3. Main pedestrian access to the building is from the street (indicated by larger arrow). Secondary access may be from parking areas.
4. Decks must be constructed only in rear yard area and are permitted to encroach into the rear setback up to fifty (50) percent of required.

5. Concrete sidewalks, minimum five (5) feet wide, shall be built along all street frontages of the lot according to Town specifications (four inches thick except at non-residential driveways it shall be six inches thick). The sidewalk shall be separated from the street by a minimum four (4) wide planting strip unless on-street parking is provided. The planting strip width may be reduced when there is insufficient right-of-way on existing streets.

Description:

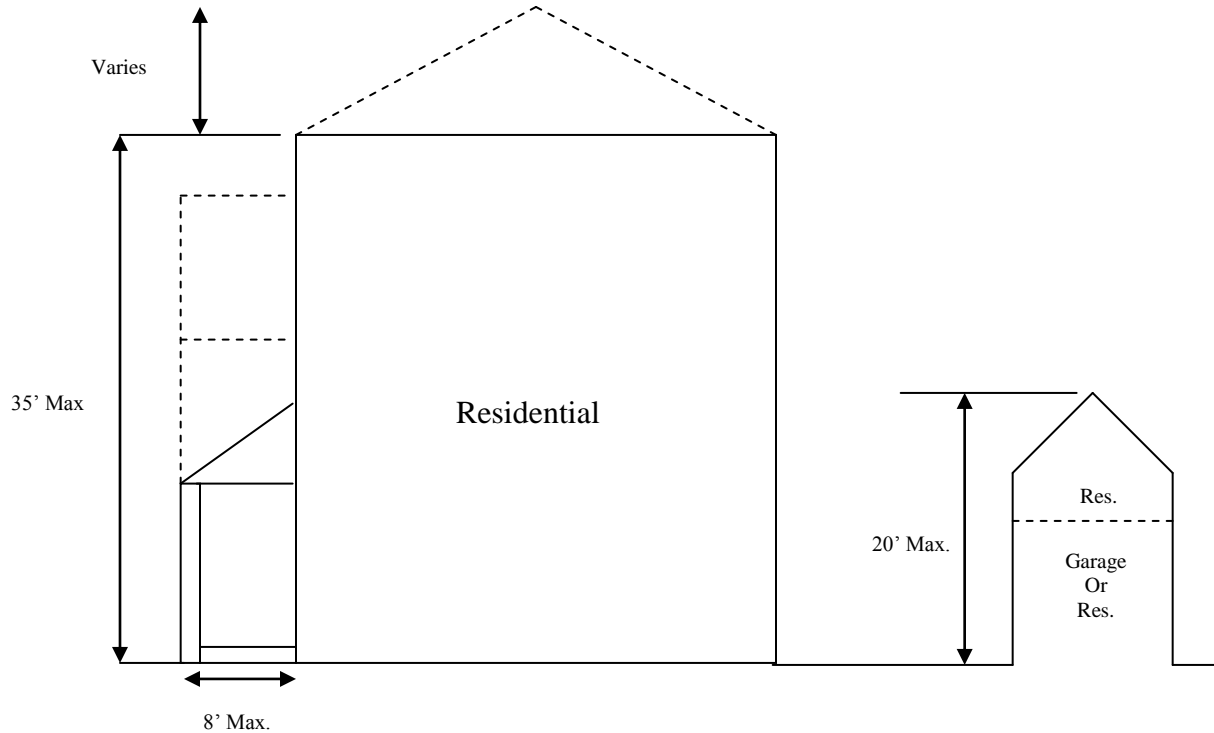
The attached house is a rowhouse, a townhouse, or a duplex. Traditional southern homes in Savannah and Charleston provide the historic model. Dilworth Crescent in Charlotte provides a good contemporary example. Generally, building plans will have narrow frontages with the lot depth being greater than its width.

Special conditions:

1. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street.
2. Corners: Setback at street corners will generally replicate frontage conditions. However, side setbacks on a minor street may be less than the front dimension.
3. Front and side setbacks may vary depending upon site conditions. Setbacks should be used in a manner which encourages pedestrian activity.

**9.12 Building Type / Attached House:**

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves.
2. Building height to ridge will vary depending upon the roof pitch.
3. Permitted uses are indicated above.
4. Maximum footprint for a building housing a detached accessory dwelling is six hundred fifty (650) square feet.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment. Manufactured homes will not be permitted as part of any multi-unit residential development under this division.



2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
3. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated.
5. Building silhouettes should be generally consistent. The scale and pitch of roof lines should thus be similar across groups of buildings.
6. Porches should form a predominant motif of house designs, and be located on the front or to the side of the dwelling. When attached to the front, they should extend over at least fifteen (15) percent of the front facade. All porches should be constructed of materials in keeping with those of the main building.
7. Front loaded garages, if provided, shall meet the standards of section 7.5.

Configurations:

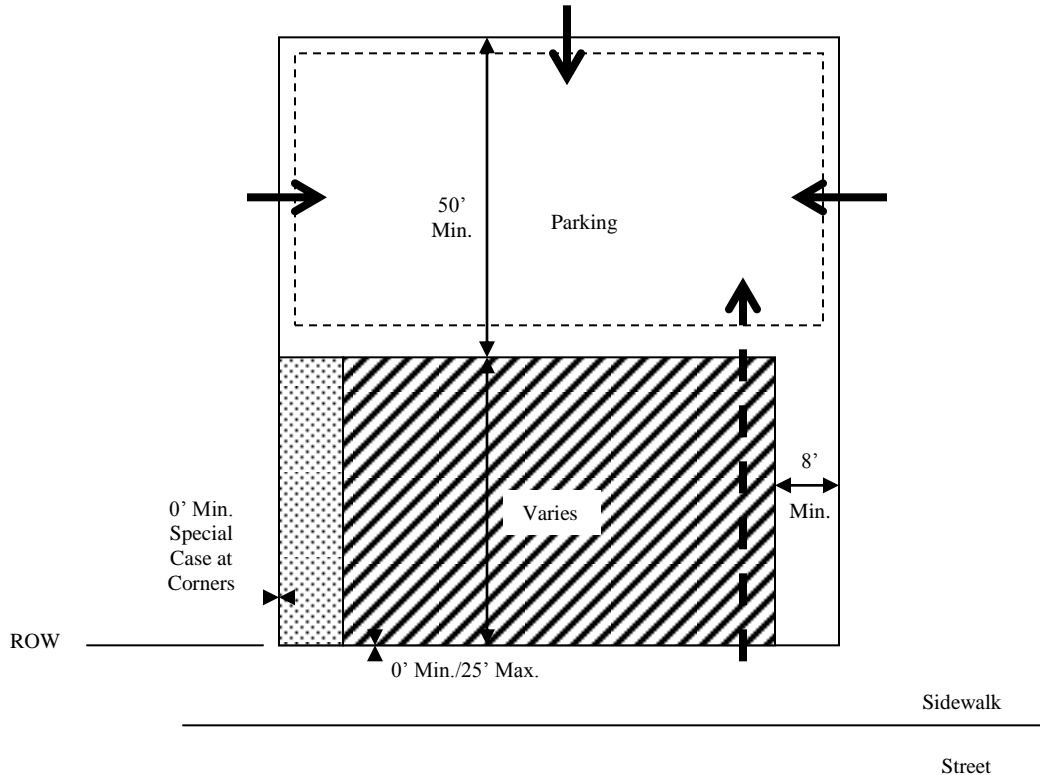
8. Main roofs on residential buildings shall be symmetrical gables or hips with a pitch of between 4:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch shall be less than 4:12. All accessory buildings shall have roof pitches that conform to those of the main buildings.
9. Balconies should generally be simply supported by posts and beams. The support of cantilevered balconies should be assisted by visible brackets.
10. Two (2) wall materials may be combined horizontally on one (1) facade. The "heavier" material should be below.
11. Exterior chimneys should be finished in brick or stucco.
12. Columns should be simple wooden posts, typically five-inch square, or if columns with classical details, the dimensions and moldings should be of correct proportions. Extended and distorted classical proportions are not acceptable.

Techniques:

13. Overhanging eaves may expose rafters.
14. Flush eaves should be finished by profiled molding or gutters.

### 9.13 Lot Type / Civic Building:

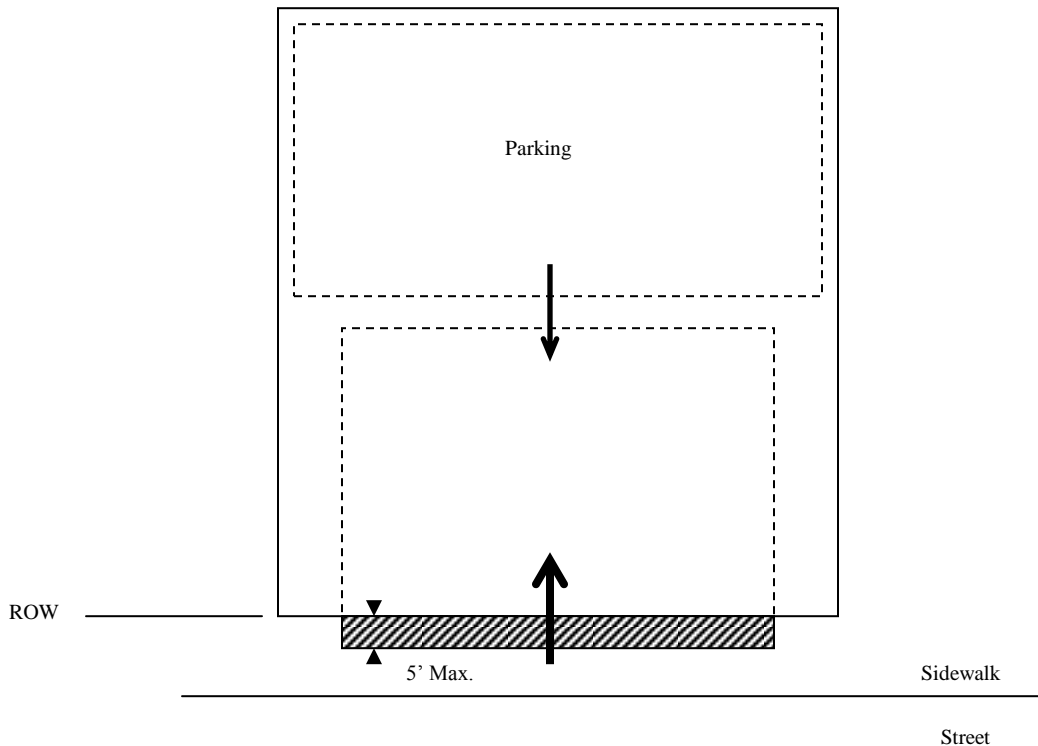
(a) Building placement / parking / vehicular access:



1. Buildings shall be placed on the lot within the zone represented by the hatched area. In most cases, the build-to line will range from zero (0) feet to twenty-five (25) feet behind street right-of-way. Special site conditions such as topography, lot width, or provision of a green or plaza will permit a larger building setback.
2. Parking shall be located to the rear of the building; sideyard parking shall occupy no more than twenty-five (25) percent of the primary frontage line and shall not be placed in any sideyard abutting an intersecting street. Where dimensions of existing lots restrict placement of parking behind buildings, the limitations on sideyard parking may be modified.
3. A planting strip or defined plaza should be provided to relate the building to the street.
4. Generally, building and street facades must extend parallel to frontage property lines.
5. Points of permitted access to the parking indicated by arrows.

6. Hedges, garden walls, or fences may be built on property lines or as the continuation of building walls. A garden wall, fence, or hedge (minimum three (3) feet in height) shall be installed along any street frontage adjacent to parking areas.
7. Parking areas on adjacent lots should be connected.
8. Trash containers shall be located in the parking area (Article 11).
9. Mechanical equipment at ground level should be placed on the parking lot side of building and away from buildings on adjacent sites.

(b) Encroachment / pedestrian access:



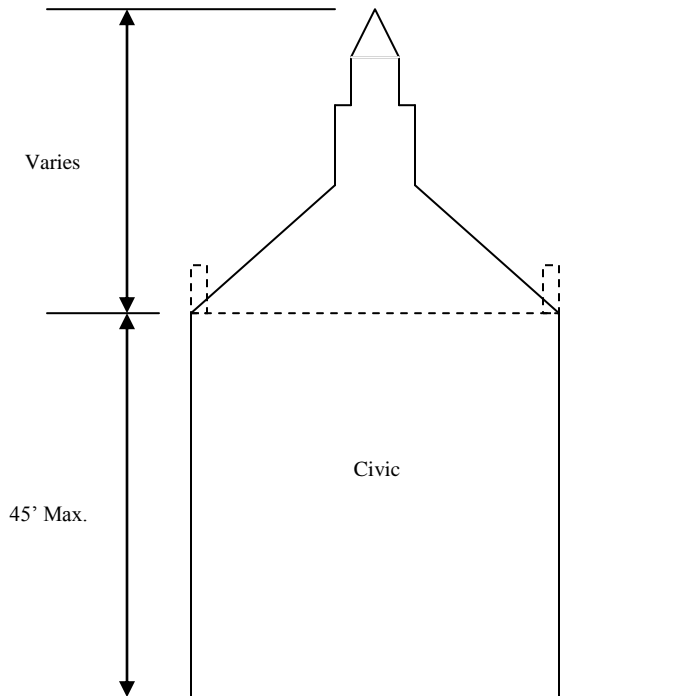
1. For buildings set up to the sidewalk, upper level balconies and bay windows may encroach a maximum of five (5) feet, zero (0) inches over the sidewalk.
2. For buildings set back from the sidewalk, balconies, stoops, stairs, open porches, bay windows, and awnings are permitted to encroach into front setback area up to eight (8) feet.
3. Main pedestrian access to the building is from the street (indicated by large arrow). Secondary access may be from parking areas (indicated by smaller arrow).

### Description:

A civic building is a building used for purposes that are public in nature (e.g. schools, libraries, government buildings, and churches). These buildings must be designed to take their appropriate places within neighborhoods as integral parts of the community. It is expected that the scale and architectural sophistication of these buildings will match their civic importance. Where possible, civic structures shall be designed to terminate vistas or serve as key focal points in the neighborhood. The intention of buildings in all locations must be to relate the principal facade to the sidewalk and public space of the street. Civic buildings shall not be set back on the lot behind a standard parking lot.

## 9.14 Building Type / Civic Building:

(a) Permitted height and uses:



1. Building height shall be measured as the vertical distance from the highest finished grade relative to the street frontage, up to the eaves or the highest level of a flat roof.
2. The height of parapet, walls may vary depending upon the need to screen mechanical equipment.
3. Maximum height of occupiable building shall be forty-five (45) feet. Uninhabitable portions of buildings with footprint area five hundred (500) square feet or less may exceed forty-five (45) feet (example: spire, cupola).
4. Permitted uses are indicated above.

