CHAPTER 2. ZONING*

*Editor's note: This chapter is derived from Ord. No. 1991-879-TC-380, as amended by ordinances listed in history notes accompanying the affected provisions.

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GRAPHIC LINK:HOW TO USE THE ZONING CODE

ARTICLE A. GENERAL PROVISIONS.

Sec. 10-2001. DECLARATION OF NECESSITY.

It is deemed necessary in order to preserve and promote the health, comfort, convenience, good order, better government, safety and morals, and in order to promote the systematic future development of the*City* , the economic and industrial prosperity; prevent or relieve congestion, either of population or traffic, control the fire hazard, preserve the natural and historic features of the *City* and beautify the same, to divide the *City* into districts or zones and to make regulations therefor in accordance with a Comprehensive Plan for the use and development of all parts of the *City* , designed to insure a fair and adequate division of light and air among *buildings* , protect the *residential districts* , conserve *property* values, facilitate adequate provision of water, sewage, schools, parks and other public requirements, and to encourage the most appropriate use of land throughout the *City* .

(*Code 1959* , §24-1)

Charter reference: Zoning, §6.39.

Cross references: Subdivisions, Part 10, chapter 3; floodprone area regulations, Part 10 chapter 4; soil erosion and sedimentation control, Part 10 chapter 5; building and housing codes, Part 10 chapter 6;*manufactured homes* , §10-6171 et seq. ; sidewalks and driveways, Part 10 chapter 7; facility fees, Part 10 chapter 8.

State law reference: Authority to adopt and enforce zoning regulations, Chapter 160A, Article 19, Part

3 (*G.S.* 160A-381 et seq.)

Annotation: In *Allred* v. *City of Raleigh,* general use 277 N.C. 530, 178 S.E. 2d 432, (1970) the court held that the *City's* zoning ordinance complies with two (2) of the essentials of a comprehensive zoning ordinance, viz: (1) it applies to all territory subject to the zoning jurisdiction of the *council* , and (2) all uses permissible in a particular district or zone are available as of right to the *owner* of *property* within such district or zone. However, the court held that an ordinance rezoning to a less restrictive residential classification is invalid where the *Council* did not determine that the proposed tract and the existing circumstances justified rezoning "so as to permit all uses permissible under the new classification", but instead based its action on specific plans of the applicant. For ruling on unlawful spot zoning and contract zoning see *Blades* v. *City of Raleigh,* 280 N.C. 531, 187 S.E. 2d 35 (1972). The validity of a zoning ordinance *may* be determined under the Declaratory Judgment Act, but only when challenged by a *person* who has a specific personal legal interest in the subject matter and who is directly and adversely affected by the ordinance. *Taylor* v. *City of Raleigh,* 290 N.C. 609, S.E. 2d 562 (1976).

Sec. 10-2002. DEFINITIONS.

(a) Meaning of Words and Terms Generally.

All words and terms used in Part 10 chapters 1 and 2 have their commonly accepted and ordinary meaning unless they are specifically defined in this Code or the context in which they are used clearly indicates to the contrary. In the absence of court decisions or Board of Adjustment decisions specifically interpreting the provision in question, specific definitions listed in the zoning chapter or other portions of this Code, or previous interpretations of the provision by the*City* administration, the meaning of provisions in the zoning chapter *shall* be based on the *following* general hierarchy of sources:

(1) For a legal term, definitions in a legal dictionary, or if not a legal term, definitions in an ordinary dictionary.

(2) Ordinance statements of the purpose and intent of particular sections, or background reports and studies adopted or referred to in the ordinance, although such documents cannot overrule a specific Code provision.

(3) Minutes of discussions of legislative or advisory bodies considering adoption of the provision in question.

(4) Definitions of similar terms contained in federal and state statutes and regulations.

(5) Ordinary rules of grammar.

When vagueness or ambiguity is found to exist as to the meaning of any word or term used in chapters 1 and 2 of this Part, any appropriate cannon, maxim, principle or other technical rule of interpretations or construction used by the courts of*this state* *may* be employed to resolve vagueness and ambiguity in language.

Cross reference: Appeals to the Board of Adjustment §10-2142.

(b) Meaning of Specific Words and Terms.

Certain words that appear in this subsection are defined for the purpose of Part 10 chapters 1 and 2, as follows:

Academic space. That *gross floor area* of an educational use designed and utilized for educational and administrative activities, including: classroom, laboratory, office, study, research, administrative, and computer facilities, but not including theaters, health care facilities, residential facilities, vehicle service or storage facilities, laundry facilities, food preparation and dining facilities, or nonclassroom physical education or athletic facilities.

(Ord. No. 75-TC-301, §1, TC-18-87, 11-4-87)

Access point . A point of ingress or egress, or both, which *may* be a private driveway or public or private *street* .

Accessory structure . Any structure subordinate in both purpose and size which is incidental to and customarily associated with any *principal structure* or *principal use* that is located on the same *lot* and which serves the *principal structure* or *principal use* , including, but not limited to, storage *buildings* , garages, fountains, and fences.

Accessory use . An " *accessory use* " is a structure or use which meets all the *following* :

(1) It is clearly incidental to and customarily found in connection with a*principal building or use* .

(2) It is subordinate to and serves a*principal building* or a *principal use* .

(3) It is subordinate in area, extent or purpose to the*principal building* or *principal use* served.

(4) It contributes to the comfort, convenience or needs of occupants, business or industry in the*principal building* or *principal use* served.

(5) It is located on the same*lot* as the *principal building or use* served.

Annotation:*Accessory use* . A separate pinball machine and pool table room is not an *accessory use* to a service station. A-65-81 Dunn, Board of Adjustment (*May* 11, 1981). An unmanned automatic cash-dispensing bank teller machine located in a separate structure from the *principal building* is not an accessory *building* to a gasoline service station. A-231-83 Crown Central Petroleum Corp., Board of Adjustment (Dec. 12, 1983).

(Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94)

Active tree preservation. Arboricultural practices designed to ensure survival of *existing trees* by the protection of *critical root zones* from *tree disturbing activities* and the application of one or more arboricultural maintenance procedures, including but not limited to: watering, fertilizing, pruning of *trees* , pruning of roots, and aeration beginning at the issuance of the grading permit and continuing for a minimum period of one (1) *year following* construction, with frequency based on a plan approved by the *City Forestry* Specialist.

(Ord. No. 2002-203-TC-218, §1, TC-5-02, 5-7-02; Ord. No. 2005-762-TC-264, §2, TC-7-04, 1-4-05)

Adult cabaret . Any place which features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers.

Adult establishment. *Adult cabarets, adult media centers, sadomasochism centers,* and any place contained in G.S. 14-202-10(b), excluding masseurs.

(Ord. No. 1995-793-TC-125, §1, TC-28-95, 12-5-95; Ord. No. 1997-220-TC-158, §1, 10-21-97)

Adult media center . Any place:

(1) Which receives a majority of its gross income during any calendar*month* from the sale, rental, or both of books, periodicals, magazines, videotapes, CD-ROM, computer software, movies, and other products offered in photographic, print, electronic, magnetic, or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas" as defined in *G.S.* 14-202.10(10), or "specified sexual activities" as defined in *G.S.* 14-202.10(11); or "sexually oriented devices" as defined in *G.S.* 14-202.10(9), or any combination thereof; or

(2) Having as a preponderance of its books, periodicals, magazines, videotapes, CD-ROM, computer software, movies, and other products offered in photographic, print,

electronic, magnetic, or digital or other imaging medium which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas" as defined in*G.S.* 14-202.10(10), or "specified sexual activities" as defined in *G.S.* 14-202.10(11); or "sexually oriented devices" as defined in *G.S.* 14-202.10(9), or any combination thereof.

(Ord. No. 1995-793-TC-125, §2, TC-28-95, 12-5-95)

Affected area . An area which will potentially suffer special damages, distinct from the rest of the community, by the determination of a quasi-judicial body. The boundaries of an *affected area* will vary depending on the particular subject matter to be decided by the quasi-judicial body.

Affordable housing . Housing that is affordable to families with an annual household income of no greater than eighty percent (80%) of area median income, adjusted for household size, according to the then-current income limits established by the United States Department of Housing and Urban Development in accordance with Section 3 of the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.), or any successor legislation.

(Ord. No. 2006-105-TC-294, §1, TC-16-06, 10-3-06)

Agriculture - general . The raising and harvesting of *trees* (excluding *forestry*), vines, seeds, plants and crops, as well as the keeping, grazing or feeding of animals (including fish) for animal products, animal propagation, or value increase.

Cross reference: Part 12, chapter 5, Restrictions on Animals inside*City* Limits.

Agriculture - restricted . The raising and harvesting of *tree* crops (excluding *forestry*), vine crops and horticultural specialties not requiring intense cultivation, but gardens as an accessory use are permitted. The keeping and/or grazing of animals for animal products, animal propagation or value increase are not agricultural restricted activities.

(Ord. No. 1997-137-TC-153, §1, TC-18-96, 6-17-97)

Cross reference: Part 12, chapter 5, Restrictions on Animals inside*City* Limits.

Apartment house . Any *dwelling* containing three (3) or more *dwelling units* .

(Ord. No. 520-TC-58, §7, TC-82, 5-18-77)

Apartment project . A systematically built group of *apartment houses* .

(Ord. No. 319-TC-335, TC-29-88, 7-26-89; Ord. No. 946-TC-164, TC-213, 7-22-82; Ord. No. 901-TC-162, §1, TC-212, 5-4-82)

Area of copy . The square or rectangular area which fully encloses the extreme limits of the message, *copy* , announcement or decoration on a *sign* .

Attached cluster housing . Two (2) attached *single-family dwellings* which are approved as part of a *cluster unit development* .

Automotive service and repair facilities . Any establishment where fuel, lubricants, parts, or service, self or by others, is rendered directly to a motor vehicle. Such a facility includes, without limitation: an automobile service station; an establishment for tuning, and lubricating automobile engines; an automotive washing and cleaning facility; a garage for repair of tires, mufflers, engines, transmissions, batteries; a shop for body work and painting; and any establishment with any gasoline pump opened to the public.

(Ord. No. 499-TC-349, §1, TC-15-89, 3-7-90)

Awning sign . Any *sign* constructed of fabric-like nonrigid material which is a part of a fabric or flexible plastic awning and which is framed and attached to a *building* . A "back-lit" awning is a type of *awning sign* .

(Ord. No. 946-TC-286, §1, TC-29-85, 4-7-87)

Banner . Any *sign* , except an *awning sign* , made of flexible, fabric-like material.

Basal area . The total cross sectional area, stated in square feet per acre, of *trees* in a wooded area measured at four and one-half (4 1/2) feet above ground level.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Bed and breakfast inn . An existing *building* where a room or rooms without cooking facilities are rented and which conforms to §10-2144(b).

(Ord. No. 320-TC-213, §1, TC-262, 4-3-84; Ord No. 1992-30-TC-396, §1, TC-13-92, 8-4-92; Ord. No. 1992-111-TC-42, §1, TC-19-92, 12-8-92)

Billboard . Any *off-premises sign* on a permanent structure on which the *copy* is periodically changed and which is not located on the *premises* to which such advertising *copy* pertains.

Billboard copy . Any temporary message, which is changed periodically, applied to a permanent *sign* structure.

Block face . The physical characteristics of *property* and structures adjoining both sides of a *street* in-between intersections. If the *street* distance between intersections is less than four hundred (400) feet, then the *block face* *shall* extend to one-half (1/2) the distance of the adjoining *block faces* on either side.

(Ord. No. 438-TC-226, §1, TC-275, 11-12-84)

Building . An edifice, structure or construction of any kind located or proposed to be located on a *lot* .

Building lot coverage . The amount of *net lot area* or land surface area, expressed in terms of a per centage, that is covered by all *principal buildings* , including:

(1) overhangs or cantilevered portions of the*building* (other than roof overhangs), such as bay windows;

(2) roofs or canopies covering areas where a*principal use* is conducted, such as a gasoline pump island canopy or *display area*

(3) enclosed breezeways or walkways; and,

(4) decks, balconies more than three and one-half (3 1/2) feet high.

Building lot coverage *shall* exclude roof overhangs; unenclosed walkways or stairs; unenclosed stoops, decks, patios, balconies less than three and one-half (3 1/2) feet high; *vehicular surface areas* and parking structures; loading, *utility services* areas; uncovered paved areas; and *accessory uses and structures* , such as *signs* , decorative items and lighting.

(Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94)

Built environmental characteristics . *Built environmental characteristics* *shall* include: *lot frontage* and size, *building* entrances, *building* height, *building* placement on the *lot* , including *building* setbacks from the *streets* and *property* lines, and distances between *buildings* and *vehicular surface area* placement on the *lot* .

(Ord. No. 292-TC-328, §1, TC-22-88, 1-5-89; Ord. No. 1998-303-TC-166, §1, TC-6-98, 4-7-98)

Bulk products . Uses primarily devoted to the storage, sorting, or breaking of *bulk products* , or distributing or delivery of parcels, post, or other goods.

(Ord. No. 197-TC-315, TC-26-87, 6-26-88)

Canopy. A protective roof-like structure, with pillar or post supports, covering a walkway and/or *building* entrance.

(Ord. No. 2004-669-TC-250, §1, TC-9-04, 7-6-04)

Casualty . Damage or destruction which is caused by the exercise of the power of eminent domain; man-made acts, such as riot, fire, accident, explosion; or flood, lightning, wind, or other calamity or act of nature.

Champion tree . Any *tree* listed as the champion or co-champion of its species, either on the "National Big Tree" list as compiled by the American Forestry Association or on the "Champion Big Trees of North Carolina" list as compiled by the North Carolina Division of Forest Resources, or on the "Capital Trees Program" list as complied by Wake County Keep America Beautiful.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Changeable copy sign (manual) . Any *sign* on which *copy* is changed manually and *copy* is shown on the same *sign* face such as reader boards with changeable letters or changeable pictorial panels but not limited to the above. Poster panels and painted boards are not *changeable copy signs* .

Charitable institution . Establishments which otherwise are not listed in the Schedule of Permitted Land Uses in Zoning Districts and that are primarily engaged in administration of programs of financial assistance, training, counseling, and other services to individuals or organizations, but not providing housing or shelter.

Civic club . A not for profit club for civic, social or fraternal purposes operated by a civic, social or fraternal organization, including offices for local, state and regional officials, not including a political party club.

Annotation: Club for civic purposes. YMCA is a club for civic purposes operated by a civic organization: A-34-79 Day, Board of Adjustment (April 9, 1979.).

(Ord. No. 415-TC-343, TC-1-89, §3, 8-1-89)

Civic or convention center . Any place of assembly which charges for meeting or exhibition areas, and such areas either contain North Carolina Building Code occupancy limits of more than eight hundred (800) people or have meeting and exhibition areas which total more than twelve thousand (12,000) square feet.

(Ord. No. 31-TC-296, §66, TC-16-87, 12-1-87)

Closed fence or wall . A solid fence or wall which has no openings and contains shiplap, or tongue and groove or similar overlapping design if made of wood.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Cluster unit development . A planned residential development which *may* include *townhouses* , residential *unit ownership (condominium)* , *group housing* and *multi-family developments* , *congregate care and congregate living structures* , *life care communities* , detached *single-family dwellings* , *attached cluster housing* , and *manufactured homes* . It permits *recreational uses related to residential developments* and *residential related services* . It allows for transfer of allowable *dwelling unit* densities, placement of *dwelling units* , creation of residential *lots* , and installation of private *streets* that are not otherwise permitted by this Code.

(Ord. No. 596-TC-241, §1, TC-8-85, 6-24-85; Ord. No. 1995-760-TC-122, §1, TC-20B-95, 11-21-95; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00; Ord. No. 2003-504-TC-240, TC-8-03, §1, 9-16-03)

Congregate care structure or congregate living structure . A structure(s) meeting the standards of §10-2102 which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs for the elderly, their spouses and their surviving spouses that reside in the structure(s).

(Ord. No. 1992-111-TC-42, §2, TC-19-92, 12-8-92)

Construction sign . Any *temporary sign* erected during construction which *may* indicate the project name and the names of architects, contractors, subcontractors, developers, rental agencies,

financial institutions, or other principals involved in the sponsorship, design, and construction of a structure or project.

Copy (permanent and temporary) . The wording or pictorial graphics on a *sign* surface either in permanent or removal form.

Copy center . A facility that produces copies by xerographic or mimeographic means, *may* sort and bind copies made, and *may* produce *signs* and nameplates for interior display where such *signs* are produced by xerographic, mimeographic or similar means.

(Ord. No 765-TC-367, TC-5-91, 4-21-91)

Corner lot . A *lot* of which at least two (2) intersecting sides abut for their full length upon a public or private *street* .

Covered pedestrian walkway . A permanent structure attached to a *building* consisting of a roof supported by columns in the ground away from the *building* , which provides cover for pedestrians immediately adjacent to the *building* , and extending the entire length of the side of a *building* containing a primary entrance.

(Ord. No 955-TC-166, §1, TC-214, 8-23-82)

Critical root zone . The area uniformly encompassed by a circle with a radius equal to one and one-quarter (1.25) foot per inch of *DBH tree* trunk of the preserved *tree* measured at four and one-half (4.5) feet above the ground (measured to the nearest inch), with the trunk of the *tree* at the center of the circle.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Cut-outs . Part of the *copy* of an *outdoor advertisement sign* which extends beyond the edge or border of the *sign* . Sometimes called a "top out" or "extension."

Day care facility . A center, home, day nursery, nursery school, kindergarten or other place however styled and whether operated under public auspices or as a private business in which participants are received for temporary custodial care apart from parents or guardians. A day care center for children will serve at any one (1) time six (6) or more children under the age of eighteen (18) not of common parentage. A day care center for adults *shall* serve at any one (1) time six (6) or more adults eighteen (18) *years* of age or over, a majority or more of whom are in need of care because of decreasing capability brought on by age.

(Ord. No. 2003-474, §1, TC-5-03, 7-1-03)

DBH . Diameter at Breast Height (DBH) of a *tree* in the field is the diameter of the stem of a single-stem *tree* measured at four and one-half (4.5) feet (breast height) above grade level, or the total diameter of all stems of a multi-stemmed *tree* measured at four and one-half (4.5) feet above grade level.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Decorative fence . A designed *open fence* or *solid fence* or wall which meets all of the *following* :

(1) It contributes to the identification and beauty of the*principal use* .

(2) It is not erected to satisfy any other provision of this Code.

(3) It does not act as a retaining structure.

(4) It is made of material that typically is not found in security structures, such as chain link.

(5) It is not available for purchase in stores.

(Ord. No. 499-TC-349, §49, TC-15-89, 3-7-90; Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94)

Depth of lot . The dimension measured from the *front* boundary of the *lot* to the extreme rear boundary of the *lot* . In case of irregularly shaped *lots* , the mean depth *shall* be taken.

Directional sign. A *sign* that orients pedestrian and vehicular traffic to different areas within a development of over two hundred (200) acres.

(Ord. No. 1996-901-TC-131, §1, TC-3-96, 5-21-96)

Directory sign . Any *sign* which lists the name of activities, businesses, firms, or tenants located on the *premise* .

Dish antenna . An antenna whose purpose is to receive signals from orbiting satellites and other extraterrestrial sources.

(Ord. No. 349-TC-217, §1, TC-264, 5-20-84)

Display area . An outdoor open air area where merchandise is stored throughout the day and the night and this same stored merchandise is sold or leased, not including the *display area* for any motor vehicle, trailer or semi-trailer (see *Vehicular display area*).

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87; Ord. No. 2006-952-TC-278, §1, TC-18-05, 1-3-06)

Double-faced outdoor advertising sign . *Outdoor advertising sign* structures placed back-to-back with a distance between the backs of the *signs* of not greater than three (3) feet.

Duplex . A *multi-family dwelling* containing two (2) *dwelling units* on one (1) *lot* , each separate, independent unit with its own independent entrance. A *dwelling* with two (2) units, each unit on its own *lot* , is not a *duplex* ; *attached cluster housing* and two (2) attached *townhouses* are not a *duplex* .

Dwelling . Any *building* *used* for *residence* purposes which contains one (1) or more *dwelling units* , but not a *hotel* or *motel* .

(Ord. No. 520-TC-58, TC-82, 5-18-77)

Dwelling unit . One (1) or more rooms physically arranged as to create an independent housekeeping establishment with separate facilities for cooking, sleeping, and toilet. A *dwelling unit* can be *occupied* by only one (1) *family* , but can contain either a *utility apartment* or rental rooms in accordance with §10-2072(b).

(Ord. No. 520-TC-58, TC-82, 5-18-77)

Earthen berm . A berm utilized to meet landscape standards in this Code, §10-2082 et seq.

Eating establishment . A place where food is cooked, put together, portioned, set out or handed out in unpackaged portions for human consumption, which can include restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast-food businesses, delicatessens, ice cream parlors, soda fountains, coffee shops, donut shops, pizzerias, carry-out restaurants, dairy bars and oyster bars.

Eave . The edge or edges of a roof usually projecting beyond the side wall of a *building* .

Efficiency or studio apartment . A *dwelling unit* which contains only one (1) large living/sleeping room and kitchen and bathroom. It does not have a separate bedroom.

Emergency shelter type A . A transitional housing facility designed to shelter individuals which is required to meet the standards of §10-2072.

(Ord. No. 579-TC-239, §1, TC-12-85, 6-9-85)

Emergency shelter type B . A transitional housing facility designed to temporarily feed and shelter individuals according to the standards in §10-2072.

(Ord. No. 810-TC-268, §3, TC-6-86, 6-22-86; Ord. No. 152-TC-189, §1, TC-238, 7-19-83; Ord. No. 895-TC-383, §2, TC-21-91, 12-8-91)

Equivalent dwelling unit . Any room or rooms not provided with cooking facilities or bathroom facilities, or both, *occupied* by four (4) *persons* within a *rooming house* , fraternity, sorority, bed and breakfast inn, orphanage, convent, monastery, *rest home* or any *residence* however styled is equivalent to one (1) *dwelling unit* . The *following* are not *equivalent dwelling units* : *supportive housing residence, multi-unit supportive housing residence, hotels* without *dwelling units* , *hospitals* , recreational campgrounds for park visitors, dormitories as an *accessory use* to a school, emergency shelters, penal institutions, and military barracks.

(Ord. No. 320-TC-213, §2, TC-262, 4-3-84; Ord. No. 520-TC-58, TC-82, 5-18-77; Ord. No. 1994-365-TC-71, §1, TC-22-93, 4-5-94)

Erect . To assemble, build, construct, attach, hang, install, place, raise, suspend, affix, paint, or in any way bring into being or establish.

Excessively trimmed . The pruning, cutting, or otherwise damaging the natural form of a *tree* when it meets one (1) or more of the *following:*

(1) Removes more than twenty-five (25) per cent of the crown system of a*tree* within a continuous five- *year* period.

(2) Removes, cuts, or covers more than twenty-five (25) per cent of the root system of a*tree* within a continuous five- *year* period.

(3) Fails to conform to the pruning cuts methods set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

(4) Is made for a purpose other than "hazard pruning," or "utility pruning," or "maintenance pruning" as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

(5) Is crown reduction, heading, vista pruning, or pollarding as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

(Ord. No. 2002-149-TC-212, §1, TC-12-01, 1-15-02)

Expansion of a zoning nonconformity . Any improvement that alters or expands or enlarges the land area, extent or intensity of a *zoning nonconformity* . *Expansions of a zoning nonconformity* include: the addition to, construction of, or enlargement of bay windows, attic or basement spaces, attached carports or storage *buildings* , canopies, *marquees* , exterior chimneys, decks, patios, porches, and exterior facilities or structures not otherwise allowed as renovations; the enclosing of decks, porches, and patios; or the installing of additional vehicular surfaces to serve a zoning *nonconforming use* , including nonconforming *principal use* parking facilities or illuminating a *nonconforming sign* .

Exterior features . *Exterior features shall* include important landscape and natural features of the area, significant archaeological features, the architectural style, general design, and general arrangement of the exterior of a *building* or other structure, including the kind and texture of the *building* material, the size, color and scale of the *building* , and the type, color, style of all windows, doors, light fixtures, *signs* , and other appurtenant fixtures. In the case of outdoor *signs* , *exterior features shall* be construed to mean style, material, size, color and location of all such *signs* .

(Ord. No. 600-TC-242, §1, TC-13-85, 7-2-85; Ord. No. 1992-66-TC-399, §6, TC-15-92, 10-6-92)

Face of sign (sign face) . The entire surface area of a *sign* upon, against, or through which *copy* is placed.

Facia sign . See *wall sign* .

Family. An individual or two (2) or more *persons* related by blood to the third degree lineally or the fourth degree collaterally, marriage, or adoption living together in a *dwelling unit* ; or a group of not more than four (4) *persons* , one (1) or more of whom is not related by blood as described above, marriage, or adoption to the other.

A*family may* include five (5) or fewer foster children placed in a *family* foster home licensed by *the State* of North Carolina.