(b) Architectural standards:

Principles:

1. To perpetuate the unique building character of the town and its environs, and to re-establish its local identity, development shall generally employ building types

that are sympathetic to the historic architectural vocabulary of the area in their massing and external treatment.

2. Building elevations fronting or visible from public streets shall be clad with masonry, wood, vinyl siding, stucco, or similar material. Metal paneling may not comprise a street fronting building face.
3. The front elevations facing the street, and the overall massing shall communicate an emphasis on the human scale and the pedestrian environment.
4. Each building should be designed to form part of a larger composition of the area in which it is situated.
5. Trailers (mobile units) shall not be used as civic buildings.
6. Schools, churches, and government buildings shall be built so that they terminate a street vista whenever possible, and should be of sufficient design quality to create visual anchors for the community.
7. At a minimum the Americans with Disabilities Act standards for accessibility shall be met.

#### Configurations:

8. Street level windows shall be untinted. Tinted glass with minimum visual transmittance factor of 35 is permitted. Mirrored glass is not permitted in any location. This does not prohibit the use of stain glass windows.
9. Flat roof lines are allowed.

#### Techniques:

10. Windows should be set to the inside of the building face wall.
11. All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.
12. Windows should be of square or vertical proportion. Special windows may be circular or regular polygons.

**ARTICLE 10  
CONDITIONS FOR CERTAIN USES**

**10.1 Accessory Dwelling**

- .1 An accessory dwelling may be attached, within, or separate from the principal dwelling.
- .2 The principal use of the lot shall be a detached or attached dwelling, built to the standards of the North Carolina Housing Code. Manufactured homes shall not be used as accessory dwellings.
- .3 No more than one accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling unit.
- .4 The accessory dwelling shall be owned by the same person as the principal dwelling.
- .5 The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street
- .6 A detached accessory dwelling shall be housed in a building not exceeding 650 square feet of first floor area (maximum footprint); the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use.
- .7 A detached accessory dwelling shall be located in the established rear yard and meet the standards for the applicable building and lot type, Article 9.
- .8 An accessory dwelling must be registered with the Town Planner at the time a certificate of occupancy is obtained.

**10.2 Reserved**

**10.3 Agricultural Industry in the M-I District**

Agricultural Industry is limited to the production of commercial poultry or small livestock in enclosed buildings, according to the procedures of Section 20.7.2.

The Board of Adjustment shall issue a Conditional Use Permit for the production of commercial poultry or small livestock in enclosed buildings in the M-I District if, but not unless, the evidence presented at the Conditional Use Permit hearing establishes:

- .1 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .2 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and

- .3 That no part of the proposed use will be located or operated so as to emit dust, noise, fumes, or odors in concentrations or amounts that would constitute a nuisance to persons of ordinary sensitivities on nearby properties; and
- .4 That there will be a separation of no less than 1000 feet between structures housing the agricultural industry and any property located in a residential district or developed for residential or mixed use purposes; and
- .5 That the proposed use shall be located on a lot of no less than ten (10) acres.

**10.4 Airports**

Airports are permitted in the M-I District subject to a Conditional Use Permit, according to the procedures of Section 20.7.2. The Board of Adjustment shall issue a Conditional Use Permit for the subject facility in the M-I District if, but not unless, the evidence presented at the Conditional Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and
- .3 That the proposed use will not constitute a nuisance to properties located in residential or mixed use districts or developed for residential purposes with respect to noise, dust, fumes, light, vibration, or traffic; and
- .4 That the proposed use will comply with all applicable Federal Aviation Administration regulations.

**10.5 Amusement Facilities (Outdoor)**

- .1 Outdoor amusement facilities will be separated by an opaque screen from any abutting property located in a residential or mixed use district;
- .2 No amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district.
- .3 Hours of operation will be no earlier than 6:00 a.m. and no later than 12:00 midnight

**10.6 Car Wash**

The outdoor service area of a car wash shall be placed and screened in accordance with the standards for off-street parking, Article 11.



## 10.7 Cemeteries

- .1 Tombstones, crypts, monuments and mausoleums must be located at least 25 feet from any street right-of-way line or abutting property.
- .2 Buildings for maintenance, management, rent and /or sale of cemetery lots must conform to a building type permitted in the zoning district.

## 10.8 Churches

The scale and activity level of churches is a function of size and the range of accessory uses associated with the institution; very high activity levels have the potential to be disruptive to residential and small scale mixed use areas. To diminish disruptive impacts by ensuring appropriate locational and design standards, the development and expansion of religious institutions and accessory uses in residential, town center, and neighborhood center districts shall meet the following standards:

- .1 Churches shall meet the standards for civic building and lot type, Article 9.
- .2 Development Standards.
  - (a) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties.
  - (b) Accessory dwelling units for persons associated with or employed by the church may be provided at a ratio of 1 unit for each 3 acres of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
- .3 Accessory uses such as church offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever churches are permitted and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.
- .4 Church accessory uses which are **not** permitted as principal uses in a district shall adhere to the following restrictions:
  - (a) no merchandise or merchandise display shall be visible from outside the building;
  - (b) no business or identification sign pertaining to the accessory uses shall be visible from outside the building;

- .5 Except as noted in .3, above, accessory uses not permitted as principal uses (including television stations, radio stations, printing presses, or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.

Application for a building permit shall include a comprehensive site plan which addresses the required standards and conditions for the main site and all abutting holdings.

### **10.9 Commercial Outdoor Kennel**

The outdoor containment of animals shall be at least 500 feet from abutting property located in a residential or mixed-use district.

### **10.10 Day Care Centers and Small Day Care Homes**

#### **.1 Child Day Care Center.**

- (a) A center must meet a permitted building and lot type for the district in which it is to be located.
- (b) Play space must be provided in accordance with the regulations of North Carolina Department of Human Resources.
- (c) Outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.

#### **.2 Adult Day Care Center.**

- (a) A center must meet a permitted building and lot type for the district in which it is to be located.
- (b) There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.

#### **.3 Child Day care home, small.**

- (a) The day care operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 6 children not related to the operator.
- (b) A Child Day Care home shall meet the following standards:
  - Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources.

- Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.
- Chain link and similar fencing materials shall be planted on exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation, or be obscured by a comparable screening treatment.
- A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- There are no specific limitations on the hours of operation of a Day Care Home, but no outdoor play shall be permitted after sun down.

.4 Adult Day Care Home, small.

- (a) An Adult Day Care home must be located within the residential dwelling unit occupied by the operator of the service. Care is limited to no more than 6 adults who do not reside in the dwelling.
- (b) An Adult Day Care home shall meet the following standards:
  - A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
  - There is no limit on the hours of operation of an Adult Day Care Center, but it shall not serve any client on a continuous 24-hour basis.

<b>10.11 Drive Through Windows as an Accessory Use</b>
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- .1 Drive-through service windows, stacking lanes, and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street;
- .2 Drive-through service windows, stacking lanes, and circulation are treated as components of off-street parking for the purposes of screening (Article 11);
- .3 The length of on-site stacking lane(s), taken together, shall be a minimum of 200 feet if window access is provided directly from a major or minor thoroughfare; a minimum of 100 feet if window access is provided directly from a street of lesser capacity.
- .4 The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.

- .5 Screening is not required for walk-up service accessories such as depositories and ATM's.

**10.12 Duplex on Corner Lot**

Duplexes are permitted on corner lots in any residential or mixed-use district according to the following standards:

- .1 The entrances to each unit in the structure will face different streets;
- .2 The dwelling must meet the minimum front yard setback from both streets upon which a unit faces;
- .3 The lot has at least 1.5 times the minimum lot area, if any, for the district.
- .4 Duplexes which meet the standard for the attached house or the apartment building are permitted without corner lot restrictions in those districts which permit attached housing and apartment building types.

**10.13 Essential Services 1 and 2**

- .1 Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, should be installed underground, unless subsurface conditions make underground installation not possible or practical.
- .2 Facilities used for the operation of essential services should, whenever possible, be located on interior properties rather than on properties aligned with other lots that have continuous street frontage.
- .3 Buildings and other structures which cannot adhere to the scale, volume, spacing, setback and typology of existing buildings along fronting streets shall be provided an opaque screen to shield the view from all public rights-of-way and from abutting properties.

**10.14 Essential Services 3**

Essential Services, Class 3, are permitted in any district subject to a Conditional Use Permit, according to the procedures of Section 20.7.2. The Board of Adjustment shall issue a Conditional Use Permit for the subject facility if, but not unless, the evidence presented at the Conditional Use Permit hearing establishes:

- .1 That the proposed use will not endanger the public health and safety, nor substantially reduce the value of nearby property; and
- .2 That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area; and

- .3 That the proposed use will not constitute a nuisance to properties located in residential districts or developed for residential or institutional purposes with respect to noise, dust, odors, light, vibration, or traffic; and
- .4 That area of active use will be enclosed by a fence, not easily climbable, at least six feet in height, and the fence must be located at least 20 feet from the public street right-of-way and 100 feet from abutting property lines; and
- .5 That a minimum separation of 100 feet, fully vegetated, will be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties; and
- .6 That the site shall be screened from the street(s) by a screen composed of a masonry wall or a solid fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence.

<b>10.15 Home Occupation</b>
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A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

- .1 The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
- .2 A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.
- .3 The use shall employ no more than one person who is not a resident of the dwelling.
- .4 A home occupation housed within the dwelling shall occupy no more than 25 percent of the total floor area of the dwelling.
- .5 There shall be no visible outside display of stock in trade which is sold on the premises.
- .6 There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.
- .7 Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.
- .8 Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.

- .9 The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
- .10 Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.
- .11 No business identification or advertising signs are permitted.
- .12 All home occupations shall require a zoning permit. Permits are not transferable from person to person or from address to address.
- .13 Hobbies shall not be subject to the requirements of this section unless such hobby generates a gross yearly income of six hundred dollars (\$600.00) or more.
- .14 There may be one annual inspection by the town staff to ensure the home occupation is operating within the requirements specified by this ordinance. The town staff shall have the right at any time, upon reasonable request, to enter and inspect the premises covered by the zoning permit for safety and compliance purposes.
- .15 In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.
- .16 No more than one home occupation shall be permitted within any single dwelling unit.
- .17 There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter ton truck.
- .18 No home occupation shall cause an increase in the use of any public utilities or services (water, sewer, garbage collection, etc.) so that the combined total use for dwelling unit and home occupation purposes exceeds the average for residences in the neighborhood.
- .19 Home occupations shall comply with all local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.
- .20 Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this section within sixty (60) days after the home occupation first became non-conforming.
- .21 Any pre-existing (prior to the date of adoption of this section and approved by zoning permit) home occupation, made non-conforming by this section, may be continued for a period of two (2) years after adoption of this section or the discovery of the non-conforming use.

.22 The following uses are permitted in a home occupation:

- Architectural, drafting, and graphic services;
- Art restoration;
- Art/photography studio;
- Beauty salons;
- Consulting offices;
- Contracting offices;
- Data processing;
- Dressmaking, sewing, and tailoring;
- Electronic assembly and repair;
- Engineering services;
- Financial planning and investment services;
- Flower arranging;
- Gardening and landscaping services;
- Home crafts;
- House cleaning services;
- Insurance sales broker;
- Interior design;
- Jewelry making and repair;
- Locksmith;
- Mail order (not including retail sales from the site);
- Real estate sales broker;
- General sales representative;
- Tutoring;
- Furniture upholstering.

.23 The following uses are prohibited in a home occupation:

- Appliance and small engine repair;
- Auto repair, major and minor;
- Auto painting;
- Carpentry/cabinet making;
- Dance studios;
- Furniture construction;
- Machine shops;
- Rental businesses;
- Tow truck services;
- Welding shops;
- Other uses not listed as a permitted use.

<b>10.16 Neighborhood and Outdoor Recreation</b>
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.1 Buildings constructed in association with neighborhood recreation or outdoor recreation shall meet one of the building types permitted in the zoning district.

- .2 Permanent parking lots shall meet the standards of Article 11, Off-Street Parking.
- .3 Service areas will be separated by an opaque screen from the view from any street and from abutting properties.
- .4 Chain link and similar fencing materials, if used, shall be planted on exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation.
- .5 Outdoor lighting associated with outdoor recreational facilities shall not shine directly into yards of a residential use or into the windows of a residential structure.
- .6 Hours of operation will be no earlier than 6:00 a.m. and no later than 11:00 p.m.

**10.17 Neighborhood and Highway Commercial Gasoline Stations**

- .1 Neighborhood Gasoline Stations, by definition, permit retail sale of gasoline and convenience products and the minor service and repair of motor vehicles; they have no more than one fueling canopy for gasoline sales and may not have more than four (4) fuel pumping stations allowing the simultaneous fueling of eight (8) motor vehicles. Highway Commercial (H-B District) gasoline stations permit major service and repair of motor vehicles and are unlimited as to gasoline sales area.
- .2 Buildings shall meet the requirements of Article 9, Building and Lot Types.
- .3 Gasoline pumps, canopies, and associated service areas are prohibited in any established yard abutting a street.

**10.18 Outdoor Display of Vehicles and Boats for Sale**

- .1 Vehicles and boats for sale shall not be displayed in an established front yard nor in an established side yard abutting a street.
- .2 Vehicles and boats for sale may be displayed in a side yard which does not abut directly on a street, so long as:
  - (a) the display is placed behind the established front setback line of the building, extended to the side lot lines;
  - (b) the display area meets the standards for a parking lot (Article 11);
  - (c) the display area is screened from abutting properties (Article 15).
- .3 Nothing in this section shall prohibit a break in a planted screen or wall for the crossing of a driveway which provides access to on-site parking from the fronting street or a rear alley, or access between the parking lots of abutting businesses.



- .4 The requirements of this section shall not apply to lots that have buildings which were in existence on the effective date of this Ordinance, November 1, 2003, if the location and orientation of the building prevents the display of vehicles or boats in the rear yard or side yard not abutting a street.

<b>10.19 Outdoor Storage</b>
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- .1 Outdoor storage defined:
- (a) includes all goods and materials not returned to an enclosed building at the end of each business day; regardless of whether such goods or materials are kept on the premises for retail sale, wholesale sale, storage, or use by a business on or off the lot; (to be classified as goods for sale and therefore exempt from regulation as outdoor storage, items must be placed within an enclosed building at the end of each business day);
  - (b) includes up to two storage trailers placed on a single lot or in conjunction with a single principal use;
  - (c) includes all items awaiting or in process of repair except customary passenger vehicles awaiting repair which are not visibly damaged or are not used or intended to be used as “parts” vehicles; (rather than being considered outdoor storage, such vehicles may await repair in any conforming off-street parking lot associated with the principal use);
  - (d) includes vehicles with more than two axles, boats, manufactured homes, and trailers of tractor trailers awaiting or in process of repair;
  - (e) does not include construction equipment.
- .2 Outdoor storage, where expressly permitted, may be established on a lot according to the following standards:
- (a) where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;
  - (b) where permitted as a principal use on a lot, the area of storage shall be no closer than 40 feet from an abutting street right-of-way;
  - (c) all areas established for outdoor storage shall be screened from view from the street(s) and from all abutting properties (Article 15); wherever security fencing is desired, it shall be placed on the interior side of the opaque screen.