(Ord. No. 693-TC-362, TC-14-90, 12-11-90; Ord. No. 1997-88-TC-148, §1, TC-5-97, 4-1-97)

Flashing sign . Any sign which contains an intermittent, blinking, scintillating or flashing light source, or which includes the illusion of intermittent or flashing light, or an externally mounted intermittent light source.

(Ord. No. 518-TC-131, §2, TC-F-80, 11-4-80)

Floor area gross . The sum in square feet of the gross horizontal areas of all floors of the *building* measured from the exterior walls or from the center line of separating two (2) *buildings* . The *floor area gross* of a *building shall* include basement floor area when more than one-half (1/2) of the basement height is above the established curb level or above the finished *lot* grade level where the curb level has not been established. Elevator shafts, stairwells, floor space *used* for mechanical equipment, attics, balconies and mezzanines, enclosed porches, and floor area devoted to *accessory uses shall* be included in the calculation of *floor area gross* . However, the *following shall* not be included in the *floor area gross* : any space devoted exclusively to off-street parking; or outdoor loading, display, *utility service areas* ; or mechanical equipment and uninhabited enclosed space on tops of roofs; or attic space having head room of less than seven (7) feet ten (10) inches.

(Ord. No. 942-TC-283, §1, TC-1-87, 3-17-87)

Floor area ratio (F.A.R.) . The numerical value obtained by dividing the *floor area gross* of the *building(s)* by the *net lot area* or the area covered by the applicable zoning district on which the *building* is located, and calculated in accordance with §10-2072(b): office, agency or studio of a professional or business agent, or political, labor or service association.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

Food store - retail . Bakeries, candy, dairy product stores, fruit stores and vegetable markets, grocery stores, meat and seafood markets and other miscellaneous food stores engaged in the retail sale of specialized foods. The sale of alcoholic beverages for off-premise consumption is permitted as an *accessory use* in those zoning districts where such activities are allowed.

Forestry, general . A woodland area where all of the *following* occur:

(1) The growing of*trees* ; and

(2) The harvesting of timber, leaves or seeds; and

(3) The regeneration of*trees* by the replanting of *trees* at the rate of one (1) inch caliper *tree* measured six (6) inches above the ground per every two hundred (200) square feet of *tree disturbing activity* area within two hundred twenty (220) days of harvesting; and

(4) The application of "best management practices", including the N.C. Department of Environment, Health and Natural Resources, "Forest Practice Guidelines Related to Water Quality"--Title 15A North Carolina Administrative Code, subchapter 11, sections 1.101--.0209, and all successor documents.

(5) A forest management plan is prepared or approved either by a professional forester registered in*the State of* North Carolina or by the Division of North Carolina Forest Resources. Copies of the forest management plan *shall* be provided to the *City* upon request.

(Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94; Ord. No. 2001-991-TC-206, §2, TC-8-00, 5-1-01; Ord. No. 2005-762-TC-264, §3, TC-7-04, 1-4-05)

Front or frontage . That side of a *lot* which abuts and can gain direct access, upon approval by the *City* , from a public *street* or a private *street* or open space common areas approved as part of a *cluster unit development* or *townhouse development* .

(Ord. No. 1995-760-TC-122, §2, TC-20B-95, 11-21-95)

Front yard area . The *yard area* located between the front line of a *principal building* , structure, or use in the absence of a *principal building* or structure, and the front boundary of a *lot* , or an existing or proposed public or private *street* right-of-way, and extending along the entire width of the *lot* .

Gross floor area . See *floor area gross* .

Ground sign . Any rigid or fixed *sign* erected on a supporting structure, mast, post or pole and not attached, supported or suspended to or from any *building* or structure. Sometimes called a "detached," "freestanding" or "pole" *sign* .

(Ord. No. 1993-132-TC-45, §1, TC-16-92, 2-2-93)

Ground high profile sign . Any *sign* with an area of more than seventy (70) square feet erected on a supporting structure, mast, post, or pole greater than ten (10) feet tall and not attached, supported or suspended to or from a *building* or structure.

Ground low profile sign . Any *sign* , with an area of seventy (70) square feet or less, erected on a supporting structure, post, mast, or pole three and one-half (3 1/2) feet or less high and not attached, supported or suspended to or from any *building* or structure.

Ground medium profile sign . Any *sign* : (1) with an area of one hundred (100) square feet or less erected on a supporting structure, mast, post, or pole ten (10) feet or less in height and not attached, supported or suspended to or from any *building* or structure; or (2) with an area of seventy (70) square feet or less erected on a supporting structure, mast, post, or pole greater than ten (10) feet high and not attached, supported or suspended to or from any *building* or structure.

(Ord. No. 946-TC-286, §2, TC-29-85, 4-7-87; Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94)

Group housing development . Two (2) or more *dwellings* , each containing three (3) or more *dwelling units* whether a condominium, cooperative, or containing *dwellings* for rent or lease. A *group housing development* is a type of planned residential development, approved in accordance with §10-2103.

Guest house . An *apartment house* containing *dwelling units* for lodging of visitors and which *may* provide the *following* services: central telephone, linen service, maid service and registration area.

(Ord. No. 913-TC-163, §1, TC-210, 6-1-82)

Height of sign . The vertical distance measured from the mean curb level to the level of the highest point of the *sign* . In the case of a *sign* not adjoining a *street* or highway, the "height of a *sign* " is the vertical distance of the average elevation of the ground immediately adjoining the *sign* to the level of the highest point of the *sign* .

Historic landmark. A *building,* site or object that has been designated by the *City Council* as either a historic site, *property* or landmark.

(Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01

Home occupation . An *accessory use* of a *dwelling unit* for gainful employment required to meet the standards of §10-2072.

(Ord. No. 127-TC-185, §1, TC-240, 6-7-83; Ord. No. 528-TC-353, §1, TC-3-90, 4-22-90)

Hospital . One (1) or more *buildings* or structures located on the same *lot* primarily devoted to the rendering of health, medical and nursing care to *persons* on an in-patient basis, and which provide facilities and services of a scope and type customarily provided by *hospitals* , which *may* include facilities for intensive care and self-care; clinics and out-patient facilities; clinical, pathological and other laboratories; health care research facilities; laundries; training facilities for nurses, interns, physicians and other staff members; food preparation and food service facilities; administration *buildings* , central service and other administrative facilities; medical office facilities owned and operated by the *hospital* for physicians who are members of the *hospital* medical staff; and other general *hospital* facilities.

(Ord. No. 656-TC-74, TC-102, 12-5-77)

Hotel or motel . A *building* or *buildings* containing rooming units as defined in §10-6121(c)(21). A *hotel* or *motel* *may* contain *dwelling units* or rooming units, as defined in §10-6121(c)(21), or *lodging units* , or any combination thereof, provided the standards contained in §10-2072(b) *Hotel/motel* are met.

(Ord. No. 60-TC-297, §2, TC-20-87, 10-11-87; Ord. No. 216-TC-199, §1, TC-248, 11-8-83; Ord. No. 913-TC-163, §3, TC-210, 6-1-82; Ord. No. 520-TC-58, TC-82, 5-18-77; Ord. No. 1996-931-TC-138, §2, TC-27-95, 7-2-96)

Impactment or impaction . The point at which the number of *group care facilities* or residents therein or other regulated facilities might be so large as to alter the character of the area.

Impervious surface . Any material that significantly reduces and prevents natural infiltration of water into the soil. *Impervious surfaces* include but are not limited to roofs, patios, balconies, decks, *streets* , parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surfaces. For the purposes of this Code, the effective impervious coverage for certain surfaces listed below are as follows:

(1) Asphalt, concrete, crusher-run gravel, masonry, marl, wood, and other impermeable surfaces which prevent land area from infiltrating stormwater are one hundred (100) per cent impervious.

(2) Porous surfaces which permit direct infiltration of unconcentrated stormwater into ground areas which are prepared in accordance with plans approved by the Inspections Department of the*City* so that the first one-half (1/2) inch of stormwater infiltrates into the ground are seventy (70) per cent through ten (10) per cent impervious, depending on:

a. Compaction;

b. Condition of subgrade;

c. Extent of land disturbance;

d. Extent of porous openings;

e. Protection from siltation and clogging;

f. Slope of the ground area;

g. Volume of stormwater stored.

(3) Slatted wood decks that allow the drainage of water through the slats to an unpaved surface below are fifty (50) per cent impervious. If the area covered by the deck is washed gravel, the deck is thirty (30) per cent impervious.

(4) Ungraveled natural footpaths, water surfaces of swimming pools, and drainfields are zero (0) per cent impervious.

All other necessary determinations about*impervious surfaces* will be based on hydrological tests based on existing subgrade soils, slope, rainfall intensity and rainfall duration.

(Ord. No. 133-TC-305, §1, TC-27-8; Ord. No. 511-TC-232, §1, TC-270, 3-26-85; Ord. No. 1993-218-TC-60, §27, TC-10-93, 6-15-93; Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94; Ord. No. 1995-760-TC-122, §3, TC-20B-95, 11-21-95)

Information sign . Any *on-premise sign* containing no other commercial message, *copy* , announcement, or decoration other than instruction or direction to the public. Such *signs* include but are not limited to the *following* : identifying restrooms, public telephones, automated teller machines, for lease, for sale, walkways, entrance and exit drives, freight entrances, and traffic direction.

(Ord. No. 946-TC-286, §3, TC-29-85, 4-7-87)

Interior lot . A *lot* other than a *corner lot* .

Internal illumination . A light source concealed or contained within the *sign* itself, such as a neon tube, which becomes visible in darkness by shining through a translucent surface.

Landfill (all other lawfully approved) . Any *lot* on which is deposited solid waste material, including trash, construction debris, stumps, limbs, leaves, garbage or other solid waste as approved by the Division of Health Services of the North Carolina Department of Environment, Health and Natural Resources or successor agency as a sanitary landfill.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

Landfill (debris from on-site). A demolition landfill that is limited to receiving from the site stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other uncontaminated solid waste from construction activities on the same site.

Life care community . One (1) or more *buildings* or structures located on one (1) or more *lots* providing housing in conjunction with full-time health and nursing care, shared food preparation and dining areas, related service facilities, recreational opportunities as well as significant social facilities to meet the needs of the elderly and their surviving spouses that reside in the *life care community* . A *life care community* is a type of planned residential development, approved in accordance with §10-2104.

Limited home business . An *accessory use* of a *dwelling unit* for gainful employment which is required to be approved in accordance with §10-2144.

(Ord. No. 528-TC-353, §2, TC-3-90, 4-22-90)

Loading areas . An area which contains trash collection areas or dumpmaster type refuse containers, outdoor loading and unloading spaces, docks, outdoor shipping and receiving areas, outdoor bulk storage of materials or parts thereof, and outdoor repair areas of any service stations, safety equipment inspection stations, or dealers.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Lodging unit . A room or group of rooms located in a *hotel/motel* forming a single habitable unit *used for* living and sleeping, and which *may* include regulated appliances for cooking and eating where such facilities are accessory to such a unit. *Hotels/motels* containing one (1) or more *lodging units* are subject to the conditional use provisions of §10-2072(b).

(Ord. No. 1996-931-TC-138, §1, TC-27-95, 7-2-96)

Lot . A parcel of land either vacant or *occupied* by one (1) *principal building,* structure, or use and its *accessory buildings* , uses, or structures, or a group of *principal buildings* as allowed by §10-2088 including such open spaces, yards, and landscape areas as are required by this chapter. A *lot shall front* on a public *street* , unless allowed to *front* on a private *street* or common area as part of a *cluster unit development* , §10-2101, or *townhouse development* , §10-2109.

Annotation:*Lot* . More than one (1) use can be located in one (1) *building* under the same roof provided the uses are allowable in the zoning district. A-100-79 Carolina Courts Development and Management Corp. Board of Adjustment (Sept. 10, 1979).

Annotation:*Lot* . Unless an *accessory use* , a motorized vehicle *may* not occupy a *lot* with another *building* or motorized unit on it, in that a motorized unit affixed to a *lot* is a *building* for purposes of the zoning chapter. A-36-81 D&G Seafood, Board of Adjustment (Mar. 9, 1981).

Major access corridor . A *street* or highway usually designed to move large volumes of through traffic from one part of an urban area to another, and usually aided with federal assistance. These corridors usually have separated grades and a minimum of traffic signals. For the purpose of this chapter, the *following* are *major access corridors* : I-40, I-440, 64 By-pass, U.S. 1, U.S. 70, U.S. 64, and U.S. 401, Wade Avenue between I-440 and I-40, and Northern Wake Expressway.

(Ord. No. 847-TC-273, §1, TC-16-86, 9-2-87; Ord. No. 592-TC-240, §1, TC-9-85, 6-18-85; Ord. No. 1993-133-TC-46, §1, TC-11-92, 2-2-93)

Major access corridor yard . *Protective yard area* from the edge of an existing or proposed *major access corridor* , as required in the Special Highway Overlay-1, 2, 3, and 4 Districts.

(Ord. No. 1993-133-TC-46, §2, TC-11-92, 2-2-93)

Mansard-type roof . A roof having the appearance of being flat with at least two (2) sloping sides not in excess of forty-five (45) degrees from the vertical.

Annotation: Mansard roof. A*mansard roof* contains two (2) sloping sides, the lower one being steeper than the upper, and having the appearance of being a flat roof. A-265.80 Graphic Systems International, Inc. Board of Adjustment (July 14, 1980).

Manufacturing - custom . Store or shop for custom work or for the making of finished articles, which is required in the Shopping Center, Neighborhood Business, and Business Zone Districts to meet the provisions of §10-2072.

Manufacturing - general . Industrial uses that are not required to meet the standards for manufacturing uses in §10-2072 or §10-2144 which involve the packing and processing of agricultural products, forest products and materials; fabricating, mixing, milling, preserving, tanning, printing, assembling, cutting, testing or repairing of articles and products; handling, storing and distribution of materials, articles, or products.

The manufacture of the *following* is prohibited: acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, explosives and fireworks, fish meal, nitrogenous tankage, phosphates, petroleum refining and distillation (excluding oil recycling facilities and bituminous concrete facilities); paints, varnish or shellac which requires the distillation or heating of ingredients; turpentine; vinegar.

(Ord. No. 1992-111-TC-42, §3, TC-19-92, 12-8-92)

The storage, crushing, or salvaging of dismantled, wrecked or partially dismantled vehicles for the purpose of wholesale or retail trade is prohibited.

Manufacturing - restricted . Manufacturing within the Downtown District established by this Code which in the Business Zone District is required to meet the provisions of §10-2072. (See §10-2076; map of Height Limits Within the Business Zone and Within the Downtown District).

(Ord. No. 1996-910-TC-134, §2, TC-9-96, 6-4-96)

Manufacturing - specialized . Facilities engaged in the assembly, design, repair, or testing of: analyzing or scientific measuring instruments; semiconductor and related solid state devices, including but not limited to: clocks, integrated microcircuits, jewelry, medical, musical instruments, photographic or optical instruments, and timing instruments.

Marquee . Any hood or awning of permanent construction without pillars or posts which is supported from a building wall and extends beyond the *building* , building line, or *property* line.

Marquee sign . Any *sign* erected, stenciled, engraved on, attached to, or suspended from a *marquee* or canopy.

Master Plan . A plan required by the *City* for the development of either a *mixed use development* in a Thoroughfare, Industrial-1, or Industrial-2 District or any development in a Planned Development Conditional Use Overlay District; the elements required for all *Master Plans* are set forth in §10-2057 (f)(2).

(Ord. No. 1987-70-TC-300, §2, TC-21-87, 1-1-88; Ord. No. 1991-868-TC-378, §2, TC-9-91, 3-1-92; Ord. No. 1994-452-TC-84, §1, TC-17-94, 8-2-94)

Mechanical equipment. Outdoor machines and devices, including HVAC units, fans, vents, generators, and elevator motors, integral to the regular operation of climate control, electrical, and similar building systems.

(Ord. No. 2002-203-TC-218, §1, TC-5-02, 5-7-02)

Mechanical movement . Refers to animation, revolution, rotation or any other movement of any or all parts of a *sign* .

(Ord. No. 31-TC-296, §66, TC-16-87, 12-1-87; Ord. No. 518-TC-131, §2, TC-F-80, 11-4-80)

Minor tree removal activity . The lawful removal of a *tree* , other than a *champion tree,* and *trees* protected in either ***Resource Management Districts, Conditional Use Zoning Districts*** or *natural protective yards* , which is unrelated to *forestry general* or to the installation of any driveway, use, structure, facility improvement, *site plan* or subdivision, is a *minor tree removal activity* when it meets one or more of the *following* :

(1) Unsafe*trees* are removed within one (1) *year following* a natural disaster declared by *the State of* North Carolina or *City* of Raleigh such an ice storm or hurricane.

(2) Fewer than sixteen (16)*trees* with a *DBH* of three (3) inches (nine and three-eighths (9 3/8) inches circumference) measured four and one-half (4 1/2) feet above grade) or more are lawfully removed from the *property* within any continuous twelve (12) *month* period; provided that, the subsequent subdivision of the property, *shall* not increase the number of *trees* which can be removed from the *property* and that no *tree* ten (10) inches or greater in *DBH* is removed if such *tree* is located:

a. Within fifty (50) feet of a right-of-way of any*thoroughfare* ; or

b. Within thirty-two (32) feet of any vacant adjoining*property* boundary line; or

c. Within sixty-five (65) feet of any other*property* line.

or*Urban forestry* .

The term "vacant" as used herein means that at the time of application for development there is no*building* or structure or vehicular surface area within two hundred (200) feet from the common *property* line of the *property* being developed and the adjoining or adjacent property.

(3) A certified arborist, certified by the International Society of Arboriculture, or a forester registered by*the State of* North Carolina, or a landscape architect licensed by *the State of* North Carolina first certifies *in writing* to the *City* that the *tree* is either unsafe or is *unhealthy* as set forth in §10-2002(1) through (4) and applicable soil erosion and sedimentation laws are obeyed.

(4) The*tree* is less than three (3) inches *DBH* (nine and three-eighths (9 3/8) inches circumference) measured four and one-half (4 1/2) feet above grade.

(5) The*tree* is damaging an existing improvement on the *lot* .

(6) Lawful removal of*trees* located on lots of record existing prior to the application of this regulation* that are less than two acres in size.

(Ord. No. 2005-762-TC-264, §4, TC-7-04, 1-4-05)

Editor's Note: This regulation first became applicable on May 1, 2005 [Ordinance No. 2005-762-TC-264, TC-7-04].

Mixed use development . A planned, unified development of at least twenty (20) contiguous acres in size, approved as a *Master Plan* by *City Council* in accordance with the requirements of §10-2121.

(Ord. No. 70-TC-300, §2, TC-21-87, 1-1-88; Ord. No. 1992-111-TC-42, TC-19-92, §5, 12-8-92)

Manufactured home . A structure transportable in one (1) or more sections which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation.

(Ord. No. 920-TC-389, §1, TC-1-92, 2-4-92; Ord. No. 1992-111-TC-42, §6, TC-19-92, 12-8-92; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Manufactured home park . A *lot* which contains or is intended to contain *manufactured home spaces* for lease, or *unit ownership (condominium)* pursuant to Chapter 47C of the North Carolina General Statutes. A *manufactured home park* is a type of planned residential development, approved in accordance with §10-2105.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Manufactured home space . A plot of land within a *manufactured home park* designed for the accommodation of a single *manufactured home* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Manufactured home stands or pads . That portion of the *manufactured home space* designed for occupancy by a *manufactured home* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Manufactured home subdivision . Any subdivision of land in the Manufactured Home District, which contains or is intended to contain *manufactured homes* . A *manufactured home subdivision* is a type of planned residential development, approved in accordance with §10-2106.

(Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

Motorpool . A place where a fleet of eight (8) or more vehicles, under one (1) *ownership* , are temporarily stored during hours of inoperation, but not a rent-a-vehicle establishment nor the outdoor storage of construction equipment. A *motorpool* includes facilities for the fueling and maintenance or repair of these vehicles.

Multi-establishment campus . A coordinated development which contains Institutional/Civic/Services or Office uses listed in §10-2088, and which *may* contain Residential uses that are on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, on more than a ten (10) acre site, containing two (2) or more establishments or *principal buildings* , and approved as a single *site plan* .

(Ord. No. 1993-185-TC-54A, §1, TC-9-93, 5-4-93)

Multi-family dwelling . Any *dwelling* located on its own separate *lot* which contains two (2) or more *dwelling units* whether an *apartment house* , condominium, *duplex* , cooperative, or any other *multi-family dwelling* . A *multi-family dwelling* is a type of planned residential development, approved in accordance with §10-2107.

(Ord. No. 946-TC-164, § TC-213, 7-22-82)

Multi-sided sign . Any *sign* having more than two (2) geometric surfaces upon which *copy* is placed.

Multi-unit supportive housing residence . A facility comprised of more than one (1) attached *dwelling unit* in which *persons* who are disabled emotionally, mentally or physically or otherwise

possess a disability that is protected by the provisions of either the Americans with Disabilities Act of 1990, 42 USC 12101 or *G.S.* Article 3, Chapter 168, as they *may* be amended, along with support or supervisory personnel or family members who *may* reside, but are not required to reside, at the facility.

(Ord. No. 1994-365-TC-71, §3, TC-22-93, 4-5-94)

Natural protective yard . A landscaped yard area which contains no *buildings, vehicular surface areas,* loading, storage, display, or *service areas,* and regulates certain other uses according to the Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075(e). No *tree* removal or grading *shall* take place unless in accordance with the requirements for a *tree* removal permit for *street protective yards* in Resource Management Zoning Districts, §10-2082.12(c)(1), and §10-2082.12 (d) and (e). No *tree* removal permit *shall* be issued if the cumulative grading and *tree* removal exceeds thirty (30) per cent of any *natural protective yard* .

(Ord. No. 1999-616-TC-181, §1, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §1, TC-23-02, 2-4-03)

Editor's note: The last two sentences are quoted from Footnote Z in the Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075(e). (Ord. No. 2003-373-TC-231, §1, TC-23-02, 2-4-03)

Natural resource buffer yard . Buffer areas which limit land disturbing activities adjacent to fragile environmental areas, which include, but are not limited to, watercourse buffers, §10-9040.

(Ord. No. 1992-111-TC-42, §7, TC-19-92, 12-8-92; Ord. No. 2001-991-TC-206, §3, TC-8-00, 5-1-01)

Neon tube illumination . A light source supplied to a *sign* by a luminescent gas which is bent to form letters, symbols, or other shapes or contained within an illuminated *sign* .

Net lot area . The *lot* area calculated from the adjoining *street* right-of-way, provided that when either a new proposed public *street* right-of-way has been established by the *City Council* or an adjoining public *street* stub is to be extended, the number of *dwelling units* permitted, the *floor area ratio, building lot coverage* , or yard setback *shall* be calculated from outside the proposed right-of-way line which has been established and the proposed right-of-way of the extended stubbed *street* .

(Ord. No. 1997-137-TC-153, §3, TC-18-96, 6-17-97)

Nonconforming sign . Any *sign* , including *signs* approved by the Board of Adjustment, which was lawfully erected and maintained before the action making them nonconforming takes effect and which currently fails to conform to one (1) or more applicable regulations, standards or restrictions of this chapter.

Nonconforming structure . A *zoning nonconformity* not otherwise defined as a *nonconforming use* is a zoning *nonconforming structure* . A structure not in compliance with setbacks, height, or other design standards is an example of a *nonconforming structure* . A *nonconforming structure* can also be a *nonconforming use* .

Nonconforming use . A *zoning nonconformity* whereby a prior lawful use, residential density, *building lot coverage* , *impervious surface* coverage, or *floor area ratio* is not currently permitted by this chapter. A lawful use for which a special use permit is now required but has not been obtained is a zoning *nonconforming use* , unless the provision establishing the special use permit requirement states otherwise. In addition, whenever the minimum area or dimension of the *lot* , or the number of *principal buildings or uses* placed on the *lot* , or *lot frontage* fails to conform to the requirements of this chapter, any activity or *building* located on that *lot* is a zoning *nonconforming use* unless the nonconformity is solely created by *lot* regulations of a Neighborhood Conservation Overlay Zoning District. A *nonconforming use* can also be a *nonconforming structure* .

Nonresidential district or nonresidential zoning district . The *following* general use or conditional use zoning districts: Conservation Management, Agricultural Productive, Residential Business, *office and institution districts* , Buffer Commercial, Shopping Center, Neighborhood Business, Business Zone, Thoroughfare, Industrial-1, Industrial-2.

Occupied or used . The word *occupied* includes the words "arranged, or intended or designed to be *occupied* ". The word *used* includes the words "arranged, intended or designed to be put to use."

Office and institution district or office and institution zoning district . One (1) or more of the *following* general use or conditional use zoning districts: Office and Institution-1, Office and Institution-2, Office and Institution-3.

Office center . A type of planned nonresidential unified development containing office uses with more than one (1) *principal building* on a *lot* , and approved in accordance with §10-2123.