## **10.20 Outdoor Storage of Construction Equipment**

Outdoor storage of construction equipment, where expressly permitted, may be established on a lot according to the following standards:

- .1 where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any established yard abutting a street;
- .2 where permitted as a principal use on a lot, the area of storage shall be no closer than 40 feet from an abutting street right-of-way;
- .3 the area of outdoor storage shall be screened from view from the street(s) and from all abutting properties by an opaque screen (Article 15); wherever security fencing is desired, it shall be placed on the interior side of the opaque screen.

## **10.21 Parking Lot as Principle Use**

Parking lots not associated with a building shall adhere to the standards of Article 11, Off-Street Parking; Parking lots which abut three or more streets shall be required to construct street yards of 5' in width on only two streets with permission from the Zoning Administrator.

## **10.22 Parks (including Greenways)**

- .1 Buildings constructed in association with a park or greenway shall meet one of the building types permitted in the zoning district.
- .2 Permanent parking lots associated with parks and greenways shall meet the standards of Article 11, Off-Street Parking.
- .3 Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas, if maintained in a natural condition, need not conform with Article 11.
- .4 Service areas shall be separated by an opaque screen from view from any street and from abutting properties (Article 15).
- .5 Outdoor lighting associated with active outdoor recreation shall not shine directly into yards associated with a residential use nor into the windows of a residential structure.
- .6 Hours of operation of outdoor recreation will be no earlier than 6:00 a.m. and no later than 11:00 p.m. for uses located in or abutting a residential district.

### **10.23 Petroleum Storage Facilities**

- .1 The use shall meet the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Protection Association.
- .2 All storage tanks and loading facilities will be located at least 100 feet from any exterior property line.
- .3 Vehicle access to the use shall be provided by way of a major or minor thoroughfare, or a commercial street directly intersecting a thoroughfare.

### **10.24 Schools**

- .1 Schools shall conform principal buildings to the standards of Civic Buildings and lots, Article 9. Accessory and incidental buildings may be placed within a street fronting yard if they conform to a building and lot type permitted in the zoning district. Buildings which do not so conform shall be placed within established rear and side yards which do not abut a street.
- .2 Permanent parking lots associated with schools shall meet the standards of Article 11, Off-Street Parking.
- .3 Notwithstanding 10.24.1 and 10.24.2, above, where the safe transport of students requires functional separation of parking and circulation areas (i.e. school bus, auto drop-off, etc.), the location of parking and circulation according to building and lot type may be modified, so long as street abutting parking and circulation areas are, to the extent practicable, detailed as plazas.
- .4 Dust-free, pervious surface areas are encouraged for overflow or event parking; such areas need not conform with Article 11 if they are maintained in a natural condition (for example, as a grassed field).
- .5 Service areas shall be separated by an opaque screen from the view from any street and from abutting properties (Article 15.).
- .6 Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height (expected height at maturity minimum 6 feet), 6 feet on center at installation.
- .7 Outdoor lighting associated with active outdoor recreation shall not shine directly into yards of a residential use nor into the windows of a residential structure.

- .8 Elementary and Junior High/Middle Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s)
- .9 High schools shall be on a lot which abuts a minor or major thoroughfare; primary vehicular access shall be provided from the thoroughfare.

**10.25 Temporary Uses and Structures, Including Seasonal Markets**

- .1 The establishment of temporary sales lots for farmers markets, Christmas trees, and other seasonal agricultural products, plus related goods, are permitted for up to a maximum of three months upon the issuance of a temporary use permit by the Zoning Administrator. The following conditions apply.
  - (a) Storage of goods in or sale of goods from trailer(s) on the site is prohibited.
  - (b) The use may only be located on a vacant lot or on a lot occupied by a nonresidential use.
  - (c) The use shall be conducted behind the prevailing established setback line for structures within 300’ in either direction on the same side of the street.
  - (d) Off-street parking may be provided behind or to the side of the established use, but not forward of the prevailing established setback line, defined in (c), above.
  - (e) On-site parking may be provided on a dust-free, pervious surface area and need not comply with Article 11.
  - (f) Signs on the premises of a temporary use shall meet the same standards as the correlative building and lot type permitted in the district.
- .2 Temporary accessory structures, including but not limited to school mobile classrooms and temporary offices placed on development sites during construction and sale of buildings, are permitted for up to a maximum of two years, renewable thereafter in one year increments, upon the issuance of a temporary use permit by the Zoning Administrator. Such structures shall meet the standards for building and lot type to the extent practicable, given the location of existing buildings and improvements on the site and location of permitted construction areas. Temporary structures associated with construction projects shall be removed upon completion of construction.

**10.26 Transit Shelter**

- .1 Transit shelters may be located within any street right-of-way or within an established yard fronting a street, but may not be located so as to obstruct the sight distance triangle.
- .2 Only governmental signs are permitted in association with a transit shelter.

- .3 If constructed by other than the Town of Catawba, a schematic plan must be submitted and approved by the Town Council. The plan must include the following:
  - (a) the location of the proposed shelter relative to street, property lines, and established building yards; and
  - (b) the size and design of the shelter, including front, side, and rear elevations, building materials, and any public convenience or safety features such as telephone, lighting, heating, or trash containers.
- .4 A building permit shall be issued only after approval by the Town Council of the proposed schematic plan in 10.26.3, above.
- .5 A transit shelter located within a street right-of-way or an established yard may be removed by the Town of Catawba if the Town Council determines that it no longer serves the best interest of the public.

### **10.27 Trucking Terminals**

Trucking Terminals are permitted in the M-I District provided:

- .1 The area designated for truck parking shall be located no closer than 40 feet from an abutting street right-of-way. Truck parking areas are not classified as parking lots. Therefore they are exempt from the standards of Article 11, but subject to the alternative standard in .2, below.
- .2 The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen; wherever security fencing is desired, it shall be placed on the interior side of the screening materials.
- .3 The use shall be located on or directly accessible to a major thoroughfare, expressway, or freeway; truck terminals shall not be sited such that residential or town streets are regularly traversed to access the larger capacity road.

### **10.28 Marinas (accessory to residential use)**

A marina is permitted as an accessory use to residential development in the R-1 or R-A Districts provided:

- .1 No sale of goods or services or other commercial activities shall occur at the marina.
- .2 The number of boat slips shall not exceed 110 percent of the number of dwelling units in the residential development which the marina serves.

- .3 Areas for parking and service shall meet all applicable screening and landscape requirements of this ordinance.
- .4 Dry boat storage (indoor or outdoor) is not permitted at marinas accessory to residential developments.
- .5 Any accessory marina serving more than 50 dwelling units shall have a boat launching facility for use by residents only.

## **10.29 Solar Energy Systems**

### **Utility-Scale Systems**

Utility-Scale Solar Energy Systems are permitted in H-B, and manufacturing districts by right and are permitted in residential-agricultural and manufactured home overlay districts by Conditional Use. In both cases the following conditions must be met:

1. Solar power collection and electrical generation structures shall not exceed 25 feet in height.
2. All equipment shall be located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of residential property.
3. All components of a Utility-Scale Solar Energy System must meet all applicable building, electrical and safety codes.
4. Solar Energy Systems that exceed the 10kW threshold but will be used in conjunction with an existing, lawful use on the same property, are allowed, provided that:
  - a) They are located and situated so glare is not to interfere with traffic on public streets or highways or the reasonable use of neighboring property;
  - b) Roof-mounted systems shall not extend more than 10 feet from the top of the roof;
  - c) The total height of the building including the solar collection and power generation devices shall comply with the district height regulations;
  - d) Ground-mounted systems shall not be located in any required front yard and shall be screened from view from neighboring property or public streets;
5. In the event a solar farm ceases operation as an ongoing business entity, after one year, the site must be restored to its former state of development, whether the site is leased or owned. A plan for decommissioning shall be filed with the Town; a fine of up to \$50.00 per day may be assessed if a plan is not filed with the Town and a site is no longer in service for more than a year. Decommissioning should be completed within a six-month timeframe. A fine of up to \$50.00 per day may be assessed each day that the site is not restored beyond the approved deadline for final removal.
6. Fee schedule reference: Applications for small solar energy systems are \$15 (as accessory use) and for utility-scale systems, \$50 (nonresidential use).

### **Utility-Scale Solar Buffering Requirements**

The planted buffer shall be comprised of 2 rows of plants no more than 10 feet apart in each row. There may be one row of 6-foot-tall trees with expected maturity height of 20 feet or more and one row of 2-foot tall shrubs, expected to grow to at least 5 feet *or* two rows of shrubs that are a minimum of 8 feet tall at maturity.

One of the plant types listed in section 15.2.4 shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least 10 feet wide. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within 3 years after planting (see 15.2.4).

### **Small-Scale and Utility-Scale Setback Requirements**

All solar systems must be set back at least 25 feet from the street right-of-way and 8 feet from side and back property lines, regardless of the zoning district.

**ARTICLE 11  
OFF-STREET PARKING AND LOADING REQUIREMENTS**

**11.1 Parking Space to be Required and Permanent**

- .1 Off-street parking space shall be provided in accordance with this Article in all districts, except the B-1 Central Business District, the function of which makes it impractical to impose such requirements. However, if provided in the B-1 district, off-street parking spaces shall be provided at one (1) space per 500 square feet of gross floor area and comply with the applicable landscaping requirements.
- .2 The off-street parking space required by this division shall be permanent space and shall not be used for any other purpose.
- .3 Each parking space shall be:
  - (a) Angle parking: 30 degree, 45 degree, 60 degree and 90 degree: minimum nine (9) feet by eighteen (18) feet.
  - (b) Parallel parking: minimum nine (9) feet by twenty-two (22) feet.

The parking standards are for one vehicle, exclusive of adequate egress and ingress, drives, maneuvering space and landscaping.

- .4 Off-street parking spaces shall not be located in such a manner that parked cars will extend onto a public street or sidewalk.
- .5 Off-street parking areas, loading, egress and ingress, and maneuvering space shall be paved with asphalt or concrete. Any parking area not paved at the time of adoption of this ordinance shall be allowed to continue as such until an expansion of the building or parking area occurs. At such time, the parking area must be paved and meet current landscaping requirements.
- .6 Off-street parking areas shall not be permitted within the front yard.
- .7 Off-street parking areas shall be setback at least 10 feet from any public street.
- .8 All off-street parking areas shall provide valley style curbing along the interior (islands) and exterior edges of the paved area. In rare cases where it is demonstrated that topography makes valley style curbing impractical, alternative curbing materials may be approved by the Zoning Administrator.



## 11.2 Use of Parking Lots Permitted

- .1 The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.
- .2 No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the area requirements for off-street parking required by the terms of this Ordinance.

## 11.3 Enforcement

- .1 Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress between such space and a street. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this Ordinance are met.
- .2 The Certificate of Occupancy of the use of any structure or land where off-street parking space is required shall be withheld by the Zoning Enforcement Officer until the provisions of this Ordinance are fully met. If at any time such compliance ceases, any Certificate of Occupancy which has been issued for the use of the property shall immediately become void and of no effect.

## 11.4 Schedule of Parking Spaces

Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

<u>Use Classification</u>	<u>Parking Space Requirement</u>
Residential	2 spaces for each dwelling unit
Commercial	1 space for each 500 square feet of gross floor area
Industrial	1 space for each 500 square feet of gross floor area
Office	1 space for each 500 square feet of gross floor area
Warehouse	1 space for each 4,000 square feet of gross floor area
Civic	1 space for each 500 square feet of gross floor area

## **11.5 Required Loading and Unloading**

Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public right-of-way. Such space shall have access to an alley or street. For the purposes of this Section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade. Off-street loading and unloading shall be permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

- .1 Retail operations: One (1) loading space for each 5,000 square feet of gross floor area or fraction thereof.
- .2 Wholesale and industrial operations: One (1) loading space for each 10,000 square feet of gross floor area or fraction thereof.

## **11.6 Landscaping of Parking Area**

The landscaping requirements of this section shall apply to land, public and private, designated as multi-family, recreational, institutional, industrial and commercial land uses which are required to have or provide twenty (20) or more parking spaces. All those multi-family, recreational, institutional, industrial and commercial land uses which are required to have ten (10) to nineteen (19) spaces must comply with the street yard requirements only.

- .1 Parking area landscaping requirements of this section are as follows:
  - (a) Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one tree retained.
  - (b) When using an existing tree, the area under the dripline (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.
  - (c) If an existing tree dies, it must be replaced with two (2) trees during the next planting season.
  - (d) If any vegetation dies, replacement is required within the next planting season.
  - (e) Landscaping shall be placed in a manner, which meets the intent of this Ordinance, and shall be maintained.
  - (f) Any fraction of requirements shall be rounded up to the next whole number.

- (g) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.
- .2 Landscaping requirements for interior areas of parking areas:  
(Interior areas are defined as the area within the property used for vehicular storage, parking and movement).
- (a) Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end or parking bays, inside medians, or between rows or cars.
  - (b) There shall be one (1) large shade tree for every two thousand (2,000) square feet of total parking area. For small parking areas between twenty (20) and forty-four (44) parking spaces, there shall be one (1) large shade tree for every three thousand (3,000) square feet of total parking area.
  - (c) There shall be one shrub for every one thousand (1,000) square feet of total parking area. Shrubs must be eighteen (18) inches tall at planting and reach a minimum height of thirty (30) inches in three (3) years.
  - (d) All trees and shrubs are to be planted within a landscaped planting area not less than one hundred sixty-two (162) square feet in area.
  - (e) No vehicular parking space shall be farther than fifty (50) feet from a planting area.
  - (f) No more than fifty (50 %) percent of the trees and/or shrubs shall be deciduous.
- .3 Landscaping requirements for street yards of parking areas:  
(Street yards are defined as the area between the public right-of-way and interior area)
- (a) Street yards are required to be a minimum of ten (10) feet in width.
  - (b) One (1) large shade tree is required every fifty (50) feet or one (1) small tree is required every twenty-five (25) feet along the street frontage.
  - (c) Shrub beds (fifty (50) square feet minimum and a minimum of ten (10) shrubs per shrub bed) are required every forty (40) feet along the street frontage. Berms may be used instead of shrubs with the following stipulations: 1) berms must be the required height of shrubs with no more than a 3:1 slope; 2) shorter shrubs may be used in combination with berms as long as the required total height is met; 3) berms must be capped or topped with groundcover vegetation; 4) berms shall be grassed; 5) berms must occupy sixty (60%) percent of the frontage area; 6) fences may be used in combination with berms as long as the fence is compatible in

materials and color to the building and is not more than forty (40%) percent of the required height.