Off-premises sign . Any *sign* or structure, pictorial or otherwise, regardless of size or shape which directs attention to a business, commodity, attraction, profession, service or entertainment conducted, sold, offered, manufactured, existing, or provided at a location other than the *premises* where the *sign* is located or to which it is affixed. Sometimes called non-point-of-sale *sign* .

Annotation:*Off-premises sign* . When only a portion of one (1) *lot* is leased, locating a *sign* by the tenant on the remaining unrented portion of the same *lot* is an *on-premises sign* . A-78-82 Thompson, Board of Adjustment (*May* 10, 1982).

(Ord. No. 210-TC-198, §19, TC-251, 10-23-83)

On-premises sign . Any *sign* or structure, pictorial or otherwise, regardless of size or shape which directs attention to a business, profession, commodity, attraction, service, or entertainment conducted, offered, sold, manufactured, existing, or provided at a location on the *premises* where the *sign* is located or to which it is affixed.

Annotation:*On-premises sign* . A *sign* which identifies both an on-premises subsidiary and an off-premises parent company is an *off-premises sign* . A-21-83 James H. Jackson (Feb. 14, 1983).

(Ord. No. 210-TC-198, §19, TC-251, 10-23-83).

Open fence . A wall or fence through which clear vision is possible from one (1) side to the other for seventy-five (75) per cent or more of the structure, as viewed on a horizontal plane.

Operator representative . An individual who represents the operator or residents of a *supportive housing residence* or a *multi-unit supportive housing residence* who is responsible for addressing problems with the operation of such a facility, if any, whenever they arise. The *operator representative may* live on-site at the facility or off-site, but must be available to the public.

(Ord. No. 1994-365-TC-71, §3, TC-22-93, 4-5-94)

Outdoor advertising sign . Any *off-premises* , off-site, *poster panel* , *billboard* , or non-point-of-sale *sign* .

Parapet wall . That portion of any building wall that rises above the level of the *roof line* , and it is made of the same material and thickness as the building wall.

(Ord. No. 946-TC-286, §4, TC-29-85, 4-7-87)

Annotation:*Parapet wall* . A *parapet wall* is an extension of the *building* support wall and is constructed of the same material as the wall. A-24-82 University, Inc. Board of Adjustment (Mar. 8, 1982).

Passenger transit station or stop. The location of a passenger transit station or stop and its associated parking, all under the control of a public entity.

(Ord. No. 2004-596-TC-245, §1, TC-14-03, 4-6-04)

Play courts . Recreation facilities which operate and use a court such as tennis, basketball, handball, squash, croquet, shuffleboard, volleyball and racquetball courts and clubs.

(Ord. No. 31-TC-29, §66, TC-16-87, 12-1-87; Ord. No. 1994-462-TC-88, §1, TC-21-94, 8-2-94)

Play fields . Areas in which field games are played and which contain less than two hundred and

fifty (250) seats. *Play fields* include: baseball, field hockey, football, lacrosse, soccer, softball and open play areas.

(Ord. No. 31-TC-296, §66, TC-16-87, 12-1-87; Ord. No. 1994-462-TC-88, §1, TC-21-94, 8-2-94)

Plot plan . Improvements to *property* or changes in use which do not represent a significant enough increase in the intensity or expansion of use to warrant compliance with standards of Part 10, chapter 3 of this Code, as determined by §10-2132.1.

Portable sign . Any *sign* which rests upon the ground, a structure, frame, *building* , or other surface. *Portable signs* are not affixed to a supporting structure, *building* , or frame. Such *signs* include but are not limited to the *following* : trailer *signs* , sandwich board *signs* , sidewalk or curb *signs* .

Annotation: *Portable sign* . Any device constructed and independently attached to or resting on vehicles is a *portable sign* . A-78-83 Chief Zoning Inspector, Board of Adjustment (June 13, 1983).

Poster . Any *sign* made of a rigid, semi-rigid, or nondurable material, such as paper or cardboard, other than *billboard copy* .

Poster panel(s) . Printed sheets usually thirty (30) square feet each affixed to a permanent *sign* structure which forms a portion of the *copy* .

Premises . For the purpose of definition the term " *premises* " *shall* be interchangeable with the term " *lot* ."

Primary reservoir watershed protection area . The area in a Reservoir Watershed Protection Overlay District between the reservoir and the *secondary reservoir watershed protection area* . To protect the reservoir, special standards for *impervious surface* coverage, uses, *natural resource buffer yards* and *lot* sizes are applied. *Primary reservoir watershed protection areas* are delineated on the Official Zoning Maps and reflected in the Comprehensive Plan.

Principal arterial . *Principal arterial(s)* are the most important major *thoroughfares,* comprised of limited-access freeways, expressway, and gateway arterials. For purposes of this chapter, the *principal arterials* are the same roads as *major access corridors.*

(Ord. No. 1993-133-TC-46, §3, TC-11-92, 2-2-93)

Principal building or use.The *building* , structure or land that contains the primary function or activity on a *lot* .

Cross reference: Number of*principal buildings or use* on a *lot* . §10-2088

Product sign . Any *sign* attached to outdoor vending machines, stands, gasoline pumps, and display racks which direct attention to products dispensed therefrom.

Projecting sign . Any *sign* which is erected to (on) a building wall or structure and extends beyond the building wall more than twelve (12) inches.

Projection . The distance by which a *sign* extends beyond the building wall or structure wall.

Protective yard . A landscaped *yard area* which contains no *buildings* , *vehicular surface areas* , loading, storage, display or service areas, and regulates certain other uses according to the Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075.

(Ord. No. 153-TC-190, §2, TC-233, 7-29-83; Ord. No. 210-TC-198, §12, TC-251, 10-23-83; ; Ord. No. 799-TC-267, §6, TC-21-85, 1-1-87; Ord. No. 946-TC-286, §5, TC-29-85, 4-7-87; Ord. No. 499-TC-349, §52, TC-15-89, 3-7-90; Ord. No. 499-TC-349, §48, TC-16-89, 3-7-90)

Rear yard area . The *yard area* located between the rear line of the *principal building* , structure, or use in the absence of a *principal building* or structure, and the rear boundary of the *lot* , or an existing or proposed public or private *street* right-of-way, and extending along the entire width of the *lot* .

Recreational indoor use - commercial . Indoor recreation uses (excluding rifle ranges) including arcades, indoor arenas/coliseums/theaters, billiard parlors, bowling alleys, dance halls, miniature golf courses, *play courts* , roller or ice skating, video parlors, or similar indoor uses, which *may* be operated for profit.

Recreational outdoor use - commercial . Outdoor recreation uses (excluding rifle ranges), including batting cages, swimming pools, *play courts* , *play fields* , campgrounds, driving ranges, giant slides, go-cart or dirt bike courses, golf courses, miniature golf or putt courses, roller or ice skating rinks, skateboard areas, skeet shooting areas, ski mobile courses, trampolines, water slides, pedestrian and equestrian trails or similar uses, which *may* be operated for profit.

Recreational use - governmental . Easements, open space, and recreation areas owned by the public and open to general participation. Such facilities include athletic league fields, botanical and zoological gardens, campgrounds, docks, equestrian facilities, golf courses, greenways, marinas, parks, *play courts* , *play fields* , rental concessions, swimming pools, and related public *buildings* and uses.

(Ord. No. 1992-111-TC-42, §8, TC-19-92, 12-8-92)

Recreational use related to residential developments . Recreation facilities related to a *congregate care structure* or *congregate living structure* , *life care community* , *cluster unit development* , *group housing development* , *manufactured home park* , *multi-family dwelling* development, *townhouse development* or *unit ownership (condominium) development* . Such facilities are clubhouses, docks, exercise rooms, game and craft rooms, gymnasiums, party and reception rooms, pedestrian and equestrian trails, picnic areas, *play courts* , such as basketball, racquetball, and tennis courts, golf courses, driving ranges, *play fields* , playgrounds, sauna baths, swimming pools, tanning facilities, which are for the exclusive use of the residents and their guests. The facilities are owned either by a not for profit organization, a home *owner* s association, or by the *owner* of the apartment project.

(Ord. No. 1996-877-TC-130, §1, TC-2-96, 5-7-96; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Recreational use restricted to membership - commercial . Athletic league fields, campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, golf courses, driving ranges, *play fields* , playgrounds, swimming pools, tanning facilities, weight and exercise rooms all of which are restricted to members and their guests only and are operated for profit.

(Ord. No. 1996-877-TC-130, §1, TC-2-96, 5-7-96)

Recreational use restricted to membership - not for profit . Athletic league fields, campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, golf courses, driving ranges, *play fields* , playgrounds, swimming pools, tanning facilities, weight and exercise rooms, all of which are restricted to members, guests or employees and operated for recreation and social benefits of the members, guests or employees and not as a business for profit, such as an organization approved under Title 26 United States Code §501(c)(7), or successor provision.

(Ord. No. 1996-877-TC-130, §1, TC-2-96, 5-7-96)

Recyclable material . Reusable material, including, but not limited to, metals (including vehicles which have been crushed off-site), glass, rubber (including tires), plastic, paper and scrap, which is intended for reuse or reconstitution for the purpose of using the altered form. *Recyclable material shall* not include hazardous materials and wastes (as defined in 40 CFR 261.3 to 261.33, or as the same *may* be amended by law), garbage, biodegradable refuse such as food, medical wastes, or other similar materials, and wrecked, dismantled, or partially dismantled automobiles.

(Ord. No. 1992-87-TC-400, §1, TC-6-92, 11-4-92)

Religious shelter unit . A transitional housing area within an existing church or synagogue complex which is employed for temporary housing, counseling, education and referral services for the temporary *residents* .

(Ord. No. 952-TC-288, §1, TC-8-87, 4-21-87; Ord. No. 895-TC-383, §5, TC-21-91, 12-8-91)

Renovations of zoning nonconformities . Any lawful improvement that does not replace, reestablish, expand or enlarge the land area, extent, or intensity of a *zoning nonconformity* . Renovations include: painting; building material replacement or repair; landscaping; adding facilities to improve handicapped accessibility; lighting (except adding illumination to a *nonconforming sign*); removing interior walls; fencing; adding movable awnings; adding new *access points* , *dish antennas* , *signs* , fountains, ornamentation; or adding residential detached *accessory structures* , such as swimming pools, garages, gazebos, and *buildings* to store household items; or expansions of a *vehicular surface area* beyond that necessary to meet the minimum standards to serve a *nonconforming structure* .

Research farm . Agricultural experimental farms, and horticultural and botanical operations, primarily for research purposes, and also including educational functions, but not including veterinary schools.

Resident . A *person* who customarily sleeps or eats (or both) one (1) or more meals per day on the *premises* .

Residential character. Displaying an appearance typical of *dwelling units* , with respect to *building* height, *building* mass, *building* materials, roof form and pitch, and fenestration pattern, and *may* include landscaping, parking, and related site features. Design elements should relate to the respective characteristics of the closest *residential district* containing *dwelling units* . This definition *shall* apply to other similar terms and expressions including, but not limited to, residential appearance, residential style, traditional residential construction, residential design and residential nature.

(Ord. No. 2002-203-TC-218, §1, TC-5-02, 5-7-02)

Residential district or residential zoning districts . The *following* general use and conditional use zoning districts: Rural Residential, Residential-2, Residential-4, Special Residential-6, Residential-6, Manufactured Home, Residential-10, Residential-15, Residential-20, Residential-30, and Special Residential-30.

(Ord. No. 946-TC-286, §6, TC-29-85, 4-7-87; Ord. No. 291-TC-327, §1, TC-23-88, 12-18-88; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Residential institutions . The *following* uses: public art galleries, libraries, museums; civic, social and fraternal clubs; fire stations, police precinct stations and training facilities (not including outdoor fire range) and other publicly-owned emergency service facilities; churches, religious education *buildings* , *religious shelter units* , synagogues; *day care facilities* (child or adult) with greater than fifty (50) enrollees, *special care facilities* with greater than fifty (50) enrollees, private/parochial schools (elementary, middle, and high) and public schools (elementary, middle, and high). *Residential institutions* *shall* be permitted to raise funds on a periodic basis as an *accessory use* provided that outdoor activities are discontinued by 11:00 P.M. and flood and display lighting is shaded, shielded or directed so that the light intensity or brightness *shall* not disturb surrounding *premise(s)* and *shall* not exceed four-tenths (0.4) maintained footcandle illumination at *property* lines adjacent to a *residential zoning district* , a *dwelling* , or a *congregate care* or *congregate living structure* .

(Ord. No. 952-TC-288, §3, TC-8-87, 4-21-87; Ord. No. 415-TC-343, §1, TC-1-89, 8-1-89; Ord. No. 865-TC-376, TC-17-91, 11-10-91; Ord. No. 1993-178-TC-54, §1, TC-6-93, 4-20-93; Ord. No. 2004-647-TC-248, §1, TC-4-04, 6-1-04)

Residential related services . Service and retail facilities accessory to a multi-family development, *congregate care structure* , *congregate living structure* , *life care community* , and *group housing development* . *Residential related services* are barber shops, beauty shops, drug stores, *eating establishments* with no on-premise alcohol consumption, flower and gift shops, food stores, laundry

facilities, news stands, vending machine sales, and shared food preparation and common dining halls for *congregate care* and *congregate living structures* . *Residential related services* is a conditional use, approved in accordance with §10-2072.

Resource Management District or Resource Management Zoning Districts . Any of the *following* general use, conditional use zoning, and overlay zoning districts are *Resource Management Districts* : Conservation Management District, Metro-Park Protection Overlay District, Thoroughfare District, Special Highway Overlay District-1, Special Highway Overlay District-2, Special Highway Overlay District-3, and Special Highway Overlay District-4.

(Ord. No. 1996-851-TC-128, §1, TC-23-95, 4-2-96)

Responsible person . An individual located on-site at a *supportive housing residence* who is empowered by the facility operator and is capable of handling issues relating to maintenance, excessive noise levels, and safety as they *may* arise. This individual *may* be either the same or a different individual as the *operator representative.*

(Ord. No. 1994-365-TC-71, §3, TC-22-93, 4-5-94)

Rest home . A health facility, however named, governmental or nongovernmental, which provides in-patient care to six (6) or more nonrelated *persons* for whom planned and continued medical or nursing attention, or both, are indicated in contrast to occasional or incidental care. A *rest home may* be designed and marketed specifically for the elderly, the physically handicapped, or both, but not specifically for the mentally ill *persons* who are dangerous to others as defined in *G.S.* 122C-3(11)(b). The number of occupants in a *rest home* is regulated in accordance with *equivalent dwelling units* .

(Ord. No. 520-TC-58, §6, TC-82, 5-18-77; Ord. No. 415-TC-343; TC-1-89, §3, 8-1-89)

Retail sales - convenience . The sale (other than wholesale) rental or repair of goods and merchandise of *family* , household, and personal use. Uses include establishments providing the *following* products or services: antiques, apparel, appliances (home use), art supplies and framing, books (but not adult book stores), cameras, card shops, china and pottery, draperies and interior decorating supplies, drugs, film developing and printing, florist, furniture, gifts and stationery, hardware, hat shops, housewares and home furnishing, jewelry, laundries and dry-cleaning, letter shop, motor vehicle licensing and registration service, music store, newstand, nongovernmental art gallery, museum or library,novelties, paint, piece goods (dry goods), printing shops, shoes, sporting goods, toys, variety shops, and vending machines. Other *retail sales - convenience* not listed herein *may* be permitted in the Buffer Commercial and Residential Business Districts subject to a special use permit being issued by the Board of Adjustment in accordance with §10-2144.

Retail sales - general . The sale, (other than wholesale), rental or repair of goods, merchandise and services to the general public. Typical uses include department stores, discount stores, home building supplies stores, pet shops and pet grooming.

Retail sales - highway . The sale (other than wholesale), rental, maintenance, repair or service of equipment and vehicles to the general public. Typical uses include automotive services and repair facilities; vehicle sales, rental services, and maintenance of: *manufactured homes* , cars, boats, aircraft, taxies, trucks, buses, recreational and utility trailers, and motorcycles, but not retail or wholesale sales of parts from junk, abandoned or dismantled vehicles located on the *premises* .

(Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

Retail sales - outdoor mobile vending cart. A non-motorized cart with wheels which is temporarily stored on a *premise* where goods or merchandise are sold to the general public all in accordance with the standards of §10-2072, *Retail sales - outdoor mobile vending carts* .

(Ord. No. 2006-985-TC-584, §1, TC-17-05, 4-4-06)

Retail sales - personal services . Establishments engaged in the provision of needed services of a personal nature. Uses include garment pressing, laundries and dry-cleaning with walk-up or pick-up

services (without laundry and dry-cleaning plants on the *premises*), photography studios, shoe repair shops, shoe shine parlors, and tailor shops. Other personal services not listed herein *may* be permitted in the Residential Business and Buffer Commercial Districts subject to a special use permit being issued by the Board of Adjustment in accordance with §10-2144.

(Ord. No. 1994-408-TC-75, §1, TC-9-94, 6-7-94)

Roof line . The juncture of the roof and the perimeter wall of the structure.

Roof sign . Any *sign* , including outdoor advertising, attached to and extending from a roof of a structure or *building* , not including emblems of religious orders.

Rooming house, boarding house, lodging house or tourist home . A type of *equivalent dwelling unit* located in a *dwelling* which contains room or room(s) without cooking facilities that are rented to the general public as a whole to more than four (4) *persons* .

(*Code 1959* , §24-9(c); Ord. No. 520-TC-58, TC-82, 5-18-77; Ord. No. 867-TC-377, TC-14-91, 12-1-91)

Rooming unit . Any room or group of rooms forming a single habitable unit *used for* living and sleeping, but not for cooking or eating purposes.

(Ord. No. 1992-111-TC-42, §9, TC-19-92, 12-8-92)

Sadomasochism center. Any for profit establishment wherein the practice of flagellation, torture or fettering is used or administered to an individual either by an employee of the establishment or a patron of the establishment.

(Ord. No. 1997-220-TC-158, §2, 10-21-97)

Secondary reservoir watershed protection area . The area in a Reservoir Watershed Protection Overlay District between the *primary reservoir watershed protection area* and surrounding *properties* . To provide a protective transition between the *primary reservoir watershed protection area* and the surrounding *properties* , special standards for *impervious surface* coverage, uses and *natural resource buffer yards* are applied. *Secondary reservoir watershed protection areas* are delineated on the Official Zoning Maps, and reflected in the Comprehensive Plan.

Service area . An area which serves an establishment or *building* including without limitation mechanical systems areas, utility meters, pay windows, drive-in windows, and outdoor self-service areas.

(Ord. No. 699-TC-259, §2, TC-20-85, 12-22-85; Ord. No. 99-TC-267, §5, TC-21-85, 1-1-87)

Shade tree . An evergreen or deciduous *tree* whose mature height can be expected to exceed thirty-five (35) feet and which has an expected crown spread of thirty (30) feet or more or is considered a *shade tree* in accordance with "American Standards of Nursery Stock", set forth by the American Association of Nurserymen.

Shopping area . A planned unified development of one (1) or more retail establishments, with more than one (1) *principal building or use* on a *lot* and approved in accordance with §10-2124.

(Ord. No. 784-TC-154, §2, TC-203, 11-3-81; Ord. No. 128-TC-186, §1, TC-235, 6-7-83; Ord. No. 946-TC-286, §7, TC-29-85, 4-7-87; Ord. No. 2001-934-TC-202, §1, TC-2-01, 2-6-01)

Shopping center . A planned unified development, including *shopping areas* , which contains at least three (3) retail or recreational establishments within a minimum of twenty-five thousand (25,000) square feet of floor area gross on a land area of at least two and one-half (2.5) areas in size.

(Ord. No. 869-TC-369, §6, TC-16-91, 12-1-91; Ord. No. 2001-934-TC-202, §1, TC-2-01, 2-6-01)

Side yard area . The *yard area* located between the *principal building* , structure, or use in the absence of a *principal building* or structure and the side boundary of a *lot* , or an existing or proposed public or private *street* , extending the full length of the *building* , structure or use, and not including

any *front* or *rear yard area* .

Sign . Any temporary or permanent identification, description, animation, illustration, or device, illuminated or nonilluminated, which is visible from any right-of-way and which directs attention to any realty, product, service, place, activity, *person* , institution, performance, commodity, firm, business or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, *poster* , bulletin board, pennant, placard or *temporary sign* designed to identify or convey information.

(Ord. No. 1993-132-TC-45, §2, TC-16-92, 2-2-93)

Signable area . The area of the facade of a *building* free of windows or doors to which a *sign may* be erected.

Sign face . See Face of sign.

Signs . Unless otherwise indicated herein, the term *sign shall* include an identification or advertising device, including *billboards* which are permanent in nature.

Single-family dwelling . A *dwelling* containing one (1) *dwelling unit* on its own *lot* .

Site plan . Improvements to *property* or changes in use which are not classified by §10-2132.1 as *plot plans* , and which require compliance with standards of Part 10, chapter 3 of this Code.

Solid fence . A wall or fence that is not an open wall or *open fence* .

Special care facility. A psychosocial rehabilitation facility which provides skill development activities, educational services, and pre-vocational training and transitional and supported employment services to individuals with severe and persistent mental illness. Services are designed primarily to serve individuals who have impaired role functioning that adversely affects at least two (2) of the following: employment, management of financial affairs, ability to procure needed public support services, appropriateness of social behavior, or activities of daily living. Assistance *may* also be provided to clients in organizing and developing their strengths and in establishing peer groups and community relationships.

(Ord. No. 2004-647-TC-248, §2, TC-4-04, 6-1-04)

Special event . Any activity or circumstance of a business or organization which is not part of its ordinary activities. Such activities *may* include, without limitation, grand openings, closeout sales (pursuant to Article 17 of Chapter 66 of the General Statutes), and fund raising membership drives or events of civic, philanthropic, educational, or religious organizations.

(Ord. No. 946-TC-286, §8, TC-29-85, 4-7-87; Ord. No. 1993-132-TC-45, §3, TC-16-92, 2-2-93)

Annotation:*Goodman Toyota* v. *City of Raleigh,* 63 N.C. App. 660, 306 S.E. 2d 192, review den, 310 N.C. 477, 312 S.E. 2d 884 (1983). A provision of a *City sign* control ordinance allowing temporary permits to be issued for *windblown signs* for " *special events* " was not so vague as to violate due process.

Specialty school . A place of regular sessions of teaching for avocational activities including, but not limited to, baton twirling, charm and finishing, gymnastics, language and martial arts. Dance and music studios are not considered *specialty schools* .

Special yards . *Special yards* include *natural resource buffer yards* , Special Highway Overlay District *major access corridor yards* , *street protective yards* , transitional *protective yards* , special arterial *yard areas* ; and *thoroughfare protective yards* .

(Ord. No. 309-TC-330, §1, TC-27-88, 2-7-89; Ord. No. 1993-263-TC-65, §1, TC-19-93, 9-21-93)

Station area core. Those *properties* generally located within one-quarter (1/4) mile of a *passenger transit station or stop* as defined by a *City Council* -adopted transit station area plan.

(Ord. No. 2004-596-TC-245, §1, TC-14-03, 4-6-04)

Station area edge. Those *properties* or portions of *properties* adjacent to the outer edge of a *City Council* -adopted transit station area plan.

(Ord. No. 2004-596-TC-245, §1, TC-14-03, 4-6-04)

Station area transition. Those *properties* generally located between one-quarter (1/4) mile and one-half (1/2) mile of a *passenger transit station or stop* as defined by a *City Council* -adopted transit station area plan.

(Ord. No. 2004-596-TC-245, §1, TC-14-03, 4-6-04)

Storage space for vehicle . The standing space for vehicles being serviced or waiting to use a drive-thru window, automatic teller machine, automobile washing facility, or other use requiring temporary storage. The dimensions *shall* be no less than twenty (20) feet by eight and one-half (8 1/2) feet for each required storage space.

(Ord. No. 1993-158-TC-51, §1, TC-5-93, 4-6-93; Ord. No. 1994-433- TC-80, §1, TC-10-94, 6-21-94)

Street . Unless indicated in this chapter as a private *street* , a *street* is any public right-of-way not less than eighteen (18) feet in width.

Street protective yard . A landscaped *protective yard* adjacent to a proposed or recorded public *street* right-of-way.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Subdivision wall or fence . A wall or fence forming a perimeter boundary of a residential or commercial development which *shall* extend for the entire *street frontage* of the development except for breaks for driveway access.

(Ord. No. 246-TC-323, §1, TC-16-88, 9-25-88)

Cross reference: Tract identification*signs* §10-2083.2(m).

Supportive housing residence . A *dwelling unit* in which more than four (4) unrelated *persons may* reside who are battered individuals, abused children, pregnant women and their children, runaway children, temporarily or permanently disabled mentally, emotionally or physically, individuals recovering from drug or alcohol abuse, and all other *persons* who possess a disability which is protected by the provisions of either the Americans with Disabilities Act of 1990, 42 USC 12101 or *G.S.* Article 3, Chapter 168, as they *may* be amended, along with family members and support and supervisory personnel.

(Ord. No. 1994-365-TC-71, §3, TC-22-93, 4-5-94; Ord. No. 1998-302-TC-165, §1, TC-5-98, 4-7-98)

Taxicab dispatch stand . A location where taxicabs are temporarily stored during hours of operation and from which they are dispatched.

Taxicab stand . A location where on-duty taxicabs wait to pick up patrons.

Temporary sign . A *sign* which requires a permit and is permitted for a limited period of time.

Thoroughfare . A *street* delineated as a major *thoroughfare* or a minor *thoroughfare* on the Comprehensive Plan, or a *major access corridor.* Major *thoroughfares* include: (1) *principal arterials* , which are either gateways, freeways, or expressways; (2) secondary arterials; or (3) other major *thoroughfares.*

(Ord. No. 1993-263-TC-65, §2, TC-19-93, 9-21-93)

Townhouse development . A project consisting of one (1) or more *single-family dwelling units* , where land underneath each *dwelling unit* is sold with that *dwelling unit* , approved in accordance with §10-2109 and Part 10, chapter 3 of this Code.

Transitional yard . A landscaped *protective yard* adjacent to *lot* lines, but not right-of-way lines, which screens the adjacent *lot* from different land uses.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Travel trailer . A device without motive power, which is designed to be drawn by a motor vehicle. A *manufactured home* is not a *travel trailer* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Tree disturbing activity . Any activity that results in one or more of the *following* :

(1) The movement of earth, compaction of earth, chemical or physical alteration of earth, or a change in the existing soil cover (both vegetative and non vegetative) and/or the existing soil topography in the*critical root zone* of a *tree* , including but not limited to: chemical application; clearing, grading, filling, and excavation; stabilization of structures; and road or walkway construction

(2) Chemical or physical alteration of a *tree* in any way that diminishes its health and vigor, including but not limited to removal, cutting, root pruning, branch pruning, topping, bark scraping, and application of chemical or biological agents.

(3) The placement within the*critical root zone* of any permanent or temporary encroachment, including but not limited to: application of *impervious surfaces* ; storage of equipment, materials, or earth; parking or circulation of vehicles or equipment.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Understory tree . An evergreen or deciduous *tree* whose mature height can be expected to range between fifteen (15) feet to thirty-five (35) feet and which has an expected crown spread range between fifteen (15) feet to twenty-five (25) feet as determined by the latest edition of "American Standards of Nursery Stock" as set forth by the American Association of Nurserymen.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Undisturbed area . An area free of any *tree disturbing activity* except the planting of landscaping required by §10-2082 et seq. and plantings required by conditional use zoning requirements.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Unhealthy . A plant or *tree* is *unhealthy* when it meets any one (1) or more of the *following* :

(1) Its foliage and bark have a form and color that is not characteristic of the species similarly located within Raleigh.

(2) Its twig elongation is dissimilar to that of others of the same species and size similarly located within Raleigh.

(3) It is not free from infestation of insects and detrimental diseases.

(4) More than ten (10) per cent of its trunk circumference dies in any one (1) calendar*year* .

(5) More than thirty (30) per cent of its crown dies or is lost in any one (1) calendar*year* .

(6) It no longer screens, filters, or shades the area for which it was installed.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87; Ord. No. 1994-365-TC-71, §4, TC-22-93, 4-5-94; Ord. No. 1996-851-TC-128, §2, TC-23-95, 4-2-96)

Unit ownership (condominium) development . A project consisting of two (2) or more units, which *may* include one (1) or more *buildings* , structures or uses which are permitted in the applicable zoning district, created in accordance with the North Carolina Unit Ownership Act. Unit ownership is a type of planned development, approved in accordance with §10-2108 (residential) or §10-2122 (nonresidential).

Unity of development . The visual and functional integration of *buildings* within a development or area. *Unity of development* in a *shopping center* , a *shopping area* , and *office center* , or any retail area with more than one (1) *principal building* *shall* be established through the use of at least two (2) of the *following* primary unifying elements: materials, color(s), and architectural features.

(Ord. No. 843-TC-374, §1, TC-10-91, 10-1-91)

Urban forestry . *Urban forestry* is the management, including planting of *trees* and other plants for their contribution to the physiological, sociological, aesthetic, environmental and economic well-being of urban society. *Urban forestry* is distinguished from *forestry general* in which *tree* are grown primarily for wood and fiber. *Urban forestry* encompasses all of the *following* elements:

1. The maintenance of a permanent forest with continuous stocking of at least a basal area of sixty (60) square feet per acre comprised of*trees* three (3) inches or greater *DBH* .

2. Use of low soil impact equipment for care and maintenance of the urban forest. Low soil impact equipment does not include log skidders, mechanical harvesters, forwarders, mechanical*tree* planters, excavators, soil mounders, dozers, and similar tracked or wheeled vehicles.

3. Protection of the urban forest from the movement of earth, compaction of earth and the detrimental chemical or physical alteration of earth.

4. *Urban forestry* does not include sale of *trees* for forest products, nor the establishment of permanent or temporary roads, skids, trails, or logging decks.

(Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Utility apartment . One (1) or more rooms physically arranged to create an independent housekeeping establishment with separate facilities for cooking, sleeping and toilet for the occupancy by no more than two (2) *persons* . A *utility apartment* is a type of conditional use approved in accordance with §10-2072.

(Ord. No. 1992-111-TC-42, §10, TC-19-92, 12-8-92)

Utility services . The *following* uses: roads, sidewalks, railroad tracks, transmission lines, transformers, distribution lines, pumping stations, meters, pipes, hydrants, water storage tanks, wells, septic tanks, traffic control, emergency communication, telephones or cablevision and their appurtenances.

(Ord. No. 278-TC-326, §1, TC-18-88, 11-20-88; Ord. No. 318-TC-334, §1, TC-24-88, 2-26-89)

Utility service areas . An area which contains any utility box, booster box, switching station, transformer, pedestal, or backflow preventor or similar above-grade device used to serve underground utilities.

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87; Ord. No. 1993-149-TC-48, §1, TC-19-92, 3-16-93)

V-type sign . An *outdoor advertising sign* structure constructed in the form of a "V" with an angle no greater than forty-five (45) degrees and at no point separated by a distance greater than five (5) feet.

Vehicular display area . A *display area* for any motor vehicle, trailer, semi-trailer required to be registered with the North Carolina Department of Motor Vehicles under the laws of *this state* as defined in N.C.G.S. §20-286(10).

(Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Vehicular surface area . An area where motor vehicles are either stored or driven, including private driveways and private *streets* built in accordance with §10-3074 of this code, parking lots, vehicular display lots, rental lots, and depots, but it does not include parking *buildings* or areas which are *used*

exclusively as *loading areas* and *service areas* .

(Ord. No. 440-TC-345, §34, TC-3-89, 10-3-89; Ord. No. 799-TC-267, §4, TC-21-85, 1-1-87)

Veterinary hospital . A facility for the primary purpose of diagnosing, treating and preventing diseases in animals, especially domestic animals, and including boarding and keeping animals in the course of treating them for a long-term convalescence. This definition only includes those facilities which are wholly enclosed within a *building* .

(Ord. No. 646-TC-70, TC-103, 12-1-77)

Wall . See *closed fence* , *solid fence* , and *open fence* .

Wall sign . Any *sign* , other than a *projecting sign* , which is erected upon, against, or through any wall or facia of a *building* or a covered walkway not projecting more than twelve (12) inches from a wall or walkway; or a *window sign* when its wording exceeds six (6) inches in height. The *following* are not *wall signs* : Wall identification *signs* and commemorative plaques not more than four (4) square feet in area, memorial cornerstones or tablets providing information on *building* erection or commemorating a *person* or event, or unit identification *signs* required by §10-2083.1(c)(2) less than ten (10) inches in height.

(Ord. No. 955-TC-166, §2, TC-214, 8-3-82; Ord. No. 946-TC-286, §37, TC-29-85, 4-7-87)

Width of the street . The mean of the distance between the sides of a *street* between two (2) intersecting *streets* .

Wildlife sanctuary . A place of refuge or protection for the management, regulation and conservation, but not sale, of fish or wildlife populations, and where hunting is not permitted.

Windblown sign . Any banner, flag, pennant, spinner, or streamer.

(Ord. No. 448-TC-128, §1, TC-A-80, 9-2-80; Ord. No. 1997-137-TC-153, §4, TC-18-96, 6-17-97)

Window sign . Any *sign* painted, stenciled or affixed on a window, which is visible from a right-of-way.

Yard area . The *yard area* between the *principal building,* structure or use in the absence of a *principal building* or structure, and the boundary of a *lot* , including the boundary formed by an existing or proposed public *street* , which is required to meet the provisions of §10-2075.

(Ord. No. 1992-111-TC-42, §11, TC-19-92, 12-8-92)

Zoning nonconformity . Any use, facility, *building* , *lot* , *sign* , structure, outdoor lighting, fence, landscaping, *access point* , *impervious surface* , off-street parking lot, or *vehicular surface area* which lawfully existed at the time the action making them nonconforming takes effect and which currently fails to comply with one (1) or more applicable regulations, restrictions, or standards of this chapter.

Zoning nonconformities are created by one (1) or more of the*following* : extensions of the zoning jurisdiction of the *City* ; amendment to chapter 2 Part 10 of the Code; amendment to the Official Zoning Map; or acquisitions initiated by entities with the power of eminent domain.

Editor's note: Ord. No. 1994-365-TC-71, §2, TC-22-93, adopted April 5, 1994, set out provisions deleting the terms "family care home," "family group home," and "group care facility" from the defined terms in §10-2002(b). These terms derived, in part, from Ord. No. 669-TC-142, §2, TC-6-81, adopted May 19, 1981; Ord. No. 810-TC-268, §§4, 8, TC-6-86, adopted June 22, 1986; Ord. No. 527-TC-352, §1, TC-2-90, adopted April 22, 1990; Ord. No. 692-TC-361, TC-13-90, adopted Dec. 11, 1990; Ord. No. 895-TC-383, §§3, 4, TC-21-91, adopted Dec. 8, 1991; and Ord. No. 1993-186-TC-55, §1, TC-13A-93, adopted May 4, 1993.

Sec. 10-2003. ILLUSTRATIONS, MAPS, WORKSHEETS AND FLOW CHARTS.

The illustrations, maps, worksheets, outlines entitled "Code Insert" and flow charts of the several sections of this chapter explain the contents of this chapter and*shall* not be deemed or taken to be law or a part of this Code. Graphics entitled "Schedule" are part of this Code.

Secs. 10-2004--10-2010. RESERVED.

ARTICLE B. ESTABLISHMENT OF ZONING DISTRICTS.

Sec. 10-2011. ENUMERATION AND DESCRIPTION OF DISTRICTS; DESIGNATION OF DISTRICTS ON OFFICIAL ZONING MAP.

(a) Criteria for Zoning Districts.

For the purposes set forth in §10-2001 the*City* is divided into zoning districts taking into account the design, size and/or location of one or more of the *following* :

(1) Sanitary sewer and stormwater drainage structures;

(2) Water mains for purposes of extinguishing fires, and for consumption;

(3) Fire stations and their equipment;

(4) Police protection;

(5) Transportation facilities, including *streets* , sidewalks, and bridges;

(6) Schools, parks, greenways and other public facilities and requirements;

(7) Other*utilities services* ;

(8) Potential hazards from fire, flooding and diseases;

(9) Access of light and air to*buildings* ;

(10) Access for fire and police protection and refuse collection;

(11) Protection of occupants of*dwellings* , *congregate care* , or *congregate living structures* from noise, dust and gases caused by traffic;

(12) Railroads, yards, stations, terminals, shops and other structures and facilities;

(13) Current uses of land and*buildings* for *residences* , businesses, industries, institutions, and for other uses and the heights of *buildings* , the size and location of yards, and the density of population in each of the districts hereinafter mentioned.

(Ord. No. 1992-111-TC-42, §12, TC-19-92)

(b) Enumeration and Descriptions of Zoning Districts.

There are three types of zoning districts:

General use districts are those in which a variety of uses are permitted;

Conditional use districts are those in which limited uses are permitted and other regulations are imposed;

Overlay districts are those which overlap one or more general and/or conditional use districts. Overlay districts involve additional regulations on some or all*property* within underlying general and/or conditional use districts.

(1) The Schedule of General Use Districts incorporated herein establishes the general

use districts.

(2) Each conditional use district (bearing the designated CU on the Official Zoning Map) corresponds to a general use district in this chapter. All zoning regulations which apply to the general use district are also applicable to the corresponding conditional use district unless specifically stated otherwise in the conditional use district ordinance or in the text of this Code.

(Ord. No. 291-TC-327, §2, TC-23-88, 12-18-88; Ord. No. 856-TC-274, §2 TC-11-86, 9-16-86)

The*following* conditional use districts are established:

Rural Residential Conditional Use (RR CU) District. Residential-2 Conditional Use (R-2 CU) District. Residential-4 Conditional Use (R-4 CU) District. Special Residential-6 Conditional Use (Sp. R-6 CU) District. Residential-6 Conditional Use (R-6 CU) District. Manufactured Home Conditional Use (MH CU) District. Residential-10 Conditional Use (R-10 CU) District. Residential-15 Conditional Use (R-15 CU) District. Residential-20 Conditional Use (R-20 CU) District. Special Residential-30 Conditional Use (Sp. R-30 CU) District. Residential-30 Conditional Use (R-30) District. Conservation Management Conditional Use (CM CU) District. Agricultural Productive Conditional Use (AP CU) District. Residential Business Conditional Use (RB CU) District. Office and Institution-1 Conditional Use (O & I-1 CU) District. Office and Institution-2 Conditional Use (O & I-2 CU) District. Office and Institution-3 Conditional Use (O & I-3 CU) District. Buffer Commercial Conditional Use (BC CU) District. Shopping Center Conditional Use (SC CU) District. Neighborhood Business Conditional Use (NB CU) District. Business Zone Conditional Use (Bus Z CU) District. Thoroughfare Conditional Use (TD CU) District. Industrial-1 Conditional Use (I-1 CU) District. Industrial-2 Conditional Use (I-2 CU) District.

(Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(3) The*following* overlay districts are established:

a. Airport Overlay District.

Land in the Airport Overlay District is intended to protect the efficiency and long term usefulness of area aviation facilities, highways, arterials, and major*streets* by controlling the type and design of land uses in proximity to such facilities.

Provision is also made to ensure the attractiveness of this significant gateway to the*City* , and to protect the public from adverse health effects and annoyance by aircraft noise. To this end, *dwellings* and similar uses are prohibited in the Airport Overlay District. The uses permitted are better able to protect themselves from aircraft noise, and implement the functions of the airport.

(Ord. No. 856-TC-274, §1, TC-11-86, 9-16-86)

b. Downtown Overlay District.

The Downtown Overlay District is intended to promote the development of intensive residential and nonresidential uses within the downtown area so as to provide living areas in close proximity to high concentrations of employment, reductions in peak hour commuter congestion, and support for downtown commercial development and redevelopment. Within the Downtown Overlay District, properties which are subject to different regulations by their underlying zoning district for purposes of density, setbacks, height,*floor area ratio* and *building lot coverage may* be more equitably developed through the application of *site plan* approval and said properties are developed in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines.

(Ord. No. 2004-746-TC-261, §1, TC-20-04, 12-7-04; Ord. No. 2005-932-TC-275, §2, TC-6-05, 11-15-05)

c. Historic Overlay District.

The Historic Overlay District is intended to preserve and protect certain areas, structures,*buildings* , and objects within the *City's* zoning jurisdiction that are considered to be a valued and important asset and have special significance in terms of one or more of the *following* : history, prehistory, archaeology, architecture and culture and possess integrity of design, setting, materials, feeling and association. Regulations in this District promote the use of and conservation of Historic Districts for education, pleasure and enrichment of the residents of Raleigh, Wake *County* , and *the State* of North Carolina.

(Ord. No. 1992-66-TC-399, §7, TC-15-92, 10-6-92; Ord. No. 320-TC-213, §4, TC-262, 4-3-84; Ord. No. 361-TC-117, §3, TC-Q-80, 5-6-80)

d. Metro-Park Protection Overlay District.

The Metro-Park Protection Overlay District is intended to preserve and protect the integrity of large natural parks which serve the citizens of Raleigh, the region and*the state* . These fragile parks are protected from incompatible uses and intensive developments, by the application of *impervious surfaces* and *building* height limits near the boundaries of the metro park. In general, land in this Overlay District is approximately one thousand (1,000) feet to fifteen hundred (1,500) feet deep, as measured from the boundaries of the metro-park, and follows identifiable features or boundaries, wherever possible.

(Ord. No. 390-TC-340, §1, TC-14-88, 7-20-89)

e. Neighborhood Conservation Overlay District.

The Neighborhood Conservation Overlay District is intended to preserve and enhance the general quality and appearance of older neighborhoods, for it is recognized that*built environmental characteristics* are a major part of the identity and positive image of the *City* . Through the regulation of *street* design, greenways, rights-of-way and *built environmental characteristics* , the Overlay District stabilizes and improves *property* values and promotes local design qualities. By respecting the context of existing *built environmental characteristics* , the Neighborhood Conservation Overlay District reduces conflicts between new construction and existing development, and it encourages compatible infill development.

(Ord. No. 292-TC-328, §2, TC-22-88, 1-5-89)

f. Pedestrian Business Overlay District.

The Pedestrian Business Overlay District is intended to preserve and enhance the character of pedestrian-oriented retail districts. Through the application of design standards which encourage pedestrian activity, the Overlay District improves and protects the economic viability of the area. By respecting and improving the pedestrian environment, the Pedestrian Business Overlay District reduces the conflicts between pedestrian and vehicular traffic and it encourages compatible development.

g. Planned Development Conditional Use Overlay District

The Planned Development Conditional Use Overlay District is intended to provide an opportunity, on contiguous tracts of*property* , to incorporate alternative designs involving a mixture of uses so as to promote transit usage,

more usable open space, affordable housing, preserve land for economic base uses, facilitate the more economic arrangement of *buildings* , preserve irreplaceable or significant natural features, protect roadway corridors from strip development, contain innovative architectural elements and design, and provide for community-wide public services and amenities. Flexibility is achieved through the use of an approved *Master Plan* which has demonstrated its superiority to the underlying district. Another purpose of this District is to establish a more efficient and responsive decision-making process for *mixed use developments* .

(Ord. No. 1991-868-TC-378, TC-9-91, 3-1-92)

h. Reservoir Watershed Protection Area Overlay District.

The Reservoir Watershed Protection Area Overlay District is intended to protect the integrity of drinking water of Raleigh and surrounding communities, so as to provide clean and safe water for residents, businesses, industries, plant and animal life at a reasonable cost. The Reservoir Watershed Protection Area Overlay District is divided into two areas: a*primary reservoir watershed protection area* and a *secondary reservoir watershed protection area* . Regulations in this Overlay District include *impervious surface* limitations and *natural resource buffer yards* . Along watercourses, additional design standards are applied. Use limitations are imposed by this District especially for conditional and special uses.

i. Special Highway Overlay District-1 (SHOD-1).

The Special Highway Overlay District-1 (SHOD-1) is intended to protect and preserve the natural scenic beauty along designated*major access corridors* and specified *principal arterials* which are located now or will be constructed within this Overlay District. Maintaining the attractiveness of these roadway corridors will enhance the economic value of the community by encouraging tourism and trade. This Overlay District is established also for the purpose of:

Protecting the public investment in and lengthening the time during which highways can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;

Reducing the costs of future highway expansions by requiring that*buildings* and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway;

Reserving adequate roadside space through which neighborhood traffic*may* be admitted to and from the highway system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings and other hazards; and

Achieving a common unified appearance along a roadway with other jurisdictions of the*county* .

(Ord. No. 1986-847-TC-273, §3, TC-16-86, 9-2-86; Ord. No. 133-TC-46, §§4--6, TC-11-92, 2-2-93)

Editor's note: Ordinance No. 1993-133-TC-46, §5, adopted February 2, 1993, provided for a new last paragraph to §10-2011(b)(3)h. However, at the editor's discretion, it has been added to the end of §10-2011(b)(3)i. as the added paragraph pertains to Special Highway Overlay District-1.

j. Special Highway Overlay District-2 (SHOD-2).

The Special Highway Overlay District-2 (SHOD-2) is intended to protect and

preserve the natural scenic beauty along designated*major access corridors* and specified *principal arterials* which are located now or will be constructed within this Overlay District. Maintaining the attractiveness of these roadway corridors will enhance the economic value of the community by encouraging tourism and trade. This Overlay District is established also for the purpose of:

Protecting the public investment in and lengthening the time during which highways can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;

Reducing the costs of future highway expansions by requiring that*buildings* and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway; and

Reserving adequate roadside space through which neighborhood traffic*may* be admitted to and from the highway system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings and other hazards.

In contrast to the Special Highway Overlay District-1, the Special Highway Overlay District-2 contains no additional height nor gross site size requirements than as*may* be required by the underlying district. The Special Highway Overlay District-2 requires narrower yards and less treescape plantings than the Special Highway Overlay District-1.

(Ord. No. 1986-847-TC-273, §4, TC-16-86, 9-2-86; Ord. No. 1993-133-TC-46, §§4, 7, TC-11-92, 2-2-93)

k. Special Highway Overlay District-3 (SHOD-3).

The Special Highway Overlay District-3 (SHOD-3) is intended to protect and preserve the natural scenic beauty along designated major access corridorsand specified *principal arterials* which are located now or will be constructed within this Overlay District. Maintaining the attractiveness of these roadway corridors will enhance the economic value of the community by encouraging tourism and trade. This Overlay District is established also for the purpose of:

Protecting the public investment in and lengthening the time during which highways can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;

Reducing the costs of future highway expansions by requiring that*buildings* and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway;

Reserving adequate roadside space through which neighborhood traffic*may* be admitted to and from the highway system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings and other hazards; and

In contrast to the Special Highway Overlay District-1, the Special Highway Overlay District-3 contains no additional height nor gross site size requirements than as*may* be required by the underlying district. In the Special Highway Overlay District-3, unlike the Special Highway Overlay

District-1, the *yard area* is an average dimension.

(Ord. No. 1993-133-TC-46, §7, TC-11-92, 2-2-93)

l. Special Highway Overlay District-4 (SHOD-4).

The Special Highway Overlay District-4 (SHOD-4) is intended to protect and preserve the natural scenic beauty along designated major access corridorsand specified *principal arterials* which are located now or will be constructed within this Overlay District. Maintaining the attractiveness of these roadway corridors will enhance the economic value of the community by encouraging tourism and trade. This Overlay District is established also for the purpose of:

Protecting the public investment in and lengthening the time during which highways can continue to serve their functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;

Reducing the costs of future highway expansions by requiring that*buildings* and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the highway; and

Reserving adequate roadside space through which neighborhood traffic *may* be admitted to and from the highway system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings and other hazards.

In contrast to the Special Highway Overlay District-2, the Special Highway Overlay District-4 allows reduction in setbacks required by the underlying district. The Special Highway Overlay Districts 2 and 4 require narrower yards and less treescape plantings than the Special Highway Overlay Districts 1 and 3.

(Ord. No. 1993-133-TC-46, §7, TC-11-92, 2-2-93)

Editor's note: Ord. No. 1993-133-TC-46, §7, adopted February 2, 1993, added two (2) new subsections, §10-2011(b)(3)j. and k. As §10-2011(b)(3)j. already existed and was not repealed by Ord. No. 1993-133-TC-46, §10-2011(b)(3)j. and k. were added as §10-2011(b)(3)k. and l.

m. Transit Oriented Development Overlay District.

The Transit Oriented Development Overlay District is intended to promote the development of a concentrated mix of pedestrian oriented land uses around a*passenger transit station or stop* . Through the application of design standards, land use regulations, incentives and other implementation tools within a specific area surrounding a *passenger transit station or stop* as identified in a transit station area plan, development pattern is encouraged that concentrates high density residential development and support services, provides convenient pedestrian and vehicular access, establishes a broad mix of land uses and supports the use of transit.

(Ord. No. 2004-596-TC-245, §2, TC-14-03, 4-6-04)

n. [Reserved.]

(Ord. No. 2004-746-TC-261, §1, TC-20-04, 12-7-04; Ord. No. 2005-932-TC-275, §2, TC-6-05, 11-15-05)

o. Urban Water Supply Watershed Protection Area Overlay District.

The Urban Water Supply Watershed Protection Area Overlay District is intended to protect the integrity of drinking water of Raleigh and surrounding communities, so as to provide clean and safe water for residents, business, industries, plant and animal life at a reasonable cost. The Urban Water Supply Watershed Protection Area Overlay Districts*shall* be applicable to Class WS-IV waters only and is divided into two (2) areas: a *primary water supply watershed protection area* and a *secondary water supply watershed protection area.* Regulations in this Overlay District include *impervious surface* limitations and *natural resource buffer yards* . Use limitations are imposed by this District.

(Ord. No. 2005-817-TC-267, §2, TC-7-05, 4-19-05)

(c) Designation of Districts on Official Zoning Maps.