.4 Tree and shrub specifications:

- (a) "Tree" as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed fifteen (15) feet for a small tree and thirty-five (35) feet for a large tree (except in cases where this would require the planting of incompatible species with the surrounding environment, such as overhead utility lines, then acceptable species may be used). The tree, existing or planted, shall be at least eight (8) feet in height and six and one-quarter (6 1/4") inches in circumference (two (2) inches in diameter) measured at one-half (1/2') foot above grade for newly planted trees and measured at four (4) feet above grade for existing trees. Trees that do not drop fruit or sap should be considered immediately adjacent to parking areas.
- (b) "Shrub" shall attain a minimum of thirty (30") inches in height within three (3) years of planting. All shrubs shall be a minimum of eighteen (18") inches tall when planted. All shrubs planted on berms may have lesser height provided the combined height of the berm and plantings after three (3) years is at least thirty (30") inches in height.

<b>11.7 Dumpsters / Trash Containers</b>
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- .1 Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence or wall of sufficient height to screen the bin and any appurtenances, but not less than six (6) feet in height. The wall or fence shall enclose the dumpster on all four sides. Gates or doors for access on one side are permitted.
- .2 Trash containers such as dumpsters shall not be located abutting residential property or within any front yard.
- .3 When used, fences and walls should match the architectural detail of the main building.
- .4 Temporary construction dumpsters shall be exempt from the requirements of this section (11.7). However, upon completion of construction all construction dumpsters shall be removed.

**ARTICLE 12  
SIGN REGULATIONS**

**12.1 Purpose**

The purpose of this section is:

- .1 To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;
- .2 To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety;
- .3 To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage.
- .4 To provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located.

**12.2 Applicability**

Except as otherwise provided in this ordinance, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Town of Catawba. In addition, a certificate of occupancy for the change in the use of property shall require compliance with ARTICLE 12, Signs. Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

**12.3 General Provisions**

The following provisions shall apply to all signs.

- .1 **Construction Standards.** All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- .2 **Electrical Standards.** All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.
- .3 **Maintenance of Signs.** All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

- .4 Content. Content of message, commercial or non commercial, is not regulated by this ordinance.
- .5 No sign shall be placed so as to obstruct the clear sight triangle at a street intersection.

**12.4 District Classification**

For purposes of this Article, zoning districts are classified as follows:

R-1 (Residential)	Residential
R-A (Residential)	Residential
MHO (Manufactured Home Overlay)	Residential
B-1 (Central Business)	Mixed Use
O-I (Office-Institutional)	Mixed Use
Highway Business (HB)	Commercial
Manufacturing – Industrial (M-I)	Commercial

**12.5 Sign Types**

Sign types are defined as follows:

.1 Wall Mounted Signs

One or a combination of the wall sign types below may be used on a building. Wall sign area is the total of the square footage of all wall signs associated with a business or structure.

- a) A flush wall sign is mounted or applied directly to the building wall, generally on the fascia. It may in no instance extend above the parapet; in the residential and mixed use districts, it must be located **below** the parapet.

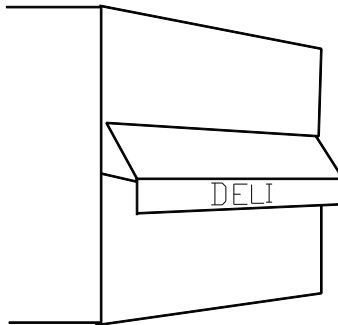


- b) A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires 8 or more feet of vertical clearance from the ground. It is most appropriately used along pedestrian-

oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one hanging sign is permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging sign may project no more than 4 feet from the building wall. It may project up to 3 feet over a sidewalk in a town maintained right-of-way (or state ROW if permitted). However, in any case the sign shall not be closer than 3 feet to a power or other utility line or the outside edge of street pavement.



- c) A canopy or awning sign is sign copy applied directly onto a canopy or awning.



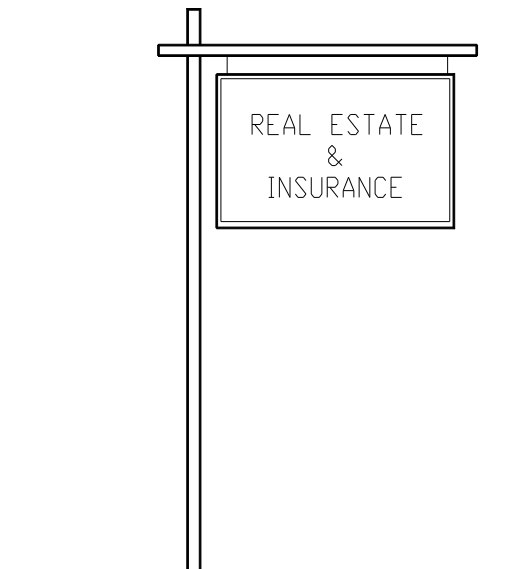
## .2 Ground Mounted Signs

Ground mounted signs are defined as follows:

- a) A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed three feet in height and are included in measurement of sign height.



- b) A raised sign may hang from a pole and beam frame as illustrated below, or be placed within a frame mounted on up to two supporting poles.



### 12.6 Sign Measurement

- .1 **Sign Face Area:** the area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.
- .2 **Sign Height:** the distance from the ground plane beneath the sign to the highest point of the sign's frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement.



**12.7 Permanent Signs Requiring a Permit**

.1 On-Premise Signs are allowed, as indicated in the chart below

<p style="text-align: center;">CIVIC BUILDINGS IN ANY DISTRICT</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>10% of any wall face area fronting a street, up to a maximum of 128 square feet</p> <p style="text-align: center;"><b>Ground Mounted Sign</b></p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings</p>	<p style="text-align: center;">ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A DETACHED HOUSE (B-1, O-I, F-W)</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>10% of any wall face area fronting a street, up to a maximum of 128 square feet</p> <p style="text-align: center;"><b>Ground Mounted Sign</b></p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings</p>
<p style="text-align: center;">ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT DETACHED HOUSE (HB, M-I)</p> <p style="text-align: center;"><b>Wall Mounted Sign</b></p> <p>10% of any wall face area fronting a street, up to a maximum of 128 square feet. Each secondary business is allowed Secondary Business Sign (<i>defined in Section 12.16</i>), up to a maximum area of 26 square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p style="text-align: center;"><b>Ground Mounted Sign</b></p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet Not permitted for zero setback buildings</p>	<p style="text-align: center;">PLANNED DEVELOPMENT ENTRANCE SIGN</p> <p>Maximum Number: 1 per street front; 2 sign faces may be used with a wall, fence, or other architectural entrance feature</p> <p>Maximum Area: 24 square feet Maximum Height: 8 feet (permitted for all-residential, mixed use, and non-residential projects of 10 acres or more) Limited to name and/or logo</p>

.2 Permanent Off-Premise Signs Limited to Non-Commercial Public Service Directional Signs

For the purpose of directing the public-at-large to non-commercial community facilities of general interest, permanent off-premise directional signs may be erected in addition to signs otherwise permitted in these regulations.

.3 Non-Commercial Public Service Directional Signs are permitted subject to the following standards:

- a) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.
- b) No more than 2 directional signs shall be erected for each facility.
- c) Signs may not exceed 4 square feet in area nor 5 feet in height.

- d) Signs may be placed no more than one mile from the subject property.
- e) Along state roads, such signs shall be located outside of the right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this ordinance.
- f) Along town maintained roads, such signs shall be located at least 11 feet from the edge of pavement and respect the sight distance triangle.
- g) No sign shall be placed on private property without the written consent of the property owner on the permit application.
- h) Every Non-Commercial Public Service Directional Sign shall be separated by a distance of 400 feet from any other such sign on the same side of the street, and by a distance of 200 feet from any other such sign on the opposite side of a street.

<b>12.8 Temporary Signs Requiring a Permit</b>
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The following temporary signs shall be allowed subject to the standards below, in lieu of on-site real estate or construction signs.

- .1 Temporary Planned Development Signs, provided:
  - a) Only one primary sign and two secondary signs shall be allowed per street front of development.
  - b) The maximum sign face area of a primary sign shall not exceed 32 square feet; height of ground mounted signs shall not exceed 6 feet.
  - c) The maximum sign face area of secondary signs shall not exceed 12 square feet; height of ground mounted signs shall not exceed 6 feet.
  - d) Only one permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Inspections Department. If a project is not completed in two years, a new permit must be obtained. However, in no instance shall more than 5 permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.
  - e) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed 12 square feet in sign area, 6 feet in height, and are removed

upon completion of the portion of the project to which the signs are giving direction.

### **12.9 Temporary Off-Premise Signs Requiring Approval**

The following temporary off-premise signs are permitted subject to the standards below.

- .1 Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided:
  - a) At least five business days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Zoning Enforcement Officer, who shall grant written permission for signs to be posted if the standards below are met.
  - b) Signs or banners shall be located outside of the public right-of-way or farther than 11 feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall respect the sight distance triangle.
  - c) Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.
  - d) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street.
  - e) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.
- .2 Temporary cross-street banners for community events as may be approved by the Town Manager and installed by town personnel, according to policies established by the Town Council.

### **12.10 Signs Permitted without a Permit**

The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this ordinance.

- .1 Memorial signs, plaques, or grave markers.
- .2 Public interest signs.

- .3 Public information kiosks on public or private property, subject to design approval by the Town Council and written permission of the owner of property upon which the kiosk is to be placed.
- .4 On premises directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 4 feet.
- .5 Identification signs not exceeding 1 1/2 square feet in area, that indicate the name and/or address of the occupant. Maximum height: 4 feet.
- .6 Window signs with a total copy area not exceeding 50 percent of the window or glass door on which the sign(s) are located.
- .7 Incidental signs.
- .8 Flags on permanent poles.
- .9 Campaign or Election signs provided that:
  - a) Individual signs shall not exceed 16 square feet in area nor 6 feet in height.
  - b) All signs shall be removed within 7 days after the election for which they were made.
  - c) No signs shall be permitted in the public right-of-way.
- .10 Real estate signs, other than the temporary signs described in Section 12.8.
  - a) Signs advertising a single family home or lot, a duplex, triplex, or quadraplex, or an individual unit within an attached housing development shall not exceed 6 square feet. Rider signs not exceeding a total of 2 square feet in sign face area shall be permitted in addition to the 6 square feet. Maximum height: 4 feet.
  - b) Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and maximum height of 6 feet.
  - c) Only one sign per street front of the advertised property shall be erected.
  - d) Properties having a continuous frontage in excess of 850 linear feet may be allowed an additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property.
  - e) Signs shall not be illuminated.

- f) Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.
- .11 Construction signs, other than Temporary Planned Development Signs, Section 12.8, provided:
- a) Signs located on single family lots or duplex, triplex, or quadraplex lots shall not exceed 6 square feet in area. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet. Maximum height: 4 feet.
  - b) Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
  - c) Signs are confined to the site of construction.
  - d) Only one sign per street front of the property under construction shall be erected.
  - e) Signs shall not be illuminated.
  - f) Signs shall be removed within 7 days after the completion of a project.
- .12 Temporary farm products signs provided:
- a) Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.
  - b) Signs shall not exceed 32 square feet in area nor 6 feet in height.
  - c) Only one sign shall be erected.
  - d) Signs shall be removed within 7 days of the termination of sale activities.
- .13 Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:
- a) No more than one sign per street front shall be permitted per event.
  - b) Signs shall be located on the property on which the event will occur.
  - c) Signs shall not exceed 32 square feet in area nor 6 feet in height.
  - d) Signs shall be erected no sooner than 14 days before and removed 7 days after the event.
- .14 Temporary banners in commercial and mixed use districts, provided:

- a) Only one banner per establishment shall be allowed at a time.
- b) All banners shall be attached in total to a building wall or permanent canopy extending from a building.
- c) No paper banners shall be allowed.
- d) Banners shall be erected for a period not to exceed 2 weeks.
- e) No more than 6 such signs per establishment shall be erected within a calendar year.
- f) No banner shall extend above the second occupiable floor level of a building.

.15 Public service and advertising signs in association with athletic fields. Signs may be attached to the interior face of any fence which encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:

- a) No sign face area shall be visible from any public street nor from any abutting property in a residential or mixed use district.
- b) No sign shall extend above the top of the enclosing fence.
- c) The property owner or an authorized representative shall provide the town with a signed statement granting permission for signs to be displayed and assuming responsibility for management of the signs as well as the appropriate removal and disposal of damaged or obsolete signs.

<b>12.11 Master Signage Programs</b>
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Master signage programs provide latitude to develop appropriate signage designs for new or existing areas with special unifying features. Master signage programs require approval by the Town Council following review and recommendation by the Catawba Planning Board.

.1 Planned Development Flexibility Option

For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Town Council. The Planned Development Flexibility Option is initiated by the developer by submission of a Master Sign Program to the Town Planner, who shall first place the request on the agenda of the Planning Board for a recommendation, and then on the agenda of the Town Council for approval, subject to the following:

- .2 The development is: a planned residential, nonresidential, or mixed use development, 10 acres or greater in size; a hospital or other large scale institutional complex; a large scale cultural, civic or recreational facility; or a similar large scale development.
- .3 A Master Sign Program that includes the following information in booklet form is submitted:
  - a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
  - b) Proposed number and location of signs.
  - c) Sign Illumination Plans.
  - d) Plans for landscaping or architectural features to be used in conjunction with such plans.
- .4 The proposed signs meet the following criteria:
  - a) All signs are coordinated in terms of design features.
  - b) The maximum size of detached signs is not increased by more than 25%.
  - c) The number of detached signs along a street frontage does not exceed 3.
  - d) The maximum height of a detached sign does not exceed 12 feet.
  - e) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.
  - f) Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed 25% of the sign face area of a sign.

<b>12.12 Prohibited Signs</b>
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The following signs are prohibited in all zoning districts:

- .1 Signs extending into the public right-of-way other than those permanent signs approved by the Zoning Enforcement Officer of Catawba along town-maintained streets and the North Carolina Department of Transportation along State System Streets.
- .2 Roof signs.
- .3 Portable signs.

- .4 Flashing, fluttering, swinging, or rotating signs other than time and/or temperature signs and electronic scrolling signs.
- .5 Signs that are similar in color, design, and appearance to traffic control signs.
- .6 Vehicular signs as defined in Article 12 of this ordinance.
- .7 Off-premise signs, including Outdoor Advertising Signs. See Sections 12.7.2 and 12.9, special exceptions for certain non-commercial signs.
- .8 Obsolete signs: signs that do not comply with the provisions of this ordinance and identify or advertise a use the operation of which has ceased for one year or more.
- .9 Other signs not expressly allowed by this ordinance.

<b>12.13 Application and Issuance of Sign Permits</b>
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.1 Application.

Applications for permits shall contain or have attached the following information:

- a) The street name and street number of the building, structure or lot on which a sign is to be placed.
- b) Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign.
- c) If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required.
- d) A site or plat plan of the property involved, showing accurate placement of the proposed sign, intended use(s) of the property, and zoning district designation.
- e) Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Enforcement Officer. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of existing wall signs shall also be included.
- f) Locations of addresses. No permit for a sign shall be issued unless a street address has been assigned according to the requirements of the Town of Catawba or the Catawba County 911 Address Ordinance, whichever is applicable.