Each districts*shall* be shown on the set of Official Zoning Maps of the *City* of Raleigh, a hard copy of which is located in the *City* Planning Department. The computer digital data, and all district designations, boundaries, figures, letters and symbols contained within said **Official Zoning Maps are hereby declared to be part of this chapter.**

(Ord. No. 600-TC-242, §2, TC-13-85, 7-2-85; Ord. No. 1996-974-TC-140, §1, TC-15-96, 10-1-96)

Cross reference: Article K; Official Zoning Map

GRAPHIC LINK:Section 10-2011(b)(1) SCHEDULE OF GENERAL USE DISTRICTS

GRAPHIC LINK:Section 10-2011(b)(1) SCHEDULE OF GENERAL USE DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2011(b)(1) SCHEDULE OF GENERAL USE DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2011(b)(1) SCHEDULE OF GENERAL USE DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2011(b)(1) SCHEDULE OF GENERAL USE DISTRICTS (Cont'd.)

Sec. 10-2012. COMPARATIVE STATUS OF ZONING DISTRICT CLASSIFICATIONS.

(a) Uses which are not excluded from the Conservation Management Districts*shall* be known as conservation management uses. Conservation management uses and Conservation Management Districts *shall* have the highest classification. Uses which are excluded from the Conservation Management District but which are not excluded from the Agricultural Productive District *shall* be known as agricultural productive uses. Agricultural productive uses and Agricultural Productive Districts *shall* be lower in classification than conservation management uses and Conservation Management Districts.

(b) Uses which are excluded from the Agricultural Productive District but which are not excluded from*residential districts* *shall* be known as residential uses. Residential uses and *residential districts* *shall* be lower in classification than agricultural productive uses and Agricultural Productive Districts. *Residential districts* with a greater allowable maximum residential density *shall* be lower in classification than *residential districts* with a lower allowable residential density.

(c) Uses which are excluded from*residential districts* but which are not excluded from the Residential Business Districts *shall* be known as residential business uses. Residential business uses and Residential Business Districts *shall* be lower in classification than *residential districts* and residential uses.

(d) Uses which are excluded from Residential Business Districts but which are not excluded from the*office and institution districts* *shall* be known as office and institution uses. Office and institution uses and *office and institution districts* *shall* be lower in classification than residential business uses and Residential Business Districts, except for *retail sales* , *food stores* , and *eating establishments* as *principal uses* , which *shall* be lower in classification than *office and institution districts* and uses. *Office and institution districts* with a greater allowable maximum *floor area ratio* *shall* be lower in classification than *office and institution districts* with a lower allowable maximum *floor area ratio* .

(e) Uses which are excluded from the*office and institution districts* but which are not excluded from the Buffer Commercial District *shall* be known as buffer commercial uses. Buffer commercial uses and Buffer Commercial Districts *shall* be lower in classification than office and institution uses and *office and institution districts* .

(f) Uses which are excluded from the Buffer Commercial District, but which are not excluded from the Shopping Center District*shall* be known as *shopping center* uses. *Shopping center* uses and Shopping Center Districts *shall* be lower in classification than buffer commercial uses and Buffer Commercial Districts.

(g) Uses which are excluded from the Shopping Center District but are not excluded from the Neighborhood Business District*shall* be known as neighborhood business uses. Neighborhood business uses and Neighborhood Business Districts *shall* be lower in classification than *shopping center* uses and Shopping Center Districts.

(h) Uses which are excluded from the Neighborhood Business District, but which are not excluded from the Business Zone District*shall* be known as business uses. Business Zone District uses and Business Zone Districts *shall* be lower in classification than Neighborhood Business Districts.

(i) Uses which are excluded from the Business Zone District but which are not excluded from the Thoroughfare District*shall* be known as thoroughfare uses. Thoroughfare uses and Thoroughfare Districts *shall* be lower in classification than Business Zone Districts.

(j) Uses which are excluded from the Thoroughfare District but which are not excluded from industrial districts*shall* be known as industrial uses. Industrial districts and industrial uses *shall* have the lowest classification.

(k) Conditional use districts*shall* be higher in classification than corresponding general use districts.

(l) General use districts and conditional use districts with one or more overlay districts*shall* be higher in classification than corresponding districts without overlay districts.

(*Code 1959* , §24-5; Ord. No. 1985-600-TC-242, §3, 7-2-85; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96)

Secs. 10-2013--10-2014. RESERVED.

ARTICLE C. SUMMARY OF REQUIREMENTS BY ZONING DISTRICT.

Sec. 10-2015. RURAL RESIDENTIAL (RR) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2

(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1 administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Rural Residential District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the *following* :

(1) General uses.

- Church, synagogue, or religious education*building*

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each condition use.

-*Agricultural restricted*

-*Cluster unit developments* - twenty (20) acre minimum [including *multi-family dwellings* , residential *unit ownership (condominiums)* , and *townhouses* as part of this development]

-*Home occupation*

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §6, TC-22-93, 4-5-94)

-*Recreational use related to residential development* , other than a *single-family dwelling unit*

- Residential*accessory structures* and *uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §6, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

Editor's note: Ord. No. 1994-365-TC-71, §6, TC-22-93, adopted April 5, 1994, deleted "family care home" from the list of conditional uses for the Rural Residential District.

Cross reference:*Cluster unit developments* and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-

2072.

(3) Special uses.

a. See §10-2144 for special uses approved by Board of Adjustment.

-*Day care facility* (child or adult)

- Kennel/cattery

-*Limited home business*

- Plant nursery and fruit and vegetable stand

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational uses restricted to membership - not for profit*

- Riding stable

-*Special care facility*

-*Veterinary hospital* in conjunction with a kennel/cattery

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-855-TC-129, §1, TC-4-96, 4-2-96; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Rural Residential District by the Schedule of Permitted Land Uses in Zoning Districts is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the district

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside of a school

-*Sign* not explicitly allowed in the Rural Residential District by the Schedule of Permitted Signs

in Zoning District or erected in violation of §10-2033 [reserved] or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is forty thousand (40,000) square feet and eighty thousand (80,000) square feet in the *primary reservoir watershed protection area* .

(Ord. No. 511-TC-232, §2, TC-270, 3-26-89)

b. Outside overlay districts the maximum residential density per net acre is 1.089 units.

(Ord. No. 81-TC-178, §1, TC-226, 3-15-83)

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	20 feet
front yard adjoining on all other *streets* or *interior lot* lines	40 feet
side yard	10 feet
aggregate *side yard* (other than corner)	20 feet
corner *side yard*	20 feet
rear yard	30 feet

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.*

*Editor's note: This regulation first became applicable on October 3, 1989. (Ord. No. 1989-440-TC-345, §3)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any

congregate living structure , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawfully existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E, which include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Ord. No. 497-TC-129, §1, TC-6-80, 10-7-80; Ord. No. 890-TC-161, TC-211, 4-20-82)

Sec. 10-2016. RESIDENTIAL-2 (R-2) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-2 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the district include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 Chapter 13), monument, open space, patio, swimming pool (for single *dwelling*)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - twenty (20) acre minimum [including *multi-family dwelling* , residential *unit ownership (condominiums)* , *congregate care or congregate living structure* and *townhouse* as part of this development]

-*Home occupation*

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational use related to residential developments* , other than a *single-family dwelling unit*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Residential-2 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by Board of Adjustment.

-*Day care facility* (child or adult)

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership - not for profit*

-*Special care facility*

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-2 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the district

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the district

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure* or *use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Residential-2 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is twenty thousand (20,000) square feet.

b. Outside overlay districts the maximum residential density per net acre is 2.178 units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	20 feet
front yard adjoining on all other *streets* or *interior lot* lines	30 feet
side yard	10 feet

aggregate *side yard* (other than corner)	20 feet
corner lot side yard	20 feet
rear yard	30 feet

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

*Editor's note: This regulation first became applicable on October 3, 1989. (Ord. No. 1989-440-TC-345, §3)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Ord. No. 1988-291-TC-327, §3, 12-13-88)

Sec. 10-2017. RESIDENTIAL-4 (R-4) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by

either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-4 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

(Ord. No. 2001-16-TC-207, §1, TC-7-01, 6-5-01)

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use

-*Cluster unit developments* - twenty (20) acre minimum [including *multi-family dwelling* , residential *unit ownership (condominiums)* , *congregate care or congregate living structure* and *townhouse* as part of this development]

-*Home occupation*

- *Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational use related to residential developments* , other than a *single-family dwelling unit*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Residential-4 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Day care facility* (child or adult)

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership - not for profit*

-*Special care facility*

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-4 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

- *Sign* not explicitly allowed in the Residential-2 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is ten thousand eight hundred ninety (10,890) square feet.

b. Outside overlay districts the maximum residential density per net acre is four (4) units per net acre.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	20 feet
front yard adjoining on all other *streets* or *interior lot* lines	30 feet
side yard	10 feet
aggregate *side yard* (other than corner)	20 feet
corner lot side yard	20 feet
rear yard	30 feet

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

*Editor's note: This regulation first became applicable on October 3, 1989. (Ord. No. 1989-440-TC-345, §3)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to the required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(*Code 1959* , §24-7)

Sec. 10-2018. SPECIAL RESIDENTIAL-6 (SP. R-6) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Special Residential-6 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

(Ord. No. 2001-16-TC-207, §1, TC-7-01, 6-5-01)

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwelling*)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum [including residential *unit ownership (condominiums)* , *congregate care or congregate living structures* , and *townhouses* as part of this development]

-*Duplex*

-*Home occupation*

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational use related to residential development* , other than a *single-family dwelling unit*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Special Residential-6 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , *duplex* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Day care facility* (child or adult)

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership - not for profit*

-*Special care facility*

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning*

districts

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Special Residential-6 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Special Residential-6 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is seven thousand two hundred sixty (7,260) square feet.

b. Outside overlay districts the maximum residential density per net acre is six (6) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining on any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
	5

side yard**	feet
aggregate *side yard* (other than corner)	15 feet
corner lot side yard	20 feet
rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate*side yard* minimum is met. *Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded *building* envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC 267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-8; Ord. No. 291-TC-327, §5, TC-23-88, 12-13-88)

Sec. 10-2019. RESIDENTIAL-6 (R-6) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-6 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

(Ord. No. 2001-16-TC-207, §1, TC-7-01, 6-5-01)

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwelling*)

-*Rest home*

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care or congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

-*Life care community*

-*Multi-family dwelling* development

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Residential-6 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Day care facility* (child or adult)

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

- *Recreational use restricted to membership-not for profit*

-*Special care facility*

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-6 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Residential-6 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is seven thousand two hundred sixty (7,260) square feet.

b. Outside overlay districts the maximum residential density per net acre is six (6) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
side yard**	5 feet
aggregate *side yard* (other than corner)	15 feet
corner lot side yard	20 feet

rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate*side yard* minimum is met. *Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded *building* envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

Sec. 10-2020. MANUFACTURED HOME (MH) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2112.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Manufactured Home District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

(Ord. No. 2001-16-TC-207, §1, TC-7-01, 6-5-01)

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial) and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Rest home*

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care or congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

- *Life care community*

-*Manufactured home parks* - ten (10) acre minimum

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Manufactured home subdivisions* - ten (10) acre minimum

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Multi-family dwelling* development

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Manufactured Home District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *manufactured home parks* , *manufactured home subdivisions* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Day care facility* (child or adult)

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership-not for profit*

-*Special care facility*

(Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Manufactured Home District by the Schedule of Permitted Land Uses in Zoning

Districts, §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* located outside of a *manufactured home park* or *subdivision* or not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Manufactured Home District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is seven thousand two hundred sixty (7,260) square feet.

b. Outside overlay districts the maximum residential density per net acre is six (6) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	20 feet
front yard adjoining on all other *streets* or *interior lot* lines	30 feet
side yard	10 feet
aggregate *side yard* (other than corner)	20 feet
corner lot side yard	20 feet
rear yard	30 feet

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

*Editor's note: This regulation first became applicable on October 1, 1989. (Ord. No. 1987-440-TC-345, §3)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph, *buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* , or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

Sec. 10-2021. RESIDENTIAL-10 (R-10) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-10 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses

permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial) and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Rest home*

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care or congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

-*Life care community*

-*Multi-family dwelling* development

- *Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" from the list of conditional uses for the Residential-10 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit* ownership *(condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

-*Day care facility* (child or adult)

-*Guest house*

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership-not for profit*

-*Rooming house* , *lodging house, or tourist home*

-*Special care facility*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92; Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

Editor's note: Ord. No. 1994-365-TC-71, §8, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Residential-10 District.

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-10 District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Residential-10 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is ten (10) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining on any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
side yard**	5 feet
aggregate *side yard* (other than corner)	15 feet
corner lot side yard	20 feet
rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate side yard minimum is met.*Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded *building* envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became

applicable on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* , or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-9)

Sec. 10-2022. RESIDENTIAL-15 (R-15) DISTRICT

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-15 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses

permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

- *Civic club*

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 13), monument, open space, patio, swimming pool (for single *dwellings*)

-*Rest home*

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care or congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

-*Life care community*

-*Multi-family dwelling* development

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential*accessory structures and uses* including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" (derived from Ord. No. 895-TC-383, §7, TC-21-91, adopted Dec. 8,

1991) from the list of conditional uses for the Residential-15 District.

Cross reference:*Cluster unit developments* , *congregate care or congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

-*Day care facility* (child or adult)

-*Guest house*

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership-not for profit*

-*Rooming house* , *lodging house, or tourist home*

-*Special care facility*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92; Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

Editor's note: Ord. No. 1994-365-TC-71, §8, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Residential-15 District.

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-15 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facia business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside a school

-*Sign* not explicitly allowed in the Residential-15 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is fifteen (15) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining on any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
side yard**	5 feet
aggregate *side yard* (other than corner)	15 feet
corner lot side yard	20 feet
rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate*side yard* minimum is met. *Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded building envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became applicable

on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* , or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care or congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

Sec. 10-2023. RESIDENTIAL-20 (R-20) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-20 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the district include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

- Fraternity and sorority house

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Rest home*

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care* or *congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

-*Life care community*

-*Multi-family dwelling* development

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential accessory structures and usesincluding: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

- Unit ownership (condominium)

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care

home" and "family group home" (derived from Ord. No. 895-TC-383, §7, TC-21-91, adopted Dec. 8, 1991) from the list of conditional uses for the Residential-20 District.

Cross reference:*Cluster unit developments* , *congregate care* or *congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

-*Day care facility* (child or adult)

-*Guest house*

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership-not for profit*

- Rooming house, *lodging house* , or *tourist home*

-*Special care facility*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92; Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

Editor's note: Ord. No. 1994-365-TC-71, §8, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Residential-20 District.

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-20 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facie business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district an applicable overlay zoning district or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside of a school

-*Sign* not explicitly allowed in the Residential-20 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is twenty (20) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
side yard **	5 feet
aggregate *side yard* (other than corner)	15 feet
corner lot side yard	20 feet
rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate*side yard* minimum is met. *Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded building envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became applicable

on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-10)

Sec. 10-2024. SPECIAL RESIDENTIAL-30 (SP. R-30) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Special Residential-30 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the

uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

- Fraternity and sorority house

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 Chapter 3), monument, open space, patio, swimming pool (for single *dwellings*)

-*Rest home*

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Additional*dwelling units* or *equivalent dwelling units* on a *lot* [three (3) or more] or additional residential density [greater than twenty (20)] but not greater than thirty (30) *dwelling units* per net acre.

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Cluster unit developments* - ten (10) acre minimum

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Congregate care* or *congregate living structure*

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Duplex*

-*Home occupation*

-*Life care community*

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Multi-family dwelling* development

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential accessory structures and usesincluding: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

-*Unit ownership (condominium)*

(Ord. No. 1997-137-TC-153, §6, TC-18-96, 6-17-97)

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" (derived from Ord. No. 895-TC-383, §7, TC-21-91, adopted Dec. 8, 1991) from the list of conditional uses for the Special Residential-30 District.

Cross reference:*Cluster unit developments* , *congregate care* or *congregate living structure* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

-*Day care facility* (child or adult)

-*Guest house*

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership - not for profit*

- Rooming house, *lodging house* , or *tourist home*

-*Special care facility*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92; Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

Editor's note: Ord. No. 1994-365-TC-71, §8, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Special Residential-30 District.

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1997-137-TC-153, §7, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Special Residential-30 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the District

- Any use of prima facie business, commercial, or industrial character not otherwise specifically allowed in the District

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside of a school

-*Sign* not explicitly allowed in the Special Residential-30 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073.

b. Outside overlay districts the maximum residential density per net acre is twenty (20) units without a special use permit and thirty (30) units per net acre with a special use permit.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

_____

TABLE INSET:

front yard	The greater of either 15 feet or within 10 per cent of the median *front yard* setback established by *buildings* on the same side of the *block face* of the proposed *building*
	The minimum district yard setback as established above *shall* also constitute the maximum allowable *building* setback for the *front yard area*

_____

TABLE INSET:

Side yard, if aggregate *side yards* met	5 feet

_____

TABLE INSET:

aggregate side yard	10 feet

_____

TABLE INSET:

corner lot side yard	*Triangular area formed by the street* right-of-way lines and a line connecting them at points 20 feet from the *street* rights-of-way intersection

_____

TABLE INSET:

rear yard	20 feet

_____

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to a height of twelve (12) feet higher than any other residential *building* or structure which is both located within thirty (30) feet of said *lot* and located within the Special Residential-30 District. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92; Ord. No. 1998-385-TC-170, §1, 8-4-98)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Ord. No. 1984-438-TC-226, §3,4, TC-275, 11-6-84; Ord. No. 1985-600-TC-242, §4, TC-13-85, 7-2-85)

Sec. 10-2025. RESIDENTIAL-30 (R-30) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential-30 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Church, synagogue, or religious education*building*

-*Civic club*

- Fraternity and sorority house

- Library, art gallery, or museum - governmental

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

- Residential*accessory structures and uses* including: above ground storage tank (home consumption), flagpole, fountain, parking area, garage (less than four (4) vehicles), garden, greenhouse (noncommercial), horse stall (noncommercial and subject to Part 12 Chapter 3), monument, open space, patio, swimming pool (for *single-family dwellings*)

- *Rest home*

- *Single-family* detached *dwelling unit*

-*Utility services* and substation

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Cluster unit developments* - ten (10) acre minimum

-*Congregate care* or *congregate living structure*

-*Duplex*

-*Group housing development*

-*Home occupation*

-*Life care community*

-*Multi-family dwelling* development

-*Multi-unit supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

-*Recreational uses related to residential development*

- Residential accessory structuresand uses including: deck, fence, wall, storage *building* , and the storage of one (1) unoccupied *manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Residential related service*

-*Supportive housing residence*

(Ord. No. 1994-365-TC-71, §7, TC-22-93, 4-5-94)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §7, TC-22-93, adopted April 5, 1994, deleted "family care home" and "family group home" (derived from Ord. No. 895-TC-383, §7, TC-21-91, adopted Dec. 8, 1991) from the list of conditional uses for the Residential-30 District.

Cross reference:*Cluster unit developments* , *congregate care* or *congregate living structures* , *duplex* , *group housing developments* , *life care communities* , *multi-family dwelling* developments, *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Article F of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

-*Day care facility* (child or adult)

-*Guest house*

-*Limited home business*

- Private or parochial school

-*Recreational outdoor use - commercial*

-*Recreational use restricted to membership - not for profit*

- Rooming house, *lodging house* , or *tourist home*

-*Special care facility*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92; Ord. No. 1993-248-TC-64, §1, TC-18-93, 8-3-93; Ord. No. 1996-877-TC-130, §2, TC-2-96, 5-7-96; Ord. No. 2004-647-TC-248, §3, TC-4-04, 6-1-04)

Editor's note: Ord. No. 1994-365-TC-71, §8, TC-22-93, adopted April 5, 1994, deleted "group care

facility" from the list of special uses for the Residential-30 District.

b. See §10-2145 for special uses approved by the Raleigh City Council.

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Parking facility - off-site, for a*residential institution* in *residential zoning districts*

- Telecommunication tower

(Ord. No. 1999-616-TC-181, §3, TC-3-99, 8-3-99)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential-30 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any club or organization operating for profit not otherwise specifically allowed in the district

- Any use of prima facie business, commercial, or industrial character not otherwise specifically allowed in the district

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rear yard*dwelling* or rear yard garage apartment

- School administrative personnel offices located outside of a school

-*Sign* not explicitly allowed in the Residential-30 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is thirty (30) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard adjoining on any residential service, minor residential, or residential *street* when such *street* establishes a new *block face* and the *street* is platted after application of this regulation*	10 feet
front yard adjoining on all other *streets* or *interior lot* lines	20 feet
aggregate *side yard* (other than corner).....	15 feet
corner lot side yard	20 feet
rear yard	20 feet
aggregate *front/rear yard*	40 feet

*Editor's note: This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, 11-91, §6). A minimum of eighteen (18) foot setback is required for a parking space in the*front yard area* .

**If the aggregate*side yard* minimum is met. *Side yard areas* less than the minimum side yard *may* be approved on a minimum of a *block face* of a public *street* platted after application of this regulation for *lots* which contain *single-family dwellings* , provided the aggregate minimum side yard is met. A perpetual access easement of five (5) feet minimum *shall* be recorded over the adjoining *lot* for any side yard less than five (5) feet wide, where the *buildings* are not joined along the entire length of the *building* and the recorded building envelope *shall* assure that the separation between *buildings* is at least ten (10) feet in width, where the *buildings* are not joined. This regulation first became applicable on July 21, 1991. (Ord. No. 823-TC-371, TC-11-91, §6).

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2).

(Ord. No. 799-TC-267, §13, TC-21-85, 1-1-87)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use

zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-11; Ord. No. 1984-336-TC-218, §1, 6-19-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85)

Secs. 10-2026--10-2029. RESERVED.

Sec. 10-2030. CONSERVATION MANAGEMENT (CM) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Conservation Management District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Agriculture - restricted*

- Camp - recreational

- Fish hatchery and fish farm

-*Recreational use - governmental*

-*Recreation use related to residential developments*

(Ord. No. 1997-137-TC-153, §8, TC-18-96, 6-17-97)

- *Recreation use restricted to membership - not for profit*

(Ord. No. 1997-137-TC-153, §8, TC-18-96, 6-17-97)

- Reservoir and water control structures

-*Utility services* and substation

-*Wildlife sanctuary*

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Accessory structure* (fence, wall, storage *building*)

(Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 Chapter 3 of this Code, any use not explicitly allowed in the Conservation Management District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Land disturbing activity, as defined in Part 10, chapter 5, for a use not permitted in this District, nor serving a use in another zoning district, unless the Planning Commission finds there is no practical alternative to this land disturbing activity.

(Ord. No. 1997-137-TC-153, §9, TC-18-96, 6-17-97)

-*Manufactured home* or *travel trailer*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump and*landfill*

-*Sign* not explicitly allowed in the Conservation Management District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled automotive vehicles

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §§3, 6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

The maximum residential density per net acre is equal to the per net acre residential density of the contiguous residentially zoned*property* that is under the same ownership. All residential units must be located outside the Conservation Management District and the requirements of §10-2074(d) must be met.

(2) Yard.

a. The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

	protective yard
front yard	50 feet
aggregate *front yard* and *rear yard*	100 feet
side yard	50 feet
aggregate *side yard:*	100 feet
rear yard:	50 feet

The*front yard, side yard,* or *rear yard* which adjoins any *street shall* comply with Additional Landscaping Requirements in Resource Management Zoning Districts, §10-2082.12.

See §10-2075 for other*yard areas* required by this Code, method for calculating

yard areas exceptions, reductions to *yard areas,* and illustrations.

b. Watercourse buffer areas.

After application of the Conservation Management District, all watercourses within the District which have a concentrated flow from a drainage area of at least five (5) acres*shall* contain a *natural resource buffer yard* in accordance with §10-9040.

No tree removal or land disturbing activities as defined in Part 10, chapter 5,*shall* occur within a *natural resource buffer yard* except as allowed by §§10-9041 and 10-9042.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawfully existing *building* or structure *nonconforming* or illegal.*

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1992 (Ord. No. 1991-879-TC-380).

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §§10, 11, TC-18-96, 6-17-97; Ord. No. 2001-991-TC-206, §4, TC-8-00, 5-1-01)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplemental regulations include:

(1) Off-street parking see §10-2081

(2) Landscaping see §10-2082

(3) Signage

on-premise signs see §10-2083

off-premise signs see §10-2084

(4) Lighting.

No exterior lighting*shall* cause illumination in excess of four-tenths (0.4) foot-candle measured at the Conservation Management District boundary line. Downlights *shall* be *used for* area lighting instead of lights that illuminate in all directions.

(5) ***Impervious surface*** **coverage.**

After application of the Conservation Management District,*impervious surface* areas, excluding public and private *streets* , *may* not be added so that the *impervious*

surface lot coverage *shall* exceed thirty (30) per cent.

(6) **Existing structures, uses and *impervious surfaces.***

Structures, uses and*impervious surfaces,* existing at the time that the Conservation Management District is first applied to the *property* *shall* not be deemed a *zoning nonconformity* solely because of the regulations of this district. For example, replacement of existing structures with like structures are allowed. All additions, changes, expansions, and alterations to such structures, *impervious surfaces* and uses *shall* comply with the regulations of the Conservation Management District unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion, or alteration as if the existing structure or use were made nonconforming by the district. Substitution of *impervious surfaces* done in accordance with §10-2146.2(a)(5) *shall* not require the approval of the Board of Adjustment.

Editor's note: Yard setbacks and*impervious surface* coverage regulations first became applicable on September 1, 1997 (Ordinance No. 1997-137-TC-153, TC-18-96).

(Ord. No. 1997-137-TC-153, §12, TC-18-96, 6-17-97)

Sec. 10-2031. AGRICULTURAL PRODUCTIVE (AP) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City* *Council* ; see §10-2113.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Agricultural Productive District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Agricultural, both general and restricted*

- Fish hatchery and fish pond

- Forestry

-*Recreational use - governmental*

-*Research farm*

-*Utility services* and substation

-*Wildlife sanctuary*

(Ord. No. 46-TC-172, §1, TC-220, 12-21-82)

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Landfill (debris from on-site)*

- Plant nursery and fruit and vegetable stand, including sales office

-*Single-family* detached *dwelling unit* (farm house)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership (condominium)*

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment:

- Airfield, landing strip, and heliport

- Kennel/cattery

- Riding stable

-*Veterinary hospital* in conjunction with a kennel/cattery

(Ord. No. 1996-855-TC-129, §2, TC-4-96, 4-2-96)

b. See §10-2145 for special uses approved by the Raleigh*City Council* :

- Telecommunication tower

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Agricultural Productive District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, §1, TC-2-00, 2-15-00)

- Open dump

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

- Processing of commercial agricultural products

-*Sign* not explicitly allowed in the Agricultural Productive District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles.

Cross reference: Animal regulations inside the*City* limits Part 12 chapter 3.

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is eighty thousand (80,000) square feet.

b. Outside overlay districts the maximum residential density per net acre is

0.5445 units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	150 feet
aggregate *front yard* and *rear yard*	300 feet
side yard	150 feet
rear yard	150 feet

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height, except *buildings* and structures greater than fifty (50) feet high *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than fifty (50) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1992 (Ord. No. 1991-879-TC-380)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplemental regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

Sec. 10-2032. RESIDENTIAL BUSINESS (RB) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Residential Business District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Bank - without any drive-thru facilities and automated teller machines that are not part of the bank*building*

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Church, synagogue, or religious education*building*

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - with no drive-thru service and with no on-premise alcohol sales

-*Food store* - retail

- Funeral home

- Library, art gallery, or museum - governmental

- Office, agency, and studio of a professional or business agent or political, labor, or service association listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Public school (elementary, middle, and high)

-*Recreational use - governmental*

-*Retail sales - personal service* listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted "special care facility" (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Residential Business District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Congregate care* or *congregate living structure*

- Governmental*building* and grounds

-*Group housing development*

-*Home occupation*

- Interim use, redevelopment area

(Ord. No. 1997-137-TC-153, §13, TC-18-96, 6-17-97)

-*Life care community*

-*Multi-family dwelling* development

-*Office center*

- Parking facility, off-site, in a Residential Business District for residential housing projects within the Downtown Residential Housing Overlay District

(Ord. No. 1997-137-TC-153, §13, TC-18-96, 6-17-97)

- Private or parochial school (elementary, middle, and high)

-*Recreational uses related to residential development*

-*Residential related service*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §9, TC-22-93, adopted April 5, 1994, deleted*"family care home"* from the list of conditional uses for the Residential Business District. Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted " *day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*group housing developments* , *multi-family dwelling* developments, *office center* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Bed and breakfast inn*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92)

-*Limited home business*

- Other professional or service offices, studios, or agencies not otherwise listed as allowed on the Schedule of Permitted Land Uses In Zoning Districts, §10-2071

-*Recreational uses restricted to membership - not for profit*

-*Retail sales* not otherwise listed as allowed on the Schedule of Permitted Land

Uses in Zoning Districts, §10-2071

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Outdoor stadium, outdoor theater, outdoor race track with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunication tower

(Ord. No. 166-TC-308, TC-2-88, 5-5-88; Ord. No. 1992-88-TC-401, §4, TC-4-92, 11-4-92; Ord. No. 1997-137-TC-153, §14, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Residential Business District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

-*Adult establishment*

- Any establishment which by the creation of excessive noise, light or night operation would be objectionable to any adjoining residential district, *dwelling* , *congregate care* or *congregate living structure* .

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay district, or both

- Any use or activity prohibited in the Buffer Commercial District unless otherwise permitted by §10-2032

Cross reference: Prohibited uses in the Buffer Commercial District §10-2040(c).

-*Automotive service and repair facility*

- Manufacturing

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Outdoor facilities or services including curb service, automated teller machines not part of the bank*building* , drive-thru trade, drive-in trade

- Post office

- Rear yard*dwelling* or rear yard garage apartment

-*Sign* not explicitly allowed in the Residential Business District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2032(e)(3), §10-2083, and §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, dismantled, or partially dismantled automotive vehicles

- Temporary or permanent storage of recreational vehicles, vehicles for hire, farm machinery,*manufactured homes* , boats or motorcycles

(Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

- Uses primarily devoted to the storing, sorting or breaking of *bulk products* ; or distributing or delivering parcels, post or other goods; or both

- Vehicle sales, rental, or both

- Warehousing/distribution center

- Wholesaling

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum *net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set for in Schedule of Minimum Net lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is ten (10) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

c. The maximum*floor area gross* per structure with a continuous roof for any permitted land use listed as a commercial or office use category in the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is five thousand (5,000) square feet. Developments existing at the time of application of the Residential Business District which contain more than five thousand square feet of *floor area gross* and otherwise conform to the zoning regulations of this chapter are not made nonconforming by this subsection. Any *residential related service* *shall* adhere to the size restrictions imposed by §10-2072. Provided, however, the Board of Adjustment in accordance with §10-2146.3(a)(7) *may* approve an addition, change, expansion, or alteration as if the existing structure was made nonconforming by application of the Residential Business district.

(Ord. No. 975-TC-289, §1, TC-9-87, 4-26-87; Ord. No. 1992-111-TC-42, §13, TC-19-92, 12-8-92; Ord. No. 1999-616-TC-181, §4, TC-3-99, 8-3-99)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	-0- feet
aggregate *front yard* and *rear yard*	-0- feet
side yard	-0- feet
aggregate *side yard* (other than corner)	-0- feet
corner lot side yard	-0- feet
rear yard	-0- feet

Outside the Downtown Overlay District, all*dwellings* , *congregate care* or *congregate living structures* *shall* comply with the district setbacks of the Residential-30 District. *Dwellings* , *congregate care* or *congregate living structures* that are both zoned Residential Business and are located in the Downtown Overlay District *shall* conform to the district yard setbacks of the Downtown Overlay District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(Ord. No. 2005-932-TC-275, §3, TC-6-05, 11-15-05)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed

to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* , or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplemental regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Lighting**	**see §10-2089**
(4)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

The total maximum signage on the premiseallowed for any use listed as a commercial or office use category in the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is five-tenths (0.5) square feet per linear foot of *building* frontage along any *street* , except a controlled access *street* , from which the establishment has a direct grade level public entrance along that *street* frontage up to three hundred (300) square feet; and such signage *shall* not be erected to a height greater than ten (10) feet above ground level. This maximum signage allowed on the *premise* limitation *shall* not apply to *product signs* and *information signs* permitted pursuant to §10-2083.2, unit number identification under ten (10) inches in height permitted pursuant to §10-2083.1(c)(2), or to a *temporary sign* permitted pursuant to §10-2083.2. All other remaining allowable signage on the premise *shall* be subject to the limitations of §10-2083.1(h).

(Ord. No. 679-TC-256, §2, TC-28-85, 12-8-85; Ord. No. 1993-207-TC-59, §1, TC-12-93; Ord. No. 1996-901-TC-131, §2, TC-3-96, 5-21-96)

Secs. 10-2033, 10-2034. RESERVED.

Sec. 10-2035. OFFICE AND INSTITUTION-1 (O&I-1) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

Editor's note: Ord. No. 337-TC-214, §1, TC-263, 5-31-84, established*site plan* approval by *City Council* .

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Office and Institution-1 (O&I-1) District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Bank

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Cemetery

- Church, synagogue or religious education*building*

-*Civic club*

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

- Funeral home

-*Hospital* (medical/psychiatric/veterinary)

- Library, art gallery or museum - governmental

- Library or museum - nongovernmental

(Ord. No. 1995-555-TC-100, §1, TC-1-95, 2-7-95)

- Parking lot, parking deck, parking garage

- Radio and television studio

- School (elementary, middle, and high) including colleges, technical and vocational institution and*specialty school* , but excluding private or parochial school

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

(Ord. No 703-TC-76, TC-110, §3, 3-7-78)

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Office and Institution-1 District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Dance, recording, music studio

-*Emergency shelter type B*

(Ord. No. 810-TC-268, §6, TC-6-86, 6-22-86)

- Governmental*building* and grounds

-*Group housing development* , *multi-family dwelling* development, *townhouse development* , residential *unit ownership (condominium) development*

-*Home occupation*

- Nonresidential related service, including*eating establishments* without drive-thru service or drive-in service

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

- Office, agency, or studio of a professional, business, agent or political, labor, or service association - additional floor area ratio in the Office and Institution-1 and -2 Districts.

(Ord. No. 1997-137-TC-153, §15, TC-18-96, 6-17-97)

- Office, agency, and studio of a professional or business agent or political, labor, or service association listed as allowed in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

-*Office center*

- Private or parochial school (elementary, middle, and high)

-*Recreational use related to residential development*

-*Recreational use restricted to membership profit and not for profit*

-*Residential related service*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §10, TC-22-93, adopted April 5, 1994, deleted*"family group home"* (derived from Ord. No. 895-TC-383, §8, TC-21-91, adopted Dec. 8, 1991) from the list of conditional uses for the Office and Institution-1 District. Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted " *day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *multi-family dwelling* developments, *office center* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

- Airfield, landing strip, and heliport

-*Bed and breakfast inn*

(Ord. No. 1992-30-TC-396, §2, TC-13-92, 8-4-92)

-*Guest house* facility

-*Limited home business*

-*Manufacturing - specialized*

- Other professional or service offices, studios or agencies not otherwise listed as allowed in the*office and institution district* by the Schedule of the Permitted Land Uses in the Zoning Districts, §10-2071

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

Editor's note: Ord. No. 1994-365-TC-71, §11, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Office and Institution-1 District. Ord. No. 1999-616-TC-181, §5, TC-3-99, adopted Aug. 3, 1999, deleted "Nonresidential related service, including*eating establishments* without drive-thru service or drive-in service" from the list of special uses for the Office and Institution-1 District.

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

Cross reference: Projects with densities in excess of fourteene*quivalent dwelling units* per net acre in the Downtown Residential Housing Overlay District are eligible for preliminary site plan approval by *City Council* , §10-2132.2 et seq. See: Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density, conversions of *building(s)* to *dwelling(s)* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts. Planned residential developments, Article F.

(Ord. No. 1992-88-TC-401, §5, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §1, TC-3-98, 7-7-98)

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §1, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunication tower

(Ord. No. 1997-137-TC-153, §§2, 16, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §1, TC-3-98, 7-7-98)

Editor's note: Ord. No. 1998-370-TC-167, TC-3-98, eliminated the special use requirement for densities exceeding ten (10) units per acre which was first established by Ord. No. 1985-509-TC-230, TC-278, adopted Sept. 5, 1985.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Office and Institution-1 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

-*Adult establishment*

- Any retail store or shop for public customers, including an artist studio,*eating establishment* , tailor shop that is not otherwise specifically approved either as an office related service by the Board of Adjustment in accordance with §10-2144 or as a *residential related service* in accordance with §10-2072

(Ord. No. 1994-408-TC-75, §3, TC-9-94, 6-7-94)

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay

zoning district, or both

- Any use or trade which, though properly and safely operated with ordinary care, according to good and reasonable practice causes noxious or offensive dust fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

-*Automotive service and repair facility*

-*Hotel/motel*

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Post office

- Rear yard*dwelling* or rear yard garage apartment

- Showrooms or display windows open to or visible from the*street*

-*Sign* not explicitly allowed in the Office and Institution-1 District by the Schedule of Permitted Signs in Zoning Districts, or erected in violation of §10-2083 and §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

- Uses primarily devoted to the storage, sorting or breaking of*bulk products* ; or distributing or delivering parcels, post or other goods; or both

- Warehousing/distribution center

- Wholesaling

Annotation: Press typeset printing is prohibited in an*office and institution zoning district* .

(Ord. No. 197-TC-315, §2, TC-26-87, 6-26-88)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net area for any*dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density is twenty-five (25) units per net acre.

c. *Outside the Downtown Overlay District the floor area ratio* (.75 maximum without a conditional use permit) and *building lot coverage* (twenty-five (25) per cent maximum) limitations are applied to any: Office, agency, and studio of a professional or business agent or political labor or service association, listed in the Schedule of Permitted Land Uses in Zoning Districts; see §10-2072(b) for these limitations.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §2, TC-3-98, 7-7-98; Ord. No. 1999-616-TC-181, §6, TC-3-99, 8-3-99; Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

All minimum *net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross references: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055. Increased floor area ratio

and building lot coverage *may* be permitted within the Downtown Overlay District, §10-2051.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

*front yard**	30 feet
aggregate *front yard* and *rear yard*	50 feet
side yard	5 feet
aggregate *side yard* (other than corner)	10 feet
corner lot side yard	5 feet
rear yard	20 feet

*Thirty (30) foot setback is measured from the major*street*

Dwellings , *congregate care* , or *congregate living structures* that are zoned Office and Institution-1 and are located outside the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Residential-30 District. *Dwellings* , *congregate care* or *congregate living structures* that are both zoned Office and Institution-1 and are located within the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. Those portions of *buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph, those portions of*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92; Ord. No. 2006-125-TC-295, §§1, 3, TC-17-06, 11-7-06)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's Note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2).

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in*office and institution districts* : Ord. No. 946-TC-86, §§13, 14, 15, 16, 17, 18, TC-29-85, 7-1-87.

(*Code 1959* , §24-13, 14, 15; Ord. No. 1992-111-TC-42, §14, TC-19-92, 12-8-92)

Sec. 10-2036. OFFICE AND INSTITUTION-2 (O & I-2) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Office and Institution-2 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Bank

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Cemetery

- Church, synagogue or religious education building

-*Civic club*

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

- Funeral home

-*Hospital* (medical/psychiatric/veterinary)

- Library, art gallery or museum - governmental

- Library or museum - nongovernmental

(Ord. No. 1995-555-TC-100, §1, TC-1-95, 2-7-95)

- Parking lot, parking deck, parking garage

- Radio and television studio

- School (elementary, middle, and high) including colleges, technical and vocational institution, and specialty school but excluding private or parochial school

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Office and Institution-2 District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Dance, recording, music studio

-*Emergency shelter type B*

- Governmental*building* and grounds

-*Group housing development* , *multi-family dwelling* , *townhouse development* , residential *unit ownership development, (condominium) development* , *congregate care structure* or *congregate living structure* , and any other *dwelling* and *equivalent dwelling unit* with a residential density of ten (10) units or less per net acre

-*Home occupation*

- Nonresidential related service, including*eating establishments* without drive-thru service or drive-in service

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

- Office, agency, or studio of a professional, business, agent or political, labor, or service association - additional floor area ratio in the Office and Institution-1 and -2 Districts.

(Ord. No. 1997-137-TC-153, §15, TC-18-96, 6-17-97)

- Office, agency, and studio of a professional or business agent or political, labor, or service association listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

-*Office center*

- Private or parochial school (elementary, middle and high)

-*Recreational use related to residential development*

-*Recreational use - restricted to membership- profit and not for profit*

-*Residential related service*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-Unit ownership (condominium)

Editor's note: Ord. No. 1994-365-TC-71, §10, TC-22-93, adopted April 5, 1994, deleted*"family group home"* (derived from Ord. No. 895-TC-383, §9, TC-21-91, adopted Dec. 8, 1991) from the list of conditional uses for the Office and Institution-2 District. Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted " *day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *multi-family dwelling* developments, *office centers* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

- Airfield landing strip and heliport

-Limited home business

-Manufacturing - specialized

- Other professional or service offices, studios, or agencies not otherwise listed as allowed in the*office district* by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

Editor's note: Ord. No. 1994-365-TC-71, §11, TC-22-93, adopted April 5, 1994, deleted "group care facility" from the list of special uses for the Office and Institution-2 District. Ord. No. 1999-616-TC-181, §5, TC-3-99, adopted Aug. 3, 1999, deleted "Nonresidential related service, including*eating establishments* without drive-thru service or drive-in service" from the list of special uses for the Office and Institution-2 District.

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

Cross reference: Projects with densities in excess of fourteen (14)*equivalent dwelling units* per net acre in the Downtown Residential Housing Overlay District are eligible for preliminary site plan approval by *City Council* , §10-2132.2 et seq. See: Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density, conversions of *building(s)* to *dwelling(s)* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts. Planned residential developments Article F.

(Ord. No. 1992-88-TC-401, §5, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §3, TC-3-98, 7-7-98)

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §2, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunication tower

(Ord. No. 1997-137-TC-153, §§2, 16, 17, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §3, TC-3-98, 7-7-98)

Editor's note: Ord. No. 1998-370-TC-167, TC-3-98, eliminated the special use requirement for densities exceeding ten (10) units per acre which was first established by Ord. No. 1985-509-TC-230, TC-278, adopted Sept. 5, 1985.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Office and Institution-2 District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

-*Adult establishment*

- Any retail store or shop for public customers, including an artist studio,*eating establishment* , tailor shop that is not otherwise specifically approved either as an office related service by the Board of Adjustment in accordance with §10-2144 or as a *residential related service* in accordance with §10-2072

(Ord. No. 1994-408-TC-75, §3, TC-9-94, 6-7-94)

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Any use or trade which, though properly and safely operated with ordinary care, according to good and reasonable practice causes noxious or offensive dust fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

-*Automotive service and repair facility*

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Post office

- Rear yard*dwelling* or rear yard garage apartment

- Showrooms or display windows open to or visible from the*street*

-*Sign* not explicitly allowed in the Office and Institution-2 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

- Uses primarily devoted to the storage, sorting or breaking of*bulk products* ; or distributing or delivering parcels, post or other goods; or both

- Warehousing/distribution center

- Wholesaling

Annotation: Press typeset printing is prohibited in an*office and institution zoning district* .

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net area for any*dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density is forty (40) units per net acre.

c. *Outside the Downtown Overlay District the floor area ratio* (one (1) maximum

without a conditional use permit) and *building lot coverage* (thirty (30) per cent maximum) limitations are applied to any: Office, agency, and studio of a professional or business agent or political labor or service association, listed in the Schedule of Permitted Land Uses in Zoning Districts; see §10-2072(b) for these limitations.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §4, TC-3-98, 7-7-98; Ord. No. 1999-616-TC-181, §6, TC-3-99, 8-3-99; Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross references: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055. Increased floor area ratio and building lot coverage *may* be permitted within the Downtown Overlay District, §10-2051.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are determined at the time of*City Council* or Planning Commission *site plan* approval.

The district yard setback for structures and uses that are not approved by*City Council* or Planning Commission as a *site plan* under §10-2132.2 *shall* comply with the same setbacks as the Office and Institution-1 District.

Dwellings, congregate care, or *congregate living structures* that are zoned Office and Institution-2 and are located outside the Downtown Residential Housing Overly District *shall* conform to the district yard setbacks of the Residential-30 District. *Dwellings, congregate care,* or *congregate living structures* that are both zoned Office and Institution-2 and are located within the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(Ord. No. 1999-616-TC-181, §§7, 8, TC-3-99, 8-3-99)

(3) Height.

Buildings and structures that are approved as a *site plan* under §10-2132.2 and not otherwise regulated by this Code *may* be constructed to any height determined at *site plan* approval. *Buildings* and structures that are not approved by *City Council* or Planning Commission as a *site plan* under §10-2132.2, unless otherwise regulated by this Code, *may* be constructed to any height. Those portions of *buildings* and structures greater than fifty (50) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than fifty (50) feet high.

Notwithstanding the foregoing paragraph, those portions of*buildings* and structures constructed greater than fifty (50) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than fifty (50) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or

illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92; Ord. No. 2003-373-TC-231, §3, TC-23-02, 2-4-03; Ord. No. 2006-125-TC-295, §§2, 3, TC-17-06, 11-7-06)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2).

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in*office and institution districts* : Ord. No. 946-TC-86, §§13, 14, 15, 16, 17, 18, TC-29-85, 7-1-87.

(Ord. No. 1992-111-TC-42, §14, TC-19-92, 12-8-92)

Sec. 10-2037. OFFICE AND INSTITUTION-3 (O & I-3) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a preliminary *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses, allowed in the Office and Institution-3 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Bank

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Cemetery

- Church, synagogue or religious education*building*

-*Civic club*

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

- Funeral home

-*Hospital* (medical/psychiatric/veterinary)

- Library, art gallery or museum - governmental

- Library or museum - nongovernmental

(Ord. No. 1995-555-TC-100, §1, TC-1-95, 2-7-95)

- Parking lot, deck, garage

- Radio and television studio

-*Recreational uses - governmental*

- School (elementary, middle, and high) including colleges, technical and vocational institution, and specialty school but excluding private or parochial school

-*Utility services* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Office and Institution-3 District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Dance, recording, music studio

- Governmental*building* and grounds

-*Home occupation* located in *dwellings* established prior to application of this zoning district

(Ord. No. 528-TC-353, §5, TC-3-90, 4-22-90)

- Nonresidential related service, including*eating establishments* without drive-thru service or drive-in service

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

- Office, agency and studio of a professional or business agent, or political, labor, or service association listed as allowed in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

-*Office center*

- Private or parochial school (elementary, middle, and high)

-*Recreational use - restricted to membership - profit and not for profit*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

- Unit ownership (condominium)

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility (child or adult)"* from the list of conditional uses for this district. Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted " *day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Office center* and *unit ownership (condominium) developments* are conditional uses; however, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

- Airfield, landing strip, and heliport

-*Limited home business* located in *dwellings* established prior to application of this zoning district

- Other professional or service offices, studios or agencies not otherwise listed as allowed in the office district by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

- *Manufacturing - specialized*

(Ord. No. 1999-616-TC-181, §5, TC-3-99, 8-3-99)

Editor's note: Ord. No. 1999-616-TC-181, §5, TC-3-99, adopted Aug. 3, 1999, deleted*"Nonresidential related service* , including *eating establishments* without drive-thru service or drive-in service" from the list of special uses for the Office and Institution-3 District.

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §3, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunications tower

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Office and Institution-3 District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

-*Adult establishments*

- Any retail store or shop for public customers, including an artist studio,*eating establishment* , tailor shop that is not otherwise specifically approved as an office related service by the Board of Adjustment in accordance with §10-2144

(Ord. No 847-TC-155, §2, TC-204, 2-16-82; Ord. No. 1994- 408-TC-75, §3, TC-9-94, 6-7-94)

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Any use or trade which, though properly and safely operated with ordinary care, according to good and reasonable practice causes noxious or offensive dust, fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

-*Automotive service and repair facility*

-*Bed and breakfast inn*

-*Dwelling* , *congregate care* and *congregate living structure* , *equivalent dwelling unit* , or *residence* of any kind except rectory, parish house, *religious shelter unit* , or work to existing nonconforming *dwellings* done in accordance with §10-2146

-*Hotel/motel*

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use* to a *dwelling* erected prior to the application of this district

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Post office

- Rear yard*dwelling* or rear yard garage apartment

- Showrooms or display windows open to or visible from the*street*

-*Sign* not explicitly allowed in the Office and Institution-3 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

- Uses primarily devoted to the storage, sorting or breaking of*bulk products* ; or distributing or delivering parcel post or other goods; or both

- Warehousing/distribution center

- Wholesaling

Annotation: Press typeset printing is prohibited in an*office and institution zoning district* .

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The maximum residential density is zero (0).

b. *Outside the Downtown Overlay District the floor area ratio* (.33 maximum) and *building lot coverage* (twenty (20) per cent maximum one (1) story buildings; fifteen (15) per cent maximum other buildings) limitations are applied to any: Office, agency, and studio of a professional or business agent or political labor or service association, listed in the Schedule of Permitted Land Uses in Zoning Districts, see §10-2072(b) for these limitations.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

Cross reference: Increased floor area ratio and building lot coverage*may* be permitted within the Downtown Overlay District, §10-2051.