- g) Other information as the Zoning Enforcement Officer may require to determine full compliance with this and other applicable codes.

.2 Issuance of Permit.

Upon the filing of an application for a sign permit, the Zoning Enforcement Officer shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this ordinance and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within 6 months of the date of issue or if the work authorized by it is suspended or abandoned for one year.

.3 Fees.

To obtain a sign permit, all fees, in accordance with the requirements of the permitting agency, shall be paid.

.4 Construction Inspection.

The permit holder shall notify the Town of Catawba upon completion of construction and installation of any sign for which a permit is required.

<b>12.14 Unlawful Cutting of Trees or Shrubs</b>
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No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located:

- .1 Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the town or other agency having jurisdiction over the streets.
- .2 On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.
- .3 In any areas where such trees or shrubs are required to remain under a permit issued under this Ordinance.

<b>12.15 Nonconforming Signs</b>
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Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this Article may be continued provided they conform to the following provisions:

- .1 No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign, with the exception of 12.15.2. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.
  
- .2 The enlargement, expansion, extension, or alteration of a nonconforming civic, social service, or fraternal organization facility off-premise sign is discouraged; however, a nonconforming civic, social service, or fraternal organization facility off-premise sign may be enlarged, expanded, extended, or altered once with approval by the Board of Adjustment provided the following:
  - a. An application for a conditional use permit for non-conforming signs must be filed with the Board of Adjustment, the Conditional Use Permit Fee established in the Schedule of Fees for non-conforming signs is paid, and a public hearing held. The application shall include a sign plan with sufficient detail of the enlargement, expansions, extension or any alterations to be made.
  - b. Enlargements, expansions, extensions or alterations may not exceed the following:
    1. Sign height must not exceed twenty-five (25%) percent of the original sign height existing at the time of enactment of this Ordinance.
    2. Sign area must not exceed twenty-five (25%) percent of the original sign area existing at the time of enactment of this Ordinance.
    3. The sign must be located in the same location as the original sign.
  - c. The Board of Adjustment determines, in its discretion, that the impact of the sign will not be increased substantially by the expansion, extension, enlargement or alteration of the sign. In determining whether the degree of impact is increased substantially, the Board of Adjustment shall consider:
    1. Probable adverse effect to traffic.
    2. Probable adverse effect to driver and pedestrian safety.
    3. Probable adverse effect to the environment.
    4. Probable adverse effect to the provision of services and utilities.
    5. Probable adverse effect on other property values.
    6. The sign will not impair the health, safety and general welfare of the surrounding neighborhood.
  - d. Under no circumstances shall more than one expansion, enlargement, extension, or alteration be granted for any nonconforming sign, regardless of whether the owner of said sign is changed to another.
  - e. All other applicable requirements of Article 12 must be met.

- .3 A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Article, except for Section 12.15.2 above.
- .4 If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this Article, and the remnants of the former sign structure shall be cleared from the land within 30 days of destruction. For purposes of this section, a nonconforming sign is "destroyed" if damaged to the extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
- .5 The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premise sign under circumstances where such a sign would not be allowed).
- .6 If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign owner, owner of the property where the sign is located or other party having control over such sign.
- .7 If a nonconforming billboard remains blank for a continuous period of 180 days, that billboard shall be deemed abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:
  - a) It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or
  - b) The message displayed becomes illegible in whole or substantial part; or
  - c) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed.

## 12.16 Sign Definitions

For the regulation of signs according to this ordinance, the following words and phrases shall be defined as specified below.

Amortization. A provision requiring nonconforming signs to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

Awning. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

Building Wall. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this ordinance, the area of a wall will be calculated for only the first three stories, or 45 feet in height of a building, whichever is less.

Canopy. A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

Changeable Copy. Copy that is or can be changed in the field, either manually or through mechanical means; e.g., reader boards with changeable letters.

Commercial Message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

Farm Product Sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

Linear Frontage. The length of a property abutting a public right-of-way from one side lot line to another.

Logo. A business trademark or symbol.

Out parcel. A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail establishments, or combination of uses thereof, and adjoins the

shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

Parapet. A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

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 (according to Article 16).

Premises. A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of this ordinance.

Roof Line. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

Sight Distance Triangle. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection.

Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

Sign Structure or Support. Any structure that supports or is capable of supporting a sign.

Sign Types. The following are types of signs included in this ordinance.

Banner. A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization.

Bulletin Board. A sign used to announce meetings or programs to beheld on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

Business Sign. A sign that directs attention to a business, to a product sold, manufactured, or assembled, or to services or entertainment offered upon the premises

where the sign is displayed; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

Campaign or Election Sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.

Canopy and Awning Signs. A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Construction Sign. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

Detached Sign. Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, or monument sign.

Directional or Instructional Sign. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance," "Exit," "Parking," "One-Way," or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

Directory Sign. A sign which identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, churches, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.

Ground Mounted Sign. A sign which extends from the ground or which has a support which places the bottom thereof less than 3 feet from the ground.

Government Sign. Any temporary or permanent sign erected and maintained for any governmental purposes.

Flag. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

Flashing Sign. A sign that uses an intermittent or flashing light source to attract attention.

Identification Sign. A sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

Incidental Sign. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through-window menu boards; signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.

Memorial Sign or Plaque. A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.

Monument Sign. A monolithic sign in which the bottom of the sign is flush with the ground and the vertical dimension of the sign is greater than the horizontal dimension.

Nonconforming Sign. Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this ordinance, and which fails to conform to all applicable standards and restrictions of this ordinance.

Off-Premises Sign. A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

On-Premises Sign. A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

Outdoor Advertising Sign. A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or device, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs commonly referred to as "billboards" are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

Planned Development Sign. A sign used in conjunction with an approved planned residential, office, business, industrial, or mixed use development.

Portable or Movable Sign. A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another. For example, a sign on wheels.

Projecting Sign. A sign which is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this ordinance.

Public Interest Sign. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

Real Estate Sign. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

Primary Sign. The main or principal sign located on the premises.

Roof Sign. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Secondary Business Identification Sign. An auxiliary wall sign, the purpose of which is to identify a business which is housed in the same structure as the principal business, but which is clearly subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.

Secondary Sign. A sign used in addition to a primary sign on a premises.

Temporary Sign. A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this ordinance.

Temporary Planned Development Sign. A sign that pertains to the development of a new commercial, residential, or mixed use development while it is under construction.

Vehicular sign. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this ordinance, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

Wall Sign. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.

Window Sign. Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building.



**ARTICLE 13  
MANUFACTURED HOMES**

**13.1 Provisions for Individual Manufactured Homes**

The purpose of these regulations is to promote sound neighborhood development and appearance, protect community property values, and to preserve the integrity and character of neighborhoods. **Manufactured homes are permitted on individual lots in the MHO (Manufactured Home Overlay) zoning district** and are subject to the following conditions:

- .1 The lot must be recorded as an individual lot in the office of the Register of Deeds for the County in which the property is located.
- .2 If municipal utilities are not available, the County Health Department with jurisdiction must approve the well and/or septic tank.
- .3 All dimensional requirements for the underlying district must be met. Manufactured homes shall be placed according to the standards for a detached house.
- .4 The lot must front a public street and said street frontage will be considered the front of the lot.
- .5 All homes shall face the road lengthwise if setbacks allow. No lot shall be subdivided for a manufactured home that would not allow for adequate road frontage to place the home lengthwise on the property.
- .6 At least two (2) off-street parking spaces shall be provided.
- .7 The manufactured home must meet or exceed the construction standards established by the U.S. Department of Housing and Urban Development (HUD) that were in effect at the time of construction. These standards became effective on July 15, 1976.
- .8 All areas not used for parking, manufactured home or required porches shall be grassed or otherwise suitably landscaped to prevent erosion.
- .9 Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, foundation skirting and roofing exceed that of gloss white. The exterior of the manufactured home must be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: (1) vinyl or aluminum lap siding; (2) cedar or other wood siding; (3) wood grain, weather resistant press board siding; (4) stucco siding; or (5) brick or stone siding. Siding shall be horizontal.
- .10 A continuous, permanent masonry wall, having the appearance of a conventional load-bearing foundation wall, unpierced except for required ventilation and access, shall be

installed under the perimeter of the manufactured home. All manufactured homes shall be tied down in accordance with North Carolina State Building Codes.

- .11 All manufactured homes shall have a deck, porch or a concrete patio with a minimum area of forty-eight (48) square feet. Permanent stairs shall be constructed at all exterior doors. They shall be self-supporting and anchored securely to the ground. A platform, measuring at least 15 square feet, is required at all exits where the exterior door swings out. Decks, porches and steps must be built in compliance with the North Carolina State Building Code.
- .12 The running lights and hitch shall be removed.
- .13 The pitch of the roof of the manufactured home shall have a minimum rise of three (3) feet for each twelve (12) feet of horizontal run and the roof shall be finished with a type of material that is commonly used in standard residential construction (i.e. wood shingle, wood shake, synthetic composite shingle, or ceramic tile).
- .14 All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.
- .15 Manufactured homes may be used as temporary living quarters, in the event of a natural disaster such as fire, flooding, etc., which would render the former residence uninhabitable, for a maximum period of one (1) year.
- .16 Class A (Doublewide) manufactured homes are permitted in the MH-O zoning district. Class B (Single-wide) manufactured homes are not permitted except in rare circumstances where a lot of record is configured in a way that prevents the placement of Class A manufactured home. A variance issued by the Board of Adjustment shall be required in such a case.
  - (a) Class A Manufactured Homes. A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 15, 1976), which is of multi-sectional or *double-wide* design. Class A Manufactured Homes shall be a minimum of 1150 square feet.
  - (b) Class B Manufactured Homes. A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after July 15, 1976), these homes are typically referred to as *single-wide* manufactured homes. Class B Manufactured Homes shall be a minimum of 980 square feet.

**ARTICLE 14**  
**TELECOMMUNICATIONS TOWER ORDINANCE**

**14.1 Definitions**

As used in this Ordinance, the following terms shall have the meanings indicated:

- .1 Alternative tower structure shall mean clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.
- .2 Pre-existing towers and antennas shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of this Ordinance.
- .3 Telecommunication Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy tower or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas.

**14.2 General Guidelines and Requirements**

- .1 Purpose and Goals. The purpose of this Ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this Ordinance are to: (i) encourage the location of towers in non-residential/non-historical areas and minimize the total number of towers throughout the community; (ii) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; (iii) encourage strongly the joint use of new and existing tower sites; (iv) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; and (v) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- .2 Principal Use. Telecommunication towers shall be considered principal uses. Alternative tower structures may be considered principal or accessory uses. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

### **14.3 Administrative Approved Uses**

The following uses may be approved by the Zoning Enforcement Officer, or his designee, after conducting an administrative review:

- .1 Installing an antenna in any zoning district on an existing structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non-residential structure) that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure.
- .2 Installing an antenna in any commercial or industrial zoning district on an existing non-residential structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non-residential structure) that is less than fifty (50) feet in height so long as such addition does not add more than twenty (20) feet to the height of the existing structure.
- .3 Installing an antenna on an existing tower of any height, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower.
- .4 Locating any alternative tower structure in any zoning district if in the judgment of the Zoning Enforcement Officer, it is in conformity with the goals set forth in Section 14.2 of this Article.
- .5 Replacing an existing tower that adds no more than 20 feet to the overall height of the existing structure.

### **14.4 Telecommunication Towers Conditional Use Criteria**

Communication companies are encouraged to locate telecommunication antennae on or in structures other than a tower. Such structures may include church steeples, transmission line towers, utility/light poles, water towers, etc. Where such facilities are not available, co-location of facilities is encouraged.

The Catawba Board of Adjustment may grant a conditional use permit when a new tower is proposed to be sited; a determination of whether the location will provide minimal level of coverage vs. maximum level of coverage will be taken into consideration. The following standards shall be used in the approval of the siting of new towers:

- .1 Evidence that the applicant has investigated the possibilities for locating the proposed facilities on an existing tower where the minimal level of coverage can be provided. Such evidence shall consist of:

- a) A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.
- b) A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.
- c) Provision of sound engineering evidence demonstrating that location in the proposed district is necessary in regards to the interest of public safety or is a practical necessity.

.2 Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna may be allowed in the B-1 Central Business, H-B Highway Business and the M-I Manufacturing Industrial zoning districts provided that the following requirements are also met:

- a) Evidence must be provided which establishes that the communications tower is structurally designed to support at least one (1) additional user and the application includes a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate regarding reasonable compensation for any liability, which may result from such attachment. The site plan shall show a location for at least one (1) equipment building in addition to that proposed for use by the applicant. Priority for co-location on the proposed tower shall be given to antennas that serve a public safety need for the community.
- b) In order to provide spatial separation and create a visual block from adjacent properties and streets, a buffer shall be installed and perpetually maintained around the perimeter of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment and security fence. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection. Buffering shall be required as follows:
  - i. A ten (10) foot buffer shall be provided between the fenced area(s) of the development and the property or lease lines.
  - ii. The planting shall consist of evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with maximum spacing of twenty-five (25) feet on centers. The minimum height for trees shall be six (6) feet in height at planting and they shall have an expected minimum maturity height of thirty-five (35) feet under normal growing conditions. There shall also be at least one row of dense shrubs, spaced not more than eight (8) feet on centers. Shrubs shall be a minimum of two (2) feet in height at planting and shall have an expected maturity height of eight (8) feet under normal growing

conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement.

- iii. Buffer requirements may be waived upon a finding that the existing topography or existing screening materials on site screen the property as effectively as the buffering required in (ii); or that the installation of new screening materials would be impractical or would serve no useful purpose (such waiver may also include situations when the type of non-residential adjoining use would not warrant screening), provided however, that the spirit and intent of this section are preserved. This paragraph shall not be construed to relieve the requirements of establishing screening for towers to be located adjacent to vacant properties or along any public street.
- c) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight (8) feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.
- d) No outside storage shall be allowed on any telecommunication facility site.
- e) Associated buildings shall not be used as a place of employment for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- f) The telecommunications facility shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.
- g) The minimum lot size requirement shall be in accordance with the zoning district where the facility is proposed to be located or the setback requirements of subsection (k), whichever is greater.
- h) The color of the tower shall be neutral, except to the extent required by Federal Law, so as to minimize its visual impact.
- i) In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner must provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the FCC.
- j) No commercial advertising shall be allowed on the facility's site.
- k) The setback of the base of the tower from all adjacent property and street right-of-way lines shall be one (1) foot for each one (1) foot in height. This setback may

be reduced by the Catawba Board of Adjustment upon a finding that a failure to grant a setback reduction would have the effect of prohibiting the provision of the telecommunication services, that the reduction serves the general intent and purpose of this section and that the reduction will not substantially interfere with or injure the rights of others whose property would be affected by the reduced setback. In no case shall the setback be reduced to less than fifty percent (50%) of the tower height. In no case shall the setback be less than those required by the underlying zoning district. Said setback reductions shall only be allowed upon a professional engineering certification which states that the structure's construction will cause the tower to crumble inward so that in the event of a collapse no damage to structures on adjacent lots will result.