(Ord. No. 2005-932-TC-275, §4, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

_____

front yard

50 feet protective yardwhen the yard setback adjoins any *residential district* , *dwelling* , *congregate care* or *congregate living structure* or if the setback adjoins a *street* right-of-way and immediately across this *street* is a *residential district* , *dwelling* , *congregate care* or *congregate living structure*

30 feet*protective yard* is required in all other situations

_____

aggregate*front yard* and rear yard

50 feet through 100 feet

_____

side yard - interior

50 feet*protective yard* when the yard setback adjoins any *residential district* , *dwelling* , *congregate care* or *congregate living structure*

10 feet non-*protective yard* otherwise

_____

aggregate*side yard* (other than corner)

20 feet through 100 feet

_____

corner lot side yard

50 feet protective yardwhen the yard setback adjoins a *street* right-of-way and immediately across this *street* is a *residential district* , *dwelling* , *congregate care* or *congregate living structure*

30 feet*protective yard* is required in all other situations

_____

rear yard

50 feet protective yardwhen the yard setback either adjoins any *residential district* , *dwelling* , *congregate care* or *congregate living structure* or adjoins a *street* right-of-way and immediately across this *street* is a residential district, *dwelling* , *congregate care* or *congregate living structure* ;

30 feet*protective yard* when the yard setback adjoins a *street* right-of-way and immediately across this *street* is a *nonresidential district* which does not contain any *dwelling* , *congregate care* or *congregate living structure* ;

20 feet non-*protective yard* when the yard setback does not adjoin any *street* right-of-way, *residential district* , *dwelling* , *congregate care* or *congregate living structure*

_____

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(Ord. No. 799-TC-267, §17, TC-21-85, 1-1-87)

(3) Height.

Buildings and structures unless otherwise regulated by this Code *may* be constructed to twenty-five (25) feet high.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in*office and institution districts* : Ord. No. 946-TC-86, §§13, 14, 15, 16, 17, 18, TC-29-85, 7-7-87.

Secs. 10-2038--10-2039. RESERVED.

Sec. 10-2040. BUFFER COMMERCIAL (BC) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *CityCouncil* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

Editor's note: Ord. No. 337-TC-214, §4, TC-763, 5-31-84 established*site plan* approval by *City Council* .

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Buffer Commercial District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

- Bank, with or without drive-thru and with or without automated teller machines

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Church, synagogue or religious education building

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* with no drive-thru or drive-in service and with no alcohol sales on

the premises

-*Hotel/motel*

- Library, art gallery or museum - governmental and non-governmental

- Nonresidential related service listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, and without drive-thru service or drive-in service and with no alcohol sales on the*premise*

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Parking deck or parking garage

- Post office

-*Recreational use - government*

- Retail sales - personal servicelisted as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

-*Retail sales - convenience* listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

- Schools except private or parochial school (elementary, middle and high)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Buffer Commercial District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Bar nightclubs, tavern, lounge

- Dance, recording, music studio

-*Eating establishment* with no drive-thru service or drive-in service and with on-premise alcohol sales on the *premise*

-*Emergency shelter Type B*

- Governmental buildingand grounds

-*Group housing development*

-*Home occupation*

-*Multi-family dwelling* development

-*Office center*

- Private and parochial school (elementary, middle, and high)

-*Recreational use related to residential development*

-*Recreational use restricted to membership- profit and not for profit*

-*Residential related service*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-365-TC-71, §9, TC-22-93, adopted April 5, 1994, deleted*"family care home"* from the list of conditional uses for the Office and Institution-3 District. Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted " *day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *life care community* , *multi-family dwelling* developments, *office center* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(Ord. No. 810-TC-268, §7, TC-6-86, 6-22-86)

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Limited home business*

-*Manufacturing - specialized*

-*Retail sales* not otherwise listed as allowed on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071

- Trade show and temporary retail activity within a*hotel* or *motel*

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §4, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunication tower

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Buffer Commercial District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

-*Adult establishment*

- Any establishment which by the creation of excessive noise, light or night operation would be objectionable to any adjoining*residential district* , *dwelling* , *congregate care* or *congregate living structure* .

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Any use or trade which, though properly and safely operated with ordinary care, according to good and reasonable practice causes noxious or offensive dust fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

-*Automotive service and repair facility*

- Business or portions of businesses conducted in whole or in part outside the*building*

- Establishments serving beer or wine for consumption on the*premises* ; except, restaurant facilities located within *hotels* or *motels* *may* serve beer and wine to their patrons for consumption on the *premises*

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Outdoor commercial parking lot

- Outdoor facilities or services including curb service, automated teller machines, drive-thru trade, drive-in trade, except in connection with a bank, motor vehicle licensing and registration service, a laundry and dry cleaning pick-up station, or postal facility

- Rear yard*dwelling* or rear yard garage apartment

-*Sign* not explicitly allowed in the Buffer Commercial District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

- Storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive vehicles

- Temporary or permanent storage of recreational vehicles, vehicles for hire, farm machinery,*manufactured homes* , boats or motorcycles

- Vehicular sales, rental, or both

- Warehousing/distribution center

- Wholesaling

Annotation: Press typeset printing is prohibited in a Buffer Commercial District.

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073.

b. Outside overlay districts the maximum residential density per net acre is ten (10) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

c. The maximum*floor area gross* per floor for any permitted land use listed as an office or commercial use in the Schedule of Permitted Uses in Zoning District, §10-2071 is three thousand (3,000) square feet per *premises* , except those portions devoted to sleeping quarters, located inside the *hotel* or *motel* .

Cross reference: Additional residential density *may* be permitted within the Downtown Overlay

District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §5, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	30 feet
aggregate *front yard* and *rear yard*	30 feet
side yard	-0- feet
aggregate *side yard* (other than corner)	-0- feet
corner lot side yard	1/2 the depth of the front yard of the *lot* which adjoins the rear yard of the *corner lot* but not less than 10 feet nor more than 20 feet
rear yard	-0- feet

Outside the Downtown Residential Housing Overlay District all*dwellings* , *congregate care* or *congregate living structures* *shall* comply with the district setbacks of the Residential-30 District. *Dwellings* , *congregate care* or *congregate living structures* that are both zoned Buffer Commercial and are located in the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplemental regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in this District. (Ord. No. 946-TC-86, §§17,19, TC-29-85, 7-1-87)

(*Code 1959* , §24-17, 18, 19, 20, 21, 22)

Sec. 10-2041. SHOPPING CENTER (SC) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Shopping Center District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Automotive service and repair facility*

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Church, synagogue or religious education building

-*Civic/convention center* and assembly hall - governmental and non-and nongovernmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store - retail*

-*Hotel/motel*

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Parking lot, deck, garage including motor pool

-*Recreational use - restricted to membership- profit and not for profit*

- Recreational indoor use

-*Retail sales*

- Schools except private or parochial school (elementary, middle, and high)

-*Single-family* detached *dwelling unit*

-*Utility services* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Shopping Center District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

-*Emergency shelter type B*

- Governmental*building* and grounds

-*Group housing development* , *congregate care structure* or *congregate living structure* , *multi-family dwelling* development, *townhouse development* , and any other *dwelling* and *equivalent dwelling unit* with fifteen (15) units or less per net acre

-*Home occupation*

-*Landfill (debris from on-site)*

-*Manufacturing - custom*

-*Manufacturing - specialized*

- Mini-warehouse, storage facility

-*Office center*

- Private or parochial school (elementary, middle, and high)

-*Shopping area* and *shopping center*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility (child or adult)"* from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *multi-family dwelling* developments, *office center* , *shopping areas* , *shopping centers* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this Chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Adult establishment*

- Airfield, landing strip, and heliport

- Kennel/cattery

-*Limited home business*

- Riding stable

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

Cross reference: Projects with densities in excess of fourteen (14)*dwelling* or *equivalent dwelling units* per net acre that are located within the Downtown Residential Housing Overlay District are eligible for a preliminary site plan approval by *City Council* , §10-2151(e)(2) et seq. See: Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density, conversions of *building(s)* to *dwelling(s)* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts. Planned Residential Developments, Article F.

(Ord. No. 310-TC-331, §1, TC-30-88, 2-12-88; Ord. No. 675-TC-254, §1, TC-17-85, 5-1-86; Ord. No. 1992-88-TC-401, §5, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §5, TC-3-98, 7-7-98)

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §5, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, or outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunications tower

Editor's note: Ord. No. 1998-370-TC-167, TC-3-98, eliminated the special use requirement for densities exceeding fifteen (15) units per acre which was first established by Ord. No. 1985-509-TC-230, TC-278, adopted Sept. 5, 1985.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Shopping Center District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which, though properly and safely operated with ordinary care, according to good reasonable practice causes noxious or offensive dust, fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Bulk storage of flammable or combustible liquids

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072(b) as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Outdoor storage of*building* materials or contractor's construction equipment, coal yard, lumber yard or lumber mill, and two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled automotive vehicles

- Rear yard*dwelling* or rear yard garage apartment

-*Sign* not explicitly allowed in the Shopping Center District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Warehousing/distribution center except mini-warehouse storage facility approved as a conditional use

- Wholesaling

(Ord. No. 197-TC-315, §4, TC-26-87, 6-26-88)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net area for any*dwelling unit* and *equivalent dwelling unit* is set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density is thirty (30) units per net acre.

(Ord. No. 33-TC-171, §2, TC-2002, 12-7-82; Ord. No. 1992-111-TC-42, §11, TC-19-92, 12-8-92; Ord. No. 1998-370-TC-167, §6, TC-3-98, 7-7-98)

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross reference: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §5, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are determined at the time of*City Council site plan* approval.

The district yard setback for structures and uses that are not approved by*City Council* as a *site plan* under §10-2132.2(c) *shall* comply with same setbacks as the Neighborhood Business District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures unless otherwise regulated by this Code *may* be constructed to any height. *Buildings* and structures greater than fifty (50) feet high, however, *shall* add the greater of either: one (1) foot of additional width to each required district yard setback for each foot of height greater than fifty (50) feet high or one (1) foot of width to each required district yard setback plus twenty-five (25) feet when adjoining a *lot* containing a *dwelling* , a *congregate care* or *congregate living structure* or which is zoned a *residential district* for each foot of height greater than fifty (50) feet. The later

establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* or of a *residential zoning district* on the adjoining *lot* *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(Ord. No. 871-TC-158, §1, TC-205, 3-23-82)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in this District: Ord. No. 799-TC-267, §15, TC-21-85, 1-1-87; Ord. No. 723-TC-262, §3, TC-1-86, 2-9-86; Ord. No. 946-TC-86, §§17,19,21, TC-29-85, 7-1-87; Ord. No 699-TC-259, §3, TC-20-85, 12-22-85; Ord. No. 656-TC-248, §2, TC-2-85, 11-10-85; Ord. No. 407-TC-222, §9, TC-268, 9-30-84; Ord. No 216-TC-199, §2, TC-248, 11-8-83.

(*Code 1959* , §24-23, 24, 25, 26, 27)

Sec. 10-2042. NEIGHBORHOOD BUSINESS (NB) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City* *Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

Editor's note: Ord. No 337-TC-214, §6, TC-263, 5-31-84, established*site plan* approval by *City Council* .

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Neighborhood Business District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-Automotive service and repair facility

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Church, synagogue or religious education building

-*Civic/convention center* and assembly hall - governmental and non- governmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store - retail*

-*Hotel/motel*

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Parking lot, parking deck, parking garage including motor pool

-*Recreational use - restricted to membership- profit and not for profit*

- Recreational indoor use

-*Retail sales*

- Schools except private or parochial school (elementary, middle, and high)

-*Single-family* detached *dwelling unit*

-*Utility service* and substation

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Neighborhood Business District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

- *Emergency shelter type A* and *emergency shelter type B*

- Governmental*buildings* and grounds

-*Group housing development* , *congregate care structure* or *congregate living structure* , *multi-family dwelling* development, *townhouse development*

-*Home occupation*

-*Landfill (debris from on-site)*

-*Manufacturing - custom*

-*Manufacturing - specialized*

- Mini-warehouse storage facility

-*Office center*

-*Shopping area* and *shopping center*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership (condominium)*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *multi-family dwelling* developments, *office center* , *shopping areas* , *shopping centers* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Adult establishment*

- Airfield, landing strip, and heliport

- Kennel/cattery

-*Limited home business*

- Riding stable

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §6, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater or outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunications tower

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Neighborhood Business District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which, though properly and safely operated with ordinary care, according to good reasonable practice causes noxious or offensive dust, fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Bulk storage of flammable or combustible liquids

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Outdoor storage of building materials or contractors construction equipment, coal yard, lumber yard or lumber mill, and two (2) or more unlicensed, uninspected wrecked, crushed, dismantled or partially dismantled automotive vehicles

- Rear yard*dwelling* or rear yard garage apartment

-*Sign* not explicitly allowed in the Neighborhood Business District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

- Warehousing/distribution center except mini-warehouse storage facility approved as a conditional use

- Wholesaling

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073

b. Outside overlay districts the maximum residential density per net acre is ten (10) units.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross reference: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §5, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	30 feet
aggregate *front yard* and *rear yard*	30 feet
side yard	-0- feet
aggregate *side yard* (other than corner)	-0- feet
corner lot side yard	1/2 the depth of the front yard of the *lot* which adjoins the rear yard of the *corner lot* but not less than 10 feet nor more than 20 feet
rear yard	-0- feet

Dwelling , *congregate care* or *congregate living structures* that are zoned Neighborhood Business and are located in the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District. Outside the Downtown Residential Housing Overlay District all *dwellings* , *congregate care* or *congregate living structures* *shall* comply with the

district setbacks of the Residential-30 District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height. *Buildings* and structures greater than forty (40) feet high, however, *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than forty (40) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. Ord. No. 1986-799-TC-267, §2.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplemental regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089**

Editor's note: Signage and lighting in this District: Ord. No. 210-TC-198, §§2, 3, TC-251, 10-23-83.

(*Code 1959* , §24-28, 29, 30)

Sec. 10-2043. BUSINESS ZONE (BUS Z) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Business Zone District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Automotive service and repair facility*

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

- Bottling plant

- Church, synagogue or religious education building

-*Civic/convention center* and assembly hall - governmental and non- governmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store - retail*

-*Hotel/motel*

- Machine shop

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Parking lot, deck, garage including motorpool

- Railroad, freight and passenger station and bus station

-*Recreational use - restricted to membership- profit and not for profit*

- Recreational indoor use

-*Retail sales*

- Schools except private or parochial school (elementary, middle, and high)

-*Single-family* detached *dwelling unit*

-*Utility service* and substation

- Warehousing/wholesaling distribution

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Business Zone District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living*

structure or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

-*Emergency shelter type A* and type B

- Governmental*building* and grounds

-*Group housing development*

-*Home occupation*

-*Landfill (debris from on-site)*

-*Manufacturing - custom*

-*Manufacturing - restricted*

-*Manufacturing - specialized*

-*Multi-family dwelling* development

-*Office center*

- Schools - private parochial (elementary, middle, and high)

-*Shopping area* and *shopping center*

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Townhouse development*

-*Unit ownership*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility (child or adult)"* from the list of conditional uses for this district.

Cross reference: *Group housing developments* , *multi-family dwelling* developments, *office center* , *shopping areas* , *shopping centers* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Adult establishment*

- Airfield, landing strip, and heliport

- Kennel/cattery

-*Limited home business*

- Riding stable

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

Cross reference:*Properties* located within the Downtown Residential Housing and Pedestrian Overlay

Districts are eligible for a special use permit, §10-2145(b). See Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density, conversion of *building(s)* to *dwelling(s)* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts.

(Ord. No. 1992-88-TC-401, §6, TC-4-92, 11-4-92)

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §6, TC-13B-93, 5-4-93)

- Outdoor stadium, outdoor theater, and outdoor racetrack with more than two hundred and fifty (250) seats; outdoor movie theatre

- Telecommunication towers

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Business Zone District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which, though properly and safely operated with ordinary care, according to good reasonable practice causes noxious or offensive dust, fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Bulk storage of flammable or combustible liquid

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Outdoor storage of*building* materials or contractor's construction equipment, coal yard, lumber yard, or lumber mill, and two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automobiles

- Rear yard*dwelling* or rear yard garage apartment

-*Sign* not explicitly allowed in the Business Zone District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 or §10-2084

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is set forth in Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073.

b. Outside overlay districts the maximum residential density per net acre is ten (10) units, unless additional units are approved as part of a special use permit for projects involving the conversion of any nonresidential building to one (1) or more*dwellings* .

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross reference: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §5, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	-0- feet
aggregate *front yard* and *rear yard*	-0- feet
side yard	-0- feet
aggregate *side yard* (other than corner)	-0- feet
corner lot side yard	-0- feet
rear yard	-0- feet

Outside the Downtown Residential Housing Overlay District, all*dwellings* , *congregate care* or *congregate living structures* *shall* comply with the district yard setbacks of the Residential-30 District. *Dwellings* , *congregate care* or *congregate living structures* that are zoned Business Zone and are located in the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

See §10-2075 for other *yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code *may* be constructed to fifty (50) feet.

Notwithstanding these maximum height limits,*buildings* and structures *may* exceed these limits upon the approval of a *site plan* by the *City Council* pursuant to §10-2132.2.

(Ord. No. 1996-910-TC-134, §3, TC-9-96, 6-4-96; Ord. No. 1999-616-TC-181, §9, TC-3-99, 8-3-99)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplemental regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

Editor's note: Signage and lighting in this District: Ord. No. 946-TC-286, §17, TC-29-85, 4-7-87; Ord. No. 210-TC-198, §4, TC-251, 10-23-83.

(*Code 1959* , §24-31, 32)

Sec. 10-2044. RESERVED.

Sec. 10-2045. THOROUGHFARE (TD) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses, allowed in the Thoroughfare District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Automotive service and repair facility*

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

-*Bulk products* (storing, sorting, breaking)

- Church, synagogue or religious education*building*

-*Civic/convention center* and assembly hall - governmental and non-governmental and nongovernmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store - retail*

- *Hotel/motel*

-*Manufacturing - custom*

-*Manufacturing - general*

-*Manufacturing - restricted*

-*Manufacturing - specialized*

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Outdoor storage of building materials or contractor's construction equipment

- Parking lot, deck, garage including motorpool

-*Recreational use - restricted to membership- profit and not for profit*

- Recreational indoor use

-*Recreational outdoor use*

- Riding stable

-*Retail sales*

- Schools except private or parochial school (elementary, middle, and high)

- Transportation terminal facility, railroad roundhouse and depot

-*Utility services* and substation

- Warehousing/distribution center

- Wholesaling

(Ord. No. 278-TC-326, §6, TC-18-88, 11-20-88)

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Thoroughfare District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

-*Emergency shelter type A and B*

- Governmental*building* and grounds

-*Group housing development* , *multi-family dwelling* development, *townhouse development* , *congregate care structure* or *congregate living structure* and any other *dwelling* and *equivalent dwelling unit* with twenty (20) units per net acre and less

(Ord. No. 2005-932-TC-275, §6, TC-6-05, 11-15-05)

-*Home occupation*

-*Landfill (debris from on-site)*

-*Mixed use development Master Plan* , approved prior to March 1, 1992 or required by a Conditional Use Thoroughfare, Industrial-1, Industrial-2 District enacted prior to March 1, 1992

(Ord. No. 1991-868-TC-378, §4, TC-9-91, 3-1-92)

-*Office center*

- Private or parochial school (elementary, middle, and high)

-*Shopping area* and *shopping center*

(Ord. No. 1997-137-TC-153, §19, TC-18-96, 6-17-97)

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council.*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility* (child or adult)" from the list of conditional uses for this district.

Cross reference:*Group housing developments* , *multi-family dwelling* developments, *office center* , *shopping areas* , *shopping centers* , *townhouse developments* , and *unit ownership (condominium) developments* are conditional uses. However, their regulations are set forth in Articles F and G of this chapter and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

- *Adult establishment*

- Airfield, landing strip, and heliport

- Kennel/cattery

-*Limited home business*

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Correctional/penal facility (Governmental)

(Ord. No. 1993-187-TC-56, §8, TC-13B-93, 5-4-93)

Cross reference: Projects with densities in excess of fourteen (14)*dwelling* or *equivalent dwelling units* per net acre that are located within the Downtown Residential Housing Overlay District *may* be eligible for additional density in accordance with §10-2151(e)(2) et seq.

- Telecommunication tower

(Ord. No. 310-TC-331, 31-TC-30-88, 2-12-89; Ord. No. 1997-137-TC-153, §20, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §7, TC-3-98, 7-7-98)

Editor's note: Ord. No. 1998-370-TC-167, TC-3-98, eliminated the special use requirement for densities exceeding twenty (20) units per acre which was first established by Ord. No. 1985-509-TC-230, TC-278, adopted Sept. 5, 1985.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Thoroughfare District by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which though properly and safely operated with ordinary care, according to good reasonable practices causes noxious or offensive dust, fumes, gas, noise, odor, or vibration that substantially interferes with other lawful uses.

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Manufacture of: acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, fireworks or explosives, fish meal, nitrogenous tankage; paints, varnish, or shellac that requires distillation or heating of ingredients; phosphates, turpentine, and vinegar

- Mining and quarry

- Oil refining and petroleum distillation (excluding oil recycling facilities and bituminous concrete facilities)

-*Sign* not explicitly allowed in the Thoroughfare District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Open dump

- Rifle range - outdoor

- Rear yard*dwelling* or rear yard garage apartment

- Scrap yard

- Slaughterhouse or tanyard

- Storage of two (2) or more wrecked, crushed, dismantled, or partially dismantled automobile vehicles

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net area for any*dwelling unit* and *equivalent dwelling unit* is set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units §10-2073. But no *dwelling unit* or *equivalent dwelling unit* *shall* be established unless it is part of a residential project located on a minimum tract or a residential subdivision consisting of at least ten (10) acres.

b. Outside overlay districts the maximum residential density is forty (40) units per net acre.

(Ord. No. 675-TC-254, §2, TC-17-85, 5-1-86; Ord. No. 1998-370-TC-167, §8, TC-3-98, 7-7-98)

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

Cross reference: Additional residential density*may* be permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §18, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §5, TC-6-05, 11-15-05)

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

_____

TABLE INSET:

front yard	90 feet *protective yard* if adjoining a *thoroughfare* or that arterial road. This *protective yard* *may* be reduced to a 50 foot-wide *protective yard* if

and *corner lot* , *side yard,* and *rear yard fronts* a *street*	the treescape required in subsection (e)(2) below is doubled. Whenever landscape meeting the characteristics of §10-2060(e)(2) is planted, and a site plan is approved by *City* in accordance with §10-2132.2, the uniform 50 foot-wide *protective yard may* be altered to a 50 feet minimum average *protective yard* ; provided that, this *protective yard shall* be at least 35 feet wide and no more than 75 feet wide as measured perpendicular to the recorded adjoining *thoroughfare* right-of-way abutting the *property* .
	The minimum area of this yard in square feet *shall* be equal to the length of the *property* along the *thoroughfare* in linear feet multiplied by 50 feet unless a planted earthen berm meeting the characteristics of §10-2060(e)(2) a.4. is installed in open areas with no vegetation; in such instance, the width of the protective yard *may* be reduced to a uniform dimension of 35 feet.
	30 feet *protective yard* if the *property* both adjoins and gains access from a public marginal access road immediately adjacent to and parallel to a *thoroughfare* or arterial road. This setback *shall* contain a treescape as any other *street protective yard* . This *protective yard may* be reduced 5 feet or to a uniform width of 25 feet; provided that, this setback *shall* contain per every 100 linear feet or fraction thereof 5 shade trees, 3 understory trees and 16 shrubs meeting the characteristics of §10-2060(e)(2)a.1.--3.
	50 feet if adjoining any other *street* . This yard width *may* be reduced to a minimum average *protective yard* of 35 feet; provided that, this reduction occurs within 100 feet of a *major access corridor* intersection, and that the non- *thoroughfare street* gains access with the *major access corridor* , and the reduced yard is landscaped in accordance with §10-2060(e)(2). This *protective yard shall* be at least 35 feet wide and no more than 75 feet wide, unless an earthen berm meeting the characteristics of §10-2060(e)(2)a.4. is installed in open areas with no vegetation; in such instance, the width of the *protective yard may* be reduced to a uniform width of 35 feet.

Cross reference:*Street protective yard* plantings, see §10-2082.5

(Ord. No. 1996-851-TC-128, §7, TC-23-95, 4-2-96)

_____

TABLE INSET:

aggregate *front yard* and *rear yard*	*50 feet through 180 feet depending on front yard* and *rear yard* requirements

_____

TABLE INSET:

side yard (other than corner)	0 feet if either an *interior lot* within the development or is adjacent to a railroad right-of-way
	20 feet if *lot* is a peripheral *lot* on the perimeter of the development and is not a *corner lot*

_____

TABLE INSET:

aggregate *side yard* (other than corner)	0 feet through 40 feet depending on whether one or both sides of the *lot* adjoins any railroad right-of-way or the perimeter of the development

_____

TABLE INSET:

rear yard (other than those which front a *street*)	0 feet if either an *interior lot* within the development or is adjacent to a railroad right-of-way
	20 feet if *lot* is peripheral *lot* on the perimeter of the development

_____

Outside the Downtown Residential Housing Overlay District all*dwellings* , *congregate care* , or *congregate living structures* *shall* comply with district yard setbacks of the Residential-30 District. *Dwellings* , *congregate care* , or *congregate living structures* , that are zoned Thoroughfare District and are located in the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

The*protective yards* required in this subsection *may* be reduced in width and plantings if approved as an alternate method of compliance in accordance with §10-2082.4 of this Code; or, if approved as a special use permit in accordance with §10-2145(b) of this Code.