- l) The maximum height of all towers is two hundred (200) feet.
- m) Notice shall be provided to the zoning enforcement officer when the tower is placed out of service. Towers, which are not used for a period of six (6) months or more, shall be removed by the owner within one hundred twenty days of receipt of notification to that effect.

**ARTICLE 15  
BUFFERS**

**15.1 Intent**

The purpose of this article is to preserve and protect the health, safety, and general welfare of the residents of Catawba by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide transition between different zones and preserve the character and aesthetics of an area.

**15.2 Planting Specifications**

**.1 Manufacturing-Industrial Zones (M-I) that abut residential zones (R-1, R-A).**

A planted buffer shall reach a minimum height of eight (8) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of two (2) rows of plants no more than 10 feet apart in each row. One of the plant types listed in section 15.2.4 shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

**.2 Commercial or Business Zones (B-1, O-I, H-B) that abut residential zones (R-1, R-A) and non-residential uses in residential zones (R-1, R-A).**

A planted buffer shall reach a minimum height of six (6) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of one (1) row of plants no more than 10 feet apart in the row. One of the plant types listed in section 15.2.4 shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

**.3 Required buffer heights and topographic considerations.**

The required height of the planted buffer shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In such cases as the ground elevation of the location at which the screen is to be planted is less than the elevation of the proposed building site, the required height of the screen shall be increased in an amount equal to said difference in elevation.

**.4 Plant types and spacings.**

Below are listed the types of plants that shall be used in planted buffers and the maximum distance each plant type shall be planted apart. Substitution for another plant type not listed is to be made in writing to the zoning administrator and is subject to verification that the proposed plant will thrive and provide adequate screening. No more than thirty (30) percent of the total plantings in a buffer shall be deciduous plants.



<i>Plant</i>	<i>Distance Apart (in feet)</i>
Arbor Vitae	4
Ligustrum Japonicum and varieties	5
Photinia	5
Holly	5
a.    Nellie R. Stevens	5
b.    Fosters #2	4
c.    Savannah	4
d.    Bufordi	5
Eleangnus Pungens	5
Osmanthus Varieties	4
Pfitzer Juniper	4
Doublefle Viburnum	5
Forsythia	3
White Pine	8 to 10
Scotch Pine	5 to 6
Deodara Cedar	8 to 10
Dogwood	8 to 10
Flowering Cherry	8 to 10
Flowering Crabapple	8 to 10
Bradford Pear	8 to 10
Oak	8 to 10
Linden	8 to 10
Leyland Cypress	8 to 10

<b>15.3 Planting Specifications</b>
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- .1 The specifications for planted buffers in Article 15 shall be required in all industrial and commercial zones when these areas abut residential zones and for all nonresidential uses in residential zones.
- .2 All plant types required in this article shall consist of plants at least three (3) feet in height when planted.
- .3 When two (2) rows of plantings are required, plants shall be staggered in a triangular pattern so that there is a plant spaced the required distance apart as specified in section 15.2.4.
- .4 When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
- .5 When industrial and commercial property is developed adjacent to vacant property zoned residential, a buffer shall be required.
- .6 The buffer shall be shown in detail on the site plan approved by the Town of Catawba.

- .7 The buffer shall be installed and approved before a certificate of occupancy will be granted except when seasonal weather conditions are not conducive, then a temporary certificate of occupancy may be issued for up to sixty (60) days.
- .8 The buffer shall be maintained, and dead and diseased plants replaced by the owner or occupant of the premises. The outside storage of materials shall be prohibited in the area between the planted buffer and the residential district. The owner or occupant of the premises shall properly and continuously maintain this area.
- .9 If a fence is erected on the residential district side of the planted buffer by the party establishing the buffer, the fence shall be one of the following types:
  - A six-foot high wood, basket weave type fence;
  - A six-foot high picket type fence;
  - A six-foot high chain link type fence;
  - A six-foot high open type fence;
  - A six foot-high solid masonry wall.

Fences with barbed or razor wire shall be located on the inside of the buffer.

**ARTICLE 16  
PLANNED UNIT DEVELOPMENTS**

**16.1 Planned Unit Development – Residential (PUD-R)**

Intent: The purpose of the Planned Unit Development – Residential is to encourage the development of living environments, which meet the needs of the people who live in them by providing certain development privileges in exchange for preplanning and design considerations. The Planned Unit Development – Residential provides flexibility in utilizing new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design which promotes the conservation of open space. The Board of Adjustment may approve this form of development in the districts that allow it as a conditional use, provided that the conditions specified in this article are met.

**16.1.1 Permitted Uses and Requirements.**

- (a) Uses permitted within the PUD-R:
  - Uses permitted within the zoning district for which the project site is located.
- (b) Permitted building and lot types:
  - Building and lot types permitted within the zoning district for which the project site is located.
- (c) Permitted accessory structures and uses:
  - Accessory structures and uses permitted within the zoning district for which the project site is located.
- (d) General Requirements:
  - (1) At the time of application for a Planned Unit Development – Residential, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a Planned Unit Development – Residential.
  - (2) A Planned Unit Development – Residential shall be located on a site containing at least two (2) contiguous acres.
  - (3) The development shall be in full compliance with all density and lot coverage limitations and requirements of the zoning district in which the development is to be located.

- (4) At least 10 percent of the land area for the Planned Unit Development – Residential shall be dedicated as permanent open/recreational space. This area shall be identified as open/recreation space on the submitted plans and shall be recorded as such in the Office of the Register of Deeds. This requirement may be reduced or eliminated upon approval by the Board of Adjustment if the proposed PUD-R is located within 1/4 mile of a Town owned and maintained recreational area or park. The Board of Adjustment must also determine if the existing recreational area or park will meet the needs of the PUD-R and surrounding development before it reduces any of the open space requirements.
  - (5) All new Planned Unit Developments – Residential shall provide concrete sidewalks along all existing and proposed public streets within the PUD-R. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-R. Sidewalks shall be a minimum of 5 feet wide and four inches thick except that at non-residential driveway entrances the sidewalk shall be six inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.
  - (6) The Board of Adjustment may require buffering around the proposed PUD-R.
  - (7) In approving an application for a PUD-R, the Board of Adjustment shall find that the proposed development will be compatible with comprehensive, land use, and neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.
  - (8) Site development within the PUD-R shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Board of Adjustment. Modification of the development plan may be made by the Board of Adjustment subsequent to their initial approval upon application by the owner of the property.
- (e) Application requirements: An application for a conditional use permit to allow a PUD-R shall be accompanied by schematic plans showing the information listed below. In addition, the Board of Adjustment may require additional information necessary to ensure compliance with the provisions of this ordinance.
- (1) Proposed location of buildings and their general exterior dimensions;
  - (2) Proposed use of all the land within the area requested for a PUD-R;

- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings;
- (7) Schedule of number and size of dwelling units within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project.

## **16.2 Planned Unit Development – Business (PUD-B)**

Intent: The purpose of the planned unit development – business is to encourage the development of environments, which meet the needs of the people who live or work in them by providing certain development privileges in exchange for preplanning and design considerations. The planned unit development – business provides flexibility in utilizing new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design which promotes the conservation of open space. The Board of Adjustment may approve this form of development in the districts that allow it as a conditional use, provided that the conditions specified in this article are met.

### **16.2.1 Permitted Uses and Requirements.**

- (a) Uses permitted within the PUD-B:
  - Uses permitted within the zoning district for which the project site is located.
- (b) Permitted building and lot types:
  - Building and lot types permitted within the zoning district for which the project site is located.
- (c) Permitted accessory structures and uses:
  - Accessory structures and uses permitted within the zoning district for which the project site is located.
- (d) General Requirements:
  - (1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of

whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a planned unit development.

- (2) A planned unit development shall be located on a site containing at least two (2) contiguous acres.
  - (3) The development shall be in full compliance with all density and lot coverage limitations and requirements of the zoning district in which the development is to be located.
  - (4) All new planned unit developments shall provide concrete sidewalks along all existing and proposed public streets within the PUD-B. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-B. Sidewalks shall be a minimum of 5 feet wide and four inches thick except that sidewalks shall be six inches thick at non-residential driveway entrances. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.
  - (5) The Board of Adjustment may require buffering around the proposed PUD-B.
  - (6) In approving an application for a PUD-B, the Board of Adjustment shall find that the proposed development will be compatible with comprehensive, land use, and neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.
  - (7) Site development within the PUD-B shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Board of Adjustment. Modification of the development plan may be made by the Board of Adjustment subsequent to their initial approval upon application by the owner of the property.
- (e) Application requirements: An application for a conditional use permit to allow a PUD-B shall be accompanied by schematic plans showing the information listed below. In addition, the Board of Adjustment may require additional information necessary to ensure compliance with the provisions of this ordinance.
- (1) Proposed location of buildings and their general exterior dimensions;
  - (2) Proposed use of all the land within the area requested for a PUD-B;

- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings;
- (7) Schedule of number and size of dwelling units/buildings within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project.

**ARTICLE 17  
WATERSHED PROTECTION RULES**

**17.1 Statutory Authorization**

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, (NCGS 143-214.5), delegated the responsibility and directed local governmental units in the state to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. These rules are adopted pursuant to and in compliance with that delegation and directive.

**17.2 Jurisdiction**

The provision of these rules shall apply within the areas designated as a public water supply watershed by the North Carolina Environmental Management Commission which are also within the corporate limits of the Town of Catawba or within the one mile extraterritorial planning jurisdiction of the Town of Catawba as now or hereafter fixed and shall be defined and established on a map entitled, "Watershed Protection Map of the Town of Catawba, North Carolina," (the "watershed map"), which is adopted simultaneously herewith and which shall become an overlay on the official zoning map. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of these rules.

**17.3 Exceptions to Applicability**

- (A) Nothing contained herein shall repeal, modify, or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of these rules amend, modify or restrict any provisions of the Code of Ordinances of the Town of Catawba; however, the adoption of these rules shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town of Catawba at the time of the adoption of these rules that may be construed to impair or reduce the effectiveness of these rules or to conflict with any of their provisions.
- (B) It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (C) Existing development, as defined in these rules, is not subject to the requirements of these rules. Expansions to structures classified as existing development must meet the requirements of these rules; however, the built-upon area of the existing development is not required to be included in the density calculations.



- (D) If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single family purposes.

**17.4 Criminal Penalties**

Any person violating any provisions of these rules shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NC GS §14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

**17.5 Remedies**

- (A) If any subdivision, development, and/or land use is found to be in violation of these rules, the Catawba Town Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business or use in or about the premises. In addition, the NC Environmental Management Commission may assess civil penalties in accordance with GS §143-215.6(a). Each day that the violation continues shall constitute a separate offense.
- (B) If the Watershed Administrator finds that any of the provisions of these rules are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by these rules to ensure compliance with or to prevent violation of their provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

**17.6 Severability**

Should any section or provision of these rules be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of these rules as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

**17.7 Effective Date**

These rules shall be effective as of October 1, 1993.

## **17.8 Establishment of Watershed Areas**

For purposes of these rules, the Town of Catawba and its one mile extraterritorial planning jurisdiction are hereby divided into the following areas (overlay districts):

- (A) WS-IV-CA (Critical Area)
- (B) WS-IV-PA (Protected Area)

## **17.9 Watershed Areas Described**

- (A) WS-IV Watershed Area – Critical Area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local program are required to meet the provisions of these rules when located in the WS-IV Watershed. Single family residential uses are allowed at a maximum of two (2) dwelling units per acre and all other residential and non-residential development shall be allowed twenty-four percent (24%) built-upon area. Stormwater runoff from all development utilizing the low-density option shall be transported by vegetative conveyances to the maximum extent practicable. New sludge application sites and landfills are specifically prohibited. In order to address a moderate to high land use intensity pattern, engineered stormwater controls may be used to control runoff from the first inch of rainfall with an approved High-Density Development Permit. In this case, development shall not exceed fifty percent (50%) built-upon area.
  - (1) Allowed Uses:
    - (a) Agriculture Subject to the Provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum of ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of US GS 1:24,000 (7.5 minute) scale topographic maps or as determined by Local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994, recommended by the Soil and Water Conservation Commission.
    - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
    - (c) Residential.
    - (d) Non-residential development, excluding: (1) the storage of toxic and hazardous materials unless a spill containment plan is

implemented, (2) landfills and (3) sites for land application of sludge/residuals or petroleum contaminated soils.

(2) Density and Built-Up Limits:

- (a) Single Family Residential. Development shall not exceed two dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
- (b) All Other Residential and Non-Residential. Development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (c) High-Density Option. Development shall not exceed fifty percent (50%) built-upon area on a project by project basis where stormwater controls are used to control runoff from the first inch of rainfall with an approved High-Density Development Permit. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(B) WS-IV Watershed Areas – Protected Area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of these rules when located in the WS-IV Watershed. Single family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre or thirty-six percent (36%) built-upon area is allowed for projects without a curb and gutter street system. Stormwater runoff from all development utilizing the low-density option shall be transported by vegetative conveyances to the maximum extent practicable. In order to address a moderate to high land use intensity pattern, engineered stormwater controls may be used to control runoff from the first inch of rainfall with an approved High-Density Development Permit. In this case, development shall not exceed seventy percent (70%) built-upon area.

(1) Uses Allowed:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209)
  - (c) Residential development.
  - (d) Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.
- (2) Density and Built-Up Limits:
- (a) Single Family Residential. Development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis except for projects without a curb and gutter system. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for projects without a curb and gutter system, except within an approved cluster development.
  - (b) All Other Residential and Non-Residential. Development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis, except that, for projects without a curb and gutter street system, development shall not exceed thirty-six (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
  - (c) High-Density Option. Development shall not exceed seventy percent (70%) built-upon area on a project by project basis where stormwater controls are used to control runoff from the first inch of rainfall with an approved High-Density Development Permit. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

<b>17.10 Special Procedures Regarding Issuance of High-Density Development Permits</b>
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**.1 High-Density Development Permit Required**

A High-Density Development Permit shall be required for new development exceeding the requirements of the low density option.

**.2 Procedure for Application**

- (A) The applicant shall complete the Town’s High-Density Development Permit Application and file same with the Watershed Administrator not less than thirty (30) days prior to the meeting at which the application is to be considered. The application shall include, but is not limited to, the following information:

- (1) A completed High-Density Development Permit Application signed by the owner of the property or his designated agent;
  - (2) Ten (10) reproducible copies of the development plan including detailed information concerning built-upon area;
  - (3) Ten (10) reproducible copies of the plans and specifications of the stormwater control structure(s) consistent with Section 17.27.1; and
  - (4) Permit application fees consistent with Section 17.27.6.
- (B) Prior to taking final action on any application, the Watershed Review Board or the Watershed Administrator may request information or recommendations from public agencies affected by the proposed development. Failure of the agencies to submit their comments in a timely manner shall not necessarily delay action by the Board.

### **.3 Public Hearing Required**

- (A) Upon receipt of a completed application, the Watershed Review Board, acting as the Board of Adjustment, shall hold a public hearing. The Watershed Administrator or his designee shall cause public notice to be given of the time, date and location of the hearing and clearly identify the location of the development requesting the High-Density Development Permit, the intended use of the property and the need for engineered stormwater controls.
- (B) The notice shall be published in a newspaper of general circulation in the Town of Catawba once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.
- (C) At the hearing, the applicant, the Watershed Administrator and any member of the public may provide testimony and evidence in favor of or opposition to the proposed High-Density Development Permit.

### **.4 Deliberation and Decision by the Watershed Review Board**

- (A) In its deliberations, the Watershed Review Board shall consider whether the proposal for a High-Density Development Permit is consistent with the following standards:
- (1) The proposed development will promote the public health, safety, and general welfare if located where proposed and developed and operated according to the application; and

- (2) The use minimizes impacts to water quality through the use of best management practices, cluster development and/or maximum setbacks from perennial waters; and
  - (3) The proposed development is in compliance with the general plans for the physical development of the Town and its environs.
- (B) The Watershed Review Board shall take action upon the application within sixty-five (65) days of its first consideration of the issue, which shall consist of one of the following:
- (1) Approval;
  - (2) Approval with conditions attached; or
  - (3) Denial.
- (C) The Watershed Review Board may impose such additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this Article. Such conditions shall run with the land and be binding upon the original applicant as well as all successors, heirs and assigns.

**.5 Action Subsequent to Decision**

- (A) The Watershed Administrator shall cause notice of the disposition of the application to be sent Certified Mail, Return Receipt Requested, to the applicant and a copy of the decision shall be filed in the Office of the Watershed Administrator.
- (B) If approved or approved with conditions, the Watershed Administrator shall issue the High-Density Development Permit after the applicant posts a performance bond or acceptable security as required in Section 17.27.2 and executes an Operation and Maintenance Agreement as required in Section 17.27.5.

**.6 Minor Changes and Modifications Approval Required**

- (A) The Watershed Administrator is authorized to approve minor changes in the approved plan for High-Density Development Permit, as long as such minor changes are in harmony with the action of the Watershed Review Board, but he shall not have the power to approve changes that constitute a modification of the approval. A modification shall require approval of the Watershed Review Board and shall be handled as a new application.
- (B) The Watershed Administrator shall use the following criteria in determining whether a proposed revision is a minor change or a modification;
  - (1) Any increase in built-upon area shall constitute a modification.

- (2) Any change in the type of engineered stormwater control structure to be used shall constitute a modification.
- (C) The Watershed Administrator shall, if he determines that the proposed action is a modification, require the applicant to file a request for approval of the modification, which shall be submitted to the Watershed Review Board, acting as a Board of Adjustment. The Board may approve or disapprove the application for approval of a modification, and prior to its action, may hold a public hearing thereon.

### **17.11 Cluster Development**

Clustering of development is allowed under the following conditions:

- (A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 17.9. Built-upon area for the project shall not exceed that allowed for the watershed.
- (B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (C) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.

### **17.12 Buffer Areas Required**

- (A) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of US GS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (B) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

### **17.13 Rules Governing the Interpretation of Watershed Area Boundaries**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

- (A) Where area boundaries are indicated as approximately following either street, alley, railroad, or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- (B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Town as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- (D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- (E) Where other uncertainty exists, the Watershed Administrator shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

### **17.14 Application of Regulations**

- (A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- (B) No area required for the purpose of complying with the provisions of these rules shall be included in the area required for another building.

### **17.15 Existing Development**

Any existing development, as defined in these rules, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of these rules; however, the built-upon area of the existing development is not required to be included in the density calculations.

- (A) Vacant Lots. This category consists of vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Catawba County. Lots



may be used for any of the uses allowed in the watershed area in which it is located, even though the lot area is below the minimum specified in these rules.

- (B) Uses of Land. This category consists of uses existing at the time of adoption of these rules where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
  - (1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - (2) Such use of land shall be changed only to an allowed use.
  - (3) When such use ceases for a period of at least one year, it shall not be reestablished.
- (C) Reconstruction of Buildings or Built-Upon Areas. Any existing building or built-upon area not in conformance with the restrictions of these rules that has been damaged or removed may be repaired and/or reconstructed; however, repair or reconstruction must be initiated within twelve (12) months and completed within two (2) years of such damage.
- (D) Projects that have received a 10/70 Bonus Permit prior to the adoption of the High-Density Development Permit standards shall be allowed to continue to develop under their existing permit.

<b>17.16 Watershed Protection Permit</b>
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- (A) Except where a single family residence is constructed on a lot deeded prior to the effective date of these rules, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued, nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Watershed Administrator. No watershed protection permit shall be issued except in conformity with the provisions of these rules.
- (B) Watershed protection permit applications shall be filed with the Watershed Administrator. The application shall be part of the application for a Zoning Compliance Permit.
- (C) Prior to issuance of a watershed protection permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of these rules.

- (D) A watershed protection permit, which shall be incorporated within the Zoning Compliance Permit, shall expire if a building permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

**17.17 Building Permit Required**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a watershed protection permit is required until that permit has been issued.

**17.18 Public Health Regulations**

**17.19 Public Health, In General**

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

**17.20 Abatement.**

- (A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- (C) Where the Watershed Review Board finds a threat to water quality and public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

**17.21 Watershed Administrator and Duties Thereof**

The Town of Catawba shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of these rules as follows:

- (A) The Watershed Administrator shall issue watershed protection permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.

- (B) The Watershed Administrator shall serve as clerk to the Watershed Review Board.
- (C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Rules and shall provide copies of all amendments upon adoption to the Division of Water Quality.
- (D) The Watershed Administrator is granted the authority to administer and enforce the provisions of these rules. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by these rules.
- (E) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Rules. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1<sup>st</sup> of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
- (F) The Watershed Administrator shall keep records of the Town's utilization of the provision that a maximum of ten percent (10%) of the non-critical area of the WS-IV Protected Area watershed may be developed with non-residential development to a maximum of seventy percent (70%) built-upon surface area. Records for the watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under the option, total acres approved for the development option and the individual file records for each development that is approved in these areas.

<b>17.22 Appeal From the Watershed Administrator</b>
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Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

#### **17.23 Changes and Amendments to the Watershed Protection Rules**

- (A) The Town Governing Board may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- (B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the Town Governing Board may proceed as though a favorable report had been received.
- (C) Under no circumstances shall the Town Council adopt such amendments, supplements or changes that would cause these rules to violate the watershed protection rules as adopted by the NC Environmental Management Commission. All amendments must be filed with the NC Division of Environmental Health and the NC Division of Community Assistance.

#### **17.24 Public Notice and Hearing Required**

Before amending these rules, the Town Governing Board shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

#### **17.25 Establishment of Watershed Review Board**

The Board of Adjustment of the Town of Catawba, as the same shall be constituted from time to time, shall also serve as the Town's Watershed Review Board.

#### **17.26 Powers and Duties of the Watershed Review Board**

- (A) **Administrative Review.** The Watershed Review Board shall hear and decide all applications for High-Density Development Permits and appeals from any decision or determination made by the Watershed Administrator in the enforcement of these rules.
- (B) **Variances.** The Watershed Review Board shall have the power to authorize, in specific cases, minor variance from the terms of these rules as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of

these rules will result in practical difficulties or unnecessary hardship, so that the spirit of these rules shall be observed, public safety and welfare secured, and substantial justice done. In addition, the Town shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

- (C) In granting the variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of these rules. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- (D) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - (a) The variance application;
  - (b) The hearing notices;
  - (c) The evidence presented;
  - (d) Motions, offers of proof, objections to evidence, and rulings on them;
  - (e) Proposed findings and exceptions;
  - (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review.

<b>17.27 Stormwater Control Structures</b>
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**.1 Design Standards for Stormwater Control Structures**

- (A) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required. These registered professionals are defined as professional engineers, landscape architects, to the extent allowed by GS § 89A, or land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in GS § 89 (C)-3(7).
- (B) All stormwater control structures shall be designed, constructed, and maintained according to the standards of the current NC DWQ Stormwater BMP Manual. If conflicts with the requirements in Section 17.27 C. through F. exist then the more stringent requirements apply.

- (C) The design criteria for approval shall be eighty-five percent (85%) average annual removal of total suspended solids. In addition, the discharge rate shall meet one of the following criteria:
  - (1) The discharge rate following the one (1) inch design storm shall be such that the runoff draws down to the pre-storm design stage within five (5) days, but not less than two (2) days; or
  - (2) The post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.
- (D) All land areas outside of the stormwater control structure shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the Operation and Maintenance Agreement described in Section 17.27.5.
- (E) A description of the area containing the stormwater control structure shall be prepared and filed as a separate deed with the Catawba County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, other structures related to the stormwater control structures, and sufficient area to perform inspections, maintenance, repairs, and reconstruction.
- (F) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area, but may not be used in the computation of pervious area for more than one site.

## **.2 Posting of Financial Security Required**

- (A) All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs, or reconstruction necessary for adequate performance of the stormwater control structures. Financial assurances shall be made in the following forms:
  - (1) Security Performance Bond or other security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the Town or placed in escrow with a financial institution designated as an official depository of the Town. The bond or other instrument shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the Watershed Review Board. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures;

seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The cost shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization; and

- (2) Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 17.27.7 (B) and upon release of the performance bond, the applicant shall deposit with the Town either cash or other security approved by the Watershed Review Board that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the stormwater control structure as estimated by the applicant and approved by the Watershed Review Board or the estimated cost of maintaining the stormwater control structure over a ten (10) year period as approved by the Watershed Review Board, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved Operation and Maintenance Plan provided by the developer. The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by to fifths or 0.4.

- (B) Consistent with Section 17.27.5, the applicant shall enter into a binding Operation and Maintenance Agreement between the Watershed Review Board and all interests in the development which is satisfactory to the Watershed Review Board and, which shall require the owning entity to maintain, repair, and if necessary, reconstruct the stormwater control structure in the accordance with the Agreement provided by the developer. The Agreement shall be filed with the Catawba County Register of Deeds by the Watershed Administrator.

### **.3 Default under the Performance Bond or Other Security**

Upon default of the applicant to complete and/or maintain the stormwater control structure as required by the Operation and Maintenance Agreement, the Town may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Town shall return any funds not spent in completing the improvements to the owning entity.

### **.4 Default under the Cash Security**

Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the Operation and Maintenance Agreement, the Town shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Agreement. The Town shall not return any deposited cash funds.

## **.5 Maintenance and Upkeep**

- (A) An Operation and Maintenance Plan shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.
- (C) Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approval plans and specifications of the stormwater control structure and the Operation and Maintenance Plan. After notification by the owning entity, the Watershed Administrator shall inspect the completed improvements and shall inform the owning entity of any required additions, changes, or modifications and of the time period to complete said improvements. The Watershed Administrator may consult with an outside engineer or landscape architect (to the extent allowed by GS § 89A).
- (D) Amendments to the plans and specifications of the stormwater control structure and/or the Operation and Maintenance Plan shall be approved at the discretion of the Watershed Review Board and shall be satisfactory to the Watershed Review Board. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent allowed by GS § 89A).
- (E) If the Watershed Review Board finds that the Operation and Maintenance Plan is inadequate for any reason, the Board shall notify the owning entity of any required changes. The owning entity shall be responsible for preparing and filing copies of the revised Plan with the Catawba County Register of Deeds and the Office of the Watershed Administrator.

## **.6 Application and Inspection Fees**

- (A) Application and inspection fees shall be submitted in the form of a check or money order made payable to the Town.
- (B) A permit and inspection fee schedule, as approved by the Town Council shall be posted in the Office of the Watershed Administrator.



**.7 Inspections and Release of the Performance Board**

- (A) The Watershed Administrator shall inspect the stormwater control structure after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:
  - (1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Catawba County Register of Deeds; and
  - (2) A certification sealed by an engineer or landscape architect (to the extent allowed by GS § 89A) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.
- (B) The Watershed Administrator shall present the above materials, the inspection report and recommendation to the Watershed Review Board at its next regularly scheduled meeting.
  - (1) If the Board approves the inspection report and accepts the certification, deed and easements, the owning entity shall file the deed and easements with the Catawba County Register of Deeds, release the performance bond or other security and issue a Watershed Protection Permit, consistent with Section 17.16.
  - (2) If deficiencies are found, the Board shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board. A Watershed Protection Permit shall not be issued for any building within the permitted development until the Watershed Review Board has approved the stormwater control structure.
- (C) All stormwater control structures shall be inspected at least once on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved by the North Carolina Division of Environmental Management. Annual inspections shall begin within one (1) year of filing date of the deed for the stormwater control structure.
- (D) In the event the Watershed Administrator discovers the need for corrective action or improvements, he shall notify the owning entity of the needed improvements and the date by which the corrective action must be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the Operation and Maintenance Plan. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements. The Watershed Administrator may consult with an outside engineer or landscape architect an outside engineer or landscape architect (to the extent allowed by GS § 89A).

## **.8 Sanctions**

In addition to the remedies described in Section 17.5 of this Article and consistent with GS § 160A-175, the Watershed Review Board may seek enforcement of this Article through the Town Council by assessing a civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for the violation. Said violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceeding, including the Rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceeding and posting a bond for compliance with order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this ordinance may be by any one, all or a combination of the remedies authorized in this ordinance. Each day's continuing violation shall be a separate and distinct offense.

### **17.28 Appeals from the Watershed Review Board**

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

### **17.29 General Definitions**

The intent of the definitions found within this section is to apply specifically to watershed management measures. These terms are intended as supplements to the definitions found in Article 5 of this Code.

**Agricultural Use.** The use of waters for stock watering, irrigation and other farm purposes.

**Animal Unit.** A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animal operations.

**Best Management Practices (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer.** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-Up Area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered impervious.)

**Cluster Subdivision.** A development design technique that allows the subdivision of land into not more than the number of lots permissible in a conventional subdivision of the same property in the same zone, but where the size of individual lots may be reduced in order to gain land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

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

**Customary Home Occupations.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Discharging Landfill.** A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one family.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of these rules based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) having an outstanding valid business permit as authorized by the General Statutes (GS 153A-344.1 and GS 160A-385.1), or
- (3) having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes (GS 153A-344.1 and GS 160A-385.1).

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of these rules, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of these rules.

**Family.** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

**Hazardous Material.** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Industrial Development.** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the NC General Statutes. For the purpose of these rules, this term does not include composting facilities.

**Lot.** A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**Major Variance.** A variance from the minimum statewide water supply watershed protection criteria that results in any one or more of the following:

- (1) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater system;
- (2) the relaxation, by a factor greater than ten percent (10%), of any buffer or built-upon area requirement under the high density option.
- (3) the relaxation, by a factor greater than five percent (5%), of any buffer or built-upon area requirement under the high density option.

**Minor Variance.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor up to five percent (5%) of any buffer, density, or built-upon requirement under the high density option; or that results in a relaxation, by a factor up to ten percent (10%), of any management requirement under the low density option.

**Non-Conforming Lot of Record.** A lot described by a plat or a deed that was recorded prior to the effective date of this Chapter that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

**Non-Residential Development.** All development other than residential development, agriculture and silviculture.

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

**Protected Area (PA).** Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined within five miles upstream of and draining to a water supply reservoir, or to the ridge line of the watershed, whichever comes first; or within ten miles of and draining to a water intake located in a stream or river, or to the ridge line of the watershed, whichever comes first.

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

**Single-Family Residential.** Any development where: (1) no building contains more than one dwelling unit, (2) every dwelling unit is on a separate lot, and (3) where not lot contains more than one dwelling unit.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

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

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by these rules:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these rules;
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two 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 these rules;
- (5) The division of a tract into plots or lots used as a cemetery.

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

**Variance.** A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into these rules.

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

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

**Watershed Administrator.** An official or designated person of the Town responsible for administration and enforcement of these rules.

<b>17.30 Word Interpretation</b>
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For the purpose of these rules, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word “person” includes a firm, association, corporation, trust, and company as well as an individual.

The word “structure” shall include the word “building.”

The word “lot” shall include the words, “plot,” “parcel,” or “tract.”

The word “shall” is always mandatory and not merely directory.

The word “will” is always mandatory and not merely directory.

**ARTICLE 18  
ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**18.1 Zoning Enforcement Officer**

This Ordinance shall be administrated and enforced by the Zoning Enforcement Officer who shall be appointed by the Town Manager, and is hereby empowered:

- .1 To issue a zoning permit when these regulations have been followed or, to refuse to issue the same in the event of noncompliance. Written notice of such refusal and reason therefore shall be given to the applicant.
- .2 To collect the fees set forth herein for a zoning permit, variances, appeals, rezonings, conditional use permits and subdivisions.
- .3 To make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning permits and of receipt of complaints of violation of this Ordinance and action taken to the same.
- .4 To inspect any building and/or land to determine whether any violations of this Ordinance have been committed or exist.
- .5 To enforce this Ordinance and take all necessary steps to remedy any condition found in violation by ordering in writing the discontinuance of illegal uses or illegal work in progress and may institute injunction, mandamus, or other necessary action.
- .6 To keep the Board of Adjustment advised of all matters other than routine duties pertaining to the enforcement of this Ordinance and to transmit all applications and records pertaining to appeals, variances, or requests for conditional use approval.

**18.2 Zoning Permit Required**

Within the corporate limits and extraterritorial jurisdiction of the Town of Catawba no building, sign or other structure shall be erected, moved, added to or structurally altered before a zoning permit has been issued by the Zoning Enforcement Officer of the Town of Catawba.

**18.3 Application for a Zoning Permit**

Each application for a zoning permit to the Zoning Enforcement Officer of the Town of Catawba shall be accompanied by a fee, set by the Town Council, and a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the owner upon approval. The plan shall show the following:

- .1 The actual dimensions of the lot to be built upon;
- .2 The size and location of all buildings existing on the lot;



- .3 The size and location of the proposed new construction;
- .4 The existing and intended use of all parts of the land or building;
- .5 Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.

Any zoning permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year.

<b>18.4 Certificate of Occupancy Required</b>
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No land within the corporate limits or extraterritorial zoning jurisdiction of the Town of Catawba shall be used or occupied and no building within the corporate limits or extraterritorial zoning jurisdiction of the Town of Catawba shall hereafter be erected, structurally altered, converted or changed in use until a Certificate of Occupancy shall have been issued by the Zoning Enforcement Officer stating that the building or the proposed use thereof complies with the provisions of this Ordinance. A Certificate of Occupancy either for the whole or a part of a building shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this Ordinance. A temporary Certificate of Occupancy may be issued by the Zoning Enforcement Officer for a period not exceeding six (6) months during alterations or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals, and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person requesting it.

<b>18.5 Penalties for Violations</b>
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- .1 Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding two hundred dollars (\$200) or by imprisonment not to exceed thirty (30) days.
- .2 In addition to the penalty in subsection 18.5.1 above, a violation of this Ordinance shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this Ordinance shall be issued a written citation. The penalty shall be paid to the Town of Catawba within seventy-two hours from the time of issuance of the written citation.
- .3 Each day's continuing violation shall be a separate and distinct offense.

- .4 In addition to the penalties imposed under subsection 18.5.1 and 18.5.2 above, the provisions of this Ordinance may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.
- .5 This Ordinance may be enforced by any one, all or a combination of the remedies authorized herein.

<b>18.6 Remedies</b>
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In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this Ordinance, the Zoning Enforcement Officer or any other appropriate town authority or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

In case any sign shall be installed, erected or constructed in violation of any of the terms of this Ordinance, the Zoning Enforcement Officer shall notify by personal notice or registered mail the owner or lessee thereof to alter such sign so as to comply with this Ordinance and to secure the necessary permit therefor or to remove the sign. If such an order is not complied with within ten (10) days, the Zoning Enforcement Officer shall remove the sign at the expense of the owner or lessee thereof. In the event that such sign should become insecure, or in danger of falling, the person maintaining the same shall, upon written notice from the Zoning Enforcement Officer, forthwith, in case of immediate danger, and in any case, within ten (10) days secure it in a manner approved by the Zoning Enforcement Officer.

**ARTICLE 19  
PLANNING BOARD**

**19.1 Establishment of the Planning Board**

A Planning Board is hereby established as provided in Section 160A-361 of the General Statutes of North Carolina. Said Board shall consist of eight (8) regular members and two (2) alternate members and shall have proportional representation from within the corporate limits and the Extraterritorial Jurisdiction of the Town of Catawba. Four (4) regular members and one (1) alternate member shall be appointed by the Town of Catawba; and four (4) regular members and one (1) alternate member shall be appointed by the Catawba County Board of Commissioners for overlapping terms of three (3) years. Initially the Town Council and County Commissioners shall appoint two (2) regular members for a three (3) year term, two (2) regular members for a two (2) year term and one (1) alternate member for a one (1) year term. Alternate members of the Board of Adjustment shall be called on to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Except at the election of officers, at no time shall more than eight (8) members participate officially in any meeting or hearing. Should population in either the Town or Extraterritorial Jurisdiction change enough to require an additional member to the Planning Board or the Zoning Board of Adjustment then numbers appointed by the Town Council and the Catawba County Board of Commissioners will be changed accordingly.

**19.2 Proceedings and duties of the Planning Board**

The Planning Board shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Planning Board shall adopt rules of procedure in accordance with the provisions of this Ordinance and in Article 19, Chapter 160A of the General Statutes of North Carolina. Meetings of the Planning Board shall be held once a month or at the call of the Chairman. All meetings of the Planning Board shall be open to the public.

It shall be the duty of the planning board, in general:

- (1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions;
- (2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;
- (3) To establish principles and policies for guiding action in the development of the area;
- (4) To prepare and recommend to the Town Council ordinances providing orderly development along the lines indicated by the comprehensive plan;
- (5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

- (6) To keep the Town Council and general public informed and advised as to those matters;
- (7) To perform any other duties which may lawfully be assigned to it.

**ARTICLE 20**  
**BOARD OF ADJUSTMENT**

**20.1 Establishment of the Board of Adjustment**

A Board of Adjustment is hereby established as provided in Section 160A-388 of the General Statutes of North Carolina. The Planning Board shall function as the Board of Adjustment as provided in Section 160A-388 of the General Statutes of North Carolina.

**20.2 Provisions of Ordinance**

The zoning or unified development ordinance may provide that the board of adjustment hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

**20.3 Notice of Hearing**

Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**20.4 Jurisdiction and Decision of the Board of Adjustment**

(1) Voting.

(a) The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(b) A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(2) Quasi-Judicial Decisions and Judicial Review.

(a) The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(b) Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

<b>20.5 Proceedings of the Board of Adjustment</b>
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The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Board shall adopt rules of procedure in accordance with the provisions of this Ordinance the General Statutes of North Carolina.

<b>20.6 Appeals</b>
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The board of adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the zoning or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

(1) Any person who has standing under G.S. 160A-393(d) or the city may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the city clerk. The notice of appeal shall state the grounds for the appeal.

- (2) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- (3) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.
- (4) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- (5) The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- (7) Subject to the provisions of subdivision (6) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.
- (8) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order,

requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

(9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

(10) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

### **20.7 Fees for Variances, Conditional Use Permits and Appeals**

A fee, set by the Town Council, shall be paid to the Town Clerk of the Town of Catawba, North Carolina for each application for a variance, conditional use permit, or appeal to cover the necessary administrative costs and advertising.

### **20.8 Powers and Duties of the Board of Adjustment**

The Board of Adjustment shall have the following powers and duties:

- (1) Conditional Uses. To grant in particular cases and subject to the appropriate conditions and safeguards, permits for conditional uses as authorized by this Ordinance and set forth as Conditional Uses under the various use districts. The Board shall not grant a conditional use permit unless and until:
  - (a) A written application for a conditional use permit is submitted to the Zoning Enforcement Officer indicating the section of this Ordinance under which the conditional use permit is sought;
  - (b) A public hearing is held. Notice of such public hearing shall be mailed to property owners within one hundred (100) feet of the property for which the conditional use permit is sought and deposited in the mail at least ten (10) days and not more than twenty-five (25) days prior to the public hearing.
  - (c) The Board of Adjustment finds that in the particular case in question, the use for which the Conditional Use Permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this Ordinance.



- (d) If at any time after a Conditional Use Permit has been issued, the Board of Adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a Conditional Use Permit, the permit shall be terminated and the operation of such a use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

(2) Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(d) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

## **20.9 Oaths**

The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

## **20.10 Subpoenas**

The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a

person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**ARTICLE 21  
AMENDMENTS**

**21.1 Procedure for Amendments**

The Town Council may amend, supplement or change the text regulations and zoning district lines according to the following procedures:

- .1 Initiation of Amendments. Proposed changes or amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, or by one or more owners or lessees of property within the area proposed to be changed or affected.
- .2 Petition. A petition for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied and the names and addresses of the owner or owners of the property. Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks prior to the meeting at which the petition is to be considered.
- .3 Fee. A fee, set by the Town Council, shall be paid to the Town Clerk of the Town of Catawba, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved.

**21.2 Action by the Planning Board**

The Planning Board shall consider and make recommendations to the Town Council concerning each proposed zoning amendment. The Planning Board, at its own discretion, may hold a public hearing if deemed necessary by the Planning Board. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board will send its written recommendation that addresses plan consistency and other matters as deemed appropriate by the Planning Board directly to the Town Council who shall hold a public hearing for every proposed zoning amendment. Comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.

**21.3 Town Council Consideration**

The Town Council shall consider changes and amendments to this Ordinance as often as necessary, provided, however, that should the Town Council deny a request for a zoning amendment, it shall not thereafter accept any other petition for the same change of zoning district affecting the same property, or any portion thereof, until the expiration of one (1) year from the date of such previous denial.

## 21.4 Required Notifications

- .1 Legal Notice of Public Hearing. No amendment shall be adopted by the Town Council until after public notice and hearing. In accordance with NCGS 160A-364, notice of public hearing shall be published in a newspaper of general circulation in the Town of Catawba at least once each week for two (2) successive weeks prior to the hearing. The first notice shall appear in the newspaper at least ten (10) days but not more than twenty-five (25) days prior to the hearing.
- .2 Mail Notice Requirements. In accordance with NCGS 160A-384, whenever the amendment involves a change in the zoning classification of a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting or within 100 linear feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in Section 21.4.1. Such notice shall be sent by first class mail to the last address listed for such owners on the county tax listing. The person responsible for making the mailed notice shall certify to the Town Council that such notice was indeed prepared and mailed.
- .3 Posted Notice of Public Hearing. In accordance with NCGS 160A-384, whenever a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.
- .4 Substitute Notice.
  - (a) In accordance with NCGS 160A-384(b)(3), (4) and (5) individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria:
    - 1) if the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;
    - 2) if the proposal involves an amendment to the text of the Zoning Ordinance such that it changes the permitted, conditional, or accessory uses of a zoning district;
    - 3) if the Town is adopting a water supply watershed protection program as required by NCGS 143-214.5
  - (b) Notice requirements for amendments meeting any of the three criteria of Section 21.4.3 (a) above are as follows:

- 1) Notice of the public hearing shall be published in a newspaper of general circulation in the Town of Catawba at least once each week for two (2) consecutive weeks prior to the hearing. The notice shall not be less than one-half of a newspaper page in size. The first notice shall appear in the newspaper at least ten (10) days but not more than twenty-five (25) days prior to the hearing;
- 2) The Town must post at least one or more prominent signs immediately adjacent to the subject area. The signs must be of a type and size that may be reasonably expected to provide adequate notice of the proposal to the public;
- 3) The Town must notify by first class mail any property owner who resides outside the Town's zoning jurisdiction or outside the circulation area of the newspaper in which the notice is published. The notice must be mailed to the last address listed for such owners on the most recent county tax listing.

### **21.5 Town Council Action**

Before taking such lawful action as it may deem advisable, the Town Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendations are received from the Planning Board within thirty (30) days after their meeting, the proposed amendment shall be deemed to have been approved by the Planning Board. Prior to adopting or rejecting any zoning amendment, the Town Council shall adopt by resolution a statement describing whether its action is consistent with an adopted comprehensive plan and any other officially adopted plan that is applicable and explaining why the Council considers the action taken to be reasonable and in the public interest. Under no circumstances shall the Town Council adopt such amendments that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this Ordinance shall be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

### **21.6 Protest Petitions**

- .1 General. A protest petition may be presented against any proposed amendment. The protest petition must be signed by at least twenty percent (20%) of the property owners of the area which would be affected by the amendment or those immediately adjacent thereto, either in the rear thereof or on either side thereof, extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage on the opposite lots. In this case the amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Catawba Town Council.

- .2 Petition Requirements. No protest petition against any change in or amendment to the Zoning Ordinance or Zoning Map shall be valid unless presented in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do indeed protest the proposed amendment or change. Furthermore, the protest petition must be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment in order to determine the sufficiency and accuracy of the petition (G.S. 160A-387).

**ARTICLE 22  
LEGAL PROVISIONS**

**22.1 Conflict with Other Regulations**

Whenever the regulations of this Ordinance require a greater width or size of yards, or other open space, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the regulations and requirements of this Ordinance shall govern.

Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

**22.2 Repeal of Existing Zoning Ordinance**

All zoning ordinances or parts of same now in effect in the Town of Catawba are hereby repealed, provided, however, that all suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; any and all violations of existing zoning ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

**22.3 Validity**

Should any Section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

**22.4 Enactment**

The Mayor and Town Council of Catawba, North Carolina, do hereby ordain and enact into law these Articles and Sections on this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

SEAL

ATTEST

\_\_\_\_\_  
- Mayor

\_\_\_\_\_  
- Town Clerk