(Ord. No. 976-TC-290, TC-13-87, 12-1-87; Ord. No. 799-TC-267, §25,26, TC-21-85, 1-1-87; Ord. No. 1994-429- TC-78, §1, TC-13-94, 6-21-94; Ord. No. 1999-616-TC-181, §10, TC-3-99, 8-3-99)

(3) Height.

Buildings and structures unless otherwise regulated by this Code *may* be constructed to any height. *Buildings* and structures greater than fifty (50) feet high, however, *shall* add two (2) feet of additional width to each required district yard setback for each foot of height greater than fifty (50) feet high; provided that, when the district yard setback of ninety (90) feet is in effect, the additional two (2) feet of width *shall* be added to the ninety (90) foot district yard setback for *buildings* exceeding seventy (70) feet in height.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than thirty (30) feet high which are located closer than fifty (50) feet to either any *lot* containing any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than thirty (30) feet high. Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance, *shall* not render the previously lawfully existing *building* or structure nonconforming or illegal.

(Ord. No. 1992-43-TC-397, §2, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

Unless approved as an alternate method of compliance per §10-2082.4, or as a special use permit per §10-2145(b), all*thoroughfare protective yards* which are at least ninety (90) feet wide *shall* contain three (3) times the number of *street* trees required by §10-2082.5(c)(2). This *yard area* *shall* in all other respects conform to the landscape standards of §10-2082.5(c). No yard space *shall* remain denuded or exposed with bare soil. The minimum size *shade tree* utilized to satisfy any *street protective yard* requirement *shall* be at least 10.9375 inches in circumference (three-and-one-half-inch caliper) measured six (6) inches above grade.

(Ord. No. 847-TC-273, §6, TC-16-86, 9-2-87; Ord. No. 153-TC-190, §1, TC-233, 7-29-83; Ord. No. 946-TC-286, §17, TC-29-85, 4-7-87; Ord. No. 210-TC-198, §§5-13, TC-251, 10-23-83; Ord. No. 1992- 111-TC-42, §15, TC-19-92, 12-8-92; Ord. No. 1994-429-TC-78, §2, TC-13-94, 6-21-94; Ord. No. 1996-851-TC-128, §8, TC-23-95, 4-2-96)

TABLE INSET:

(3)	**Signage**	**see §10-2083**
	on-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089(b)**

All outdoor lighting*shall* be shielded in such a manner that no glare from the light can be seen from the arterials, *major access corridors* , or *thoroughfares* .

(5) Noise.

The noise standards contained in Part 12 chapter 5 of this Code are incorporated into the Thoroughfare District and made applicable to this District.

(6) Outdoor services and facilities.

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine, or any other outdoor service facility that is located on a*lot* which either abuts a *dwelling* , a *congregate care* or *congregate living structure* , or a boundary line of a *residential district* , other than in a *street* , *shall* be located at least one hundred (100) feet away from such *property* . Later establishment of either a *dwelling* , a *congregate care* or *congregate living structure* or of a *residential zoning district* boundary within the one hundred (100) foot distance *shall* not render the previously lawfully existing outdoor service facility nonconforming or illegal.

(Ord. No. 1983-153-TC-190, TC-233, 7-19-83; Ord. No. 1986-724-TC-263, §2, 2-4-86; Ord. No. 1986-799-TC-267, §§25-27, 6-3-86; Ord. No 1986-847-TC-273, §6, 9-2-86; Ord. No. 1990-474-TC-348, §1, TC-12-89, 1-2-90; Ord. No. 1995-544-TC-98, §1, TC-32-94, 1-17-95; Ord. No. 1995-760-TC-122, §4, TC-20B-95, 11-21-95)

Sec. 10-2046. INDUSTRIAL-1 (I-1) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by

either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses, allowed in the Industrial-1 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the District include the*following* :

(1) General uses.

-*Automotive service and repair facility*

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

-*Bulk products* (storing, sorting, breaking)

- Church, synagogue or religious education *building*

-*Civic/convention center* and assembly hall - governmental and non-governmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store* - retail

-*Home occupation* located in *dwellings* established prior to application of this District

(Ord. No. 528-TC-353, §6, TC-3-90, 4-22-90)

-*Hotel/motel*

- Kennel/cattery

-*Landfill*

-*Manufacturing - custom*

-*Manufacturing - general*

-*Manufacturing - restricted*

- *Manufacturing - specialized*

- Mining and quarrying

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Outdoor storage of building materials or contractor's construction equipment

- Parking lot, deck, garage including motor pool

-*Recreational use - restricted to membership - profit and not for profit*

-*Recreational indoor use*

-*Recreational outdoor use*

- *Residences* of a caretaker or watchman as an *accessory use* to a permitted industrial use

-*Retail sales*

- Riding stable

- Rifle ranges - indoor and outdoor

- Schools except private or parochial school (elementary, middle, and high)

- Transportation terminal facility, railroad roundhouse and depot

-*Utility services* and substation

- Warehousing

- Wholesaling

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted*"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Industrial-1 District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Billboard*

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

-*Emergency shelter type A and B*

- Governmental*building* and grounds

-*Mixed use development Master Plan* , approved prior to March 1, 1992 or required by a Conditional Use Thoroughfare, Industrial-1, Industrial-2 District enacted prior to March 1, 1992

(Ord. No. 1991-868-TC-378, §4, TC-9-91, 3-1-92)

- Nongovernmental use or trade

-*Office center*

- Private or parochial school (elementary, middle, and high)

- Scrap materials - indoor storage

-*Shopping area* and *shopping center*

(Ord. No. 1997-137-TC-153, §21, TC-18-96, 6-17-97)

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility (child or adult)"* from the list of conditional uses for this district.

Cross reference:*Mixed use developments* , *office centers* , *shopping areas* , *shopping centers* and *unit ownership (condominium)* developments are conditional uses. However, their regulations are set forth in Article G of this chapter and not in §10-2072. *Billboards* are conditional uses; however, their regulations are set forth in §10-2084 and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Adult establishment*

- Airfield, landing strip, and heliport

-*Limited home business* located in *dwellings* established prior to application of this zoning district

- Outdoor storage of*recyclable material*

(Ord. No. 1997-137-TC-153, §22, TC-18-96, 6-17-97)

- Outdoor storage of unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled automotive vehicles

(Ord. No. 1997-137-TC-153, §22, TC-18-96, 6-17-97)

b. See §10-2145 for special uses approved by the Raleigh *City Council* .

- Correctional/penal facility (Governmental and Nongovernmental)

(Ord. No. 1993-187-TC-56, §9, TC-13B-93, 5-4-93)

- Telecommunication tower

(Ord. No. 1992-87-TC-400, §§2, 3, TC-6-92, 11-4-92; Ord. No. 1992-88-TC-401, §7, TC-4-92, 11-4-92; Ord. No. 1993-134-TC-47, §§1, 2, TC-1-93, 2-2-93; Ord. No. 1997-137-TC-153, §23, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Industrial-1 District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which though properly and safely operated with ordinary care according to good reasonable practices causes noxious or offensive dust, fumes, gas, noise, odor, smoke or vibration that substantially interferes with other lawful uses.

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Dwelling* , *congregate care* and *congregate living structure* , *equivalent dwelling unit* , or *residence* of any kind except rectory, parish house, or *residence* of a caretaker or watchman accessory to a permitted industrial use, or unless approved as a site plan by the *city council*

in the Downtown Residential Housing Overlay District

Cross-reference:*Dwellings, congregate care* and *congregate living structures* , and *equivalent dwelling units* , are permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §24, TC-18-96, 6-17-97)

- Manufacture of: acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, fireworks or explosives, fish meal, nitrogenous tankage; paints, varnish, or shellac that requires distillation or heating of ingredients; phosphates; turpentine; and vinegar

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072(b) as an *accessory structure or use* to a *dwelling* erected prior to application of this district

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Oil refining and petroleum distillation (excluding oil recycling facilities and bituminous concrete facilities)

- Open dump

-*Sign* not explicitly allowed in the Industrial-1 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

- Slaughterhouse or tanyard

(Ord. No. 1992-88-TC-401, §8, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §9, TC-3-98, 7-7-98)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

The maximum residential density is zero (0).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

_____

TABLE INSET:

front yard	50 feet

_____

TABLE INSET:

aggregate *front yard* and *rear yard*	*70 feet when rear yard* adjoins another lot

TABLE INSET:

	100 feet when *rear yard* adjoins public right-of-way

_____

TABLE INSET:

side yard (other than corner)	0 feet if the aggregate *side yard* width is met

_____

TABLE INSET:

aggregate *side yard* (other than corner)	40 feet

_____

TABLE INSET:

corner lot side yard	50 feet

_____

TABLE INSET:

rear yard	0 feet if yard adjoins another *lot* and the aggregate *front* and *rear yard* widths are met
	50 feet if *rear yard* adjoins public right-of-way

_____

Dwellings , *congregate care* or *congregate living structures* that are both zoned industrial and are located within the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

(Ord. No. 1992-88-TC-401, §9, TC-4-92, 11-4-92)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height, except *buildings* and structures greater than fifty (50) feet high *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than fifty (50) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to the required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure *nonconforming* or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. Ord. No. 1986-799-TC-267, §2.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**

(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-33; Ord. No. 210-TC-198, §16, TC-251, 10-23-83; Ord. No. 946-TC-86, §17, TC-29-85, 7-1-85)

Sec. 10-2047. INDUSTRIAL-2 (I-2) DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Partial Listing of Permitted Uses.

All general uses, conditional uses, and special uses allowed in the Industrial-2 District are listed in the Schedule of Permitted Uses in Zoning Districts, §10-2071. Some of the uses permitted in the district include the*following* :

(1) General uses.

-*Automotive service and repair facility*

- Bank

- Bar, nightclub, tavern, lounge

- Beauty, nail and manicure, cosmetic art, and barber shop.

(Ord. No. 1994-408-TC-75, §2, TC-9-94, 6-7-94)

-*Bulk products* (storing, sorting, breaking)

- Church, synagogue or religious education*building* , rectory, parish house

-*Civic/convention center* governmental and assembly hall - nongovernmental

-*Day care facility* (child or adult)

(Ord. No. 1994-453-TC-85, §1, TC-19-94, 8-2-94)

-*Eating establishment* - all kinds

-*Food store* - retail

-*Home occupations* located in *dwellings* established prior to application of this District

-*Hotel/motel*

- Kennel/cattery

-*Landfill*

-*Manufacturing - custom*

-*Manufacturing - general*

-*Manufacturing - restricted*

-*Manufacturing - specialized*

- Mining and quarrying

- Movie theater - indoor

- Office, agency, and studio of a professional or business agent or political, labor, or service association

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Outdoor storage of building materials or contractor's construction equipment

- Parking lot, deck, garage including motor pool

-*Recreational use - restricted to membership - profit and not for profit*

-*Recreational indoor use*

-*Recreational outdoor use*

-*Residences* of a caretaker or watchman as an *accessory use* to a permitted industrial use

-*Retail sales*

- Riding stable

- Rifle ranges - indoor and outdoor

- Schools except private or parochial school (elementary, middle, and high)

- Transportation terminal facility, railroad roundhouse and depot

-*Utility services* and substation

- Warehousing

- Wholesaling

Editor's note: Ord. No. 2004-721-TC-260, §1, TC-16-04, adopted Oct. 5, 2004, deleted *"special care facility"* (derived from Ord. No. 2004-647-TC-248, §3, TC-4-04, adopted June 1, 2004) from the list of general uses for the Industrial-2 District.

(2) Conditional uses.

See §10-2072 for provisions applicable to each conditional use.

-*Billboard*

- Carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* .

(Ord. No. 2003-490-TC-238, §1, TC-6-03, 8-5-03)

-*Emergency shelter type A and B*

- Governmental*building* and grounds

-*Mixed use development Master Plan* , approved prior to March 1, 1992 or required by a Conditional Use Thoroughfare, Industrial-1, Industrial-2 District enacted prior to March 1, 1992

(Ord. No. 1991-868-TC-378, §4, TC-9-91, 3-1-92)

- Nongovernmental use or trade

-*Office center*

- Private or parochial school (elementary, middle, and high)

- Scrap materials - indoor storage

-*Shopping area* and *shopping center*

(Ord. No. 1997-137-TC-153, §21, TC-18-96, 6-17-97)

-*Special care facility*

(Ord. No. 2004-721-TC-260, §1, TC-16-04, 10-5-04)

- Telecommunication towers complying with designated height and setback standards, otherwise, a special use approved by*City Council*

(Ord. No. 1995-692-TC-113, §1, TC-15-95, 8-1-95)

- Temporary event

(Ord. No. 1993-296-TC-68, §1, TC-23-93, 12-7-93)

-*Unit ownership*

Editor's note: Ord. No. 1994-453-TC-85, §1, TC-19-94, adopted Aug. 2, 1994, deleted "*day care facility (child or adult)"* from the list of conditional uses for this district.

Cross reference:*Mixed use developments* , *office centers* , *shopping areas* , *shopping centers* and *unit ownership (condominium)* developments are conditional uses. However, their regulations are set forth in Article G of this chapter and not in §10-2072. *Billboards* are conditional uses; however, their regulations are set forth in §10-2084 and not in §10-2072.

(3) Special uses.

a. See §10-2144 for special uses approved by the Board of Adjustment.

-*Adult establishment*

- Airfield, landing strip, and heliport

-*Limited home business* located in *dwellings* established prior to application of this zoning district

- Outdoor storage of*recyclable material*

(Ord. No. 1997-137-TC-153, §22, TC-18-96, 6-17-97)

- Outdoor storage of unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled automotive vehicles

(Ord. No. 1997-137-TC-153, §22, TC-18-96, 6-17-97)

b. See §10-2145 for special uses approved by the Raleigh*City Council* .

- Correctional/penal facility (Governmental and Nongovernmental)

(Ord. No. 1993-187-TC-56, §10, TC-13B-93, 5-4-93)

- Telecommunication tower

(Ord. No. 1992-87-TC-400, §§2, 3, 11-4-92; Ord. No. 1992-88-TC-401, §7, TC-4-92, 11-4-92; Ord. No. 1993-134-TC-47, §§1, 2, TC-1-93, 2-2-93; Ord. No. 1997-137-TC-153, §23, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Industrial-2 District by the Schedule of Permitted Land Uses in Zoning Districts

§10-2071 is prohibited. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- Any use or trade which though properly and safely operated with ordinary care according to good reasonable practices causes noxious or offensive dust, fumes, gas, noise, odor or vibration that substantially interferes with other lawful uses.

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

-*Dwelling* , *congregate care* and *congregate living structure* , *equivalent dwelling unit* , or *residence* of any kind except rectory, parish house, or *residence* of a caretaker or watchman accessory to a permitted industrial use, or unless approved as a site plan by the *city council* in the Downtown Residential Housing Overlay District

Cross-reference:*Dwellings, congregate care* and *congregate living structures* , and *equivalent dwelling units* , are permitted within the Downtown Overlay District, §10-2051, and in the Pedestrian Business Overlay District, §10-2055.

(Ord. No. 1997-137-TC-153, §24, TC-18-96, 6-17-97; Ord. No. 2005-932-TC-275, §7, TC-6-05, 11-15-05)

- Manufacture of: acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, fireworks or explosives, fish meal, nitrogenous tankage; paint, varnish; or shellac that requires distillation or heating of ingredients; phosphates; turpentine; and vinegar

-*Manufactured home* or *travel trailer* not allowed as a conditional use in §10-2072 as an *accessory structure or use* to a *dwelling* erected prior to application of this district

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Oil refining and petroleum distillation (excluding oil recycling facilities and bituminous concrete facilities)

- Open dump

-*Signs* not explicitly allowed in the Industrial-2 District by the Schedule of Permitted Signs in Zoning Districts or erected in violation of §10-2083 and §10-2084

- Slaughterhouse or tanyard

(Ord. No. 1992-88-TC-401, §8, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §10, TC-3-98, 7-7-98)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

The maximum residential density is zero (0).

(2) Yard.

The minimum district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard	-0- feet
aggregate *front yard* and *rear yard*	-0- feet
side yard (other than corner)	-0- feet
aggregate side yard	-0- feet
corner lot side yard	-0- feet
rear yard	-0- feet

Dwellings , *congregate care* or *congregate living structures* that are both zoned industrial and are located within the Downtown Residential Housing Overlay District *shall* conform to the district yard setbacks of the Downtown Residential Housing Overlay District.

(Ord. No. 1992-88-TC-401, §9, TC-4-92, 11-4-92)

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height, except *buildings* and structures greater than fifty (50) feet high *shall* add one (1) foot additional width to each required district yard setback for each foot of height greater than fifty (50) feet high.

Notwithstanding the foregoing paragraph,*buildings* and structures constructed greater than forty (40) feet high after application of this paragraph which are located closer than fifty (50) feet to either the *lot* line of any *dwelling* , any *congregate care* or any *congregate living structure* , or a boundary line of any *residential zoning district* *shall* add two (2) feet of additional width to each required district yard setback adjacent thereto for each foot of height greater than forty (40) feet high. Later establishment of either a *dwelling* , a *congregate care* or a *congregate living structure* , or of a *residential zoning district* boundary within the fifty (50) foot distance *shall* not render the previously lawful existing *building* or structure nonconforming or illegal.*

(Ord. No. 1992-43-TC-397, §1, TC-10-92, 9-1-92)

See §10-2076 for method of height calculation, exceptions, and illustrations.

*Editor's note: The regulations of this paragraph first became applicable on January 1, 1987. (Ord. No. 1986-799-TC-267, §2).

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(Code 1959, §24-34)

Secs. 10-2048--10-2049. RESERVED.

Sec. 10-2050. AIRPORT OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-

2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2050 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Airport Overlay District. In addition, the provisions of subsection (1), below, must be observed for the*following* uses:

- Allowed outdoor storage, which*may* include without limitation: *building* materials or contractor's construction equipment, coal yard, lumber yard, lumber mill, stone, minerals, sand, gravel, earth ores and oxides either as a *principal* or *accessory use* ; farm and lawn care products including seeds, feed, machinery; produce or grocery products; furniture; vehicular parts; paper

- Bituminous concrete facilities and concrete and cement mixing plants, including their outdoor storage of materials used in production.

(1) Within the Airport Overlay District these uses*shall* be fully shielded with either a permanent overhead cover or a canopy of shade trees that meets all of the *following* :

a. There*shall* be at least one (1) natural locally adapted shade tree for every two thousand (2,000) square feet of total "site area".

b. The shade trees*shall* be adequately protected from damage due to activities performed or materials stored on the site.

c. The shade trees*shall* be distributed within the site area so that at maturity the expected combined tree canopy covers at least thirty-five (35) per cent of the "site area."

d. If the "site area" is greater than five (5) acres, the site*shall* be divided in segments of no greater than five (5) acres in size and all segments *shall* be separated from one another by an expected canopy of shade trees at least one hundred (100) feet wide.

e. Compliance with all the above conditions must be achieved without utilized trees located in any*special yards* .

f. The uses*shall* adhere to the second and third paragraphs of §10-2072(a).

The term "site area," for purposes of this subsection (b)(1), includes those areas devoted to the outdoor storage of concrete facilities described above and their*accessory uses* including loading, display, *utility service* and *vehicular surface areas* but excludes any *special yards* and all other areas.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in either the underlying district by either the Schedule of Permitted Land Uses in Zoning Districts §10-2071 or subsection (b) above is prohibited in the Airport Overlay District. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive of all-inclusive. Prohibited uses include:

- Above-ground bulk storage as a*principal use* of: flammable and combustible liquids, explosives, hazardous materials and wastes, gasoline or fuel oil distribution facilities or operations which could pose threats to the public health, safety and welfare in the event of

aircraft crashes or mishaps

- All uses prohibited in the underlying zoning district

- Any*dwelling* or *rooming unit* unless part of a hotel or motel, and any *equivalent dwelling unit* , *congregate care* or *congregate living structure* , *guest house* , residential structure, or transitional housing.

(Ord. No. 1992-111-TC-42, §17, TC-19-92, 12-8-92)

- Any residential related use including*day care facilities* , *special care facilities* , schools of all kinds, correctional/penal facilities, hospitals, and churches

(Ord. No. 2004-647-TC-248, §4, TC-4-04, 6-1-04

- Library, art gallery, museum, or*civic club*

- Mining, quarrying, and landfills that are initiated after the application of the Airport Overlay District

-*Off-premise signs*

- Outdoor storage, bituminous concrete facilities, and concrete and cement mixing plants which are not permanently and fully shielded in accordance with subsection (b)(1) above

- Storage of wrecked, crushed, dismantled or partially dismantled automotive vehicles

- Uses which are susceptible to fire and explosions such as oil recycling facilities

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

The maximum residential density is zero (0).

(2) Yard.

The minimum Overlay District yard setbacks, unless otherwise required by this Code, are:

_____

TABLE INSET:

front yard , *corner lot side yard,* and *rear yard* that abut a *thoroughfare* , *major access corridor* , or arterial road excluding parallel service roads	50 feet *protective yard*

_____

TABLE INSET:

all other yards	same as underlying zoning district

_____

See §10-2075 for other*yard areas* required in this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures *may* be constructed to the height limits of the current airspace regulations adopted by the Raleigh-Durham Airport Authority wherever such regulations contain more stringent height requirements than the underlying zoning district. If height requirements of the underlying zoning district contain more stringent requirements than

the regulations adopted by the Raleigh-Durham Airport Authority, the height requirements of the underlying zoning district *shall* control.

See §10-2076 for method of height calculation, exceptions, and illustrations.

State law reference:Model Airport Zoning Act, Article 4, Chapter 63, **North Carolina General Statutes**

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**

(4) Lighting

All outdoor lighting*shall* be shielded so that no direct glare from the light can be seen from above; provided that, publicly approved warning lights to mark obstructions to aircraft are exempted from this regulation.

(5) The current airspace regulations adopted by the Raleigh-Durham Airport Authority are incorporated into the Airport Overlay District and are made a part of this Code. A copy of these regulations is on file with the*City* Clerk.

(6) Rooftops*shall* be uniform in color and made of non-reflective material.

(Ord. No. 1985-622-TC-245, §2, TC-16-85, 8-6-85; Ord. No. 1989-309-TC-330, §§2, 3, TC-27-88, 2-7-89)

Sec. 10-2051. DOWNTOWN OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the *City Council* , the Planning Commission, or the administrative staff; see §10-2132.2 (b) and (c) and (e). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(b) Permitted Uses.

Subject to the provisions of §10-2051, and other overlay districts the*following* land uses are allowed in the Downtown Overlay District:

- All general uses, conditional uses, signs, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Downtown Overlay District:

Following the approval of a*site plan* by the *City Council* , in accordance with §10-2051(d) and §10-2132.2, the *following* land uses are allowed:

- Additional residential density but no greater than three hundred twenty (320) units per acre

- Additional residential density for conversions of building(s) to*dwelling(s*) or *congregate care or congregate living structures* but no greater than three hundred twenty (320) units per acre

- Reductions in*net lot area* for *dwellings* and width and depth dimensions required by chapter 2 and 3 Part 10 of this Code for *dwelling units* and *equivalent dwelling units*

- Additional*dwelling units* and *lodging units* in new and existing hotels and motels but no greater than three hundred twenty (320) units per acre

-*Dwellings, congregate care* and *congregate living structures* , and *dwelling units* and *lodging units* in new and existing hotel and motels within the underlying industrial zoning districts but no greater than three hundred twenty (320) units per acre

- Retail uses listed under the COMMERCIAL land use category within §10-2071, SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS, when the property is zoned Office and Institution-1 or Office and Institution-2, located within the Downtown Overlay District [with the exception of those properties located within one hundred (100) feet of the perimeter boundary of the Downtown Overlay District] and proposes residential densities in excess of that permitted by the underlying zoning district, all in accordance with §10-2051(d) and §10-2132.2

Cross reference: Parking facility, off-site, in a Residential Business District for a residential housing project approved as a conditional use within the Downtown Residential Housing Overlay District, §10-2072(b).

(c) Prohibited Uses.

The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive.

The*following* uses are prohibited within the Overlay District:

- Any use prohibited in this overlay district even if that use is allowed in the underlying district

- Any use not allowed in the underlying district which is not otherwise permitted in this overlay district except for improvements made pursuant to Part 10 chapter 3 of this Code

(d) Area, Use, Density, Bulk, Yard, Height, and Open Space Requirements.

(1) Area, use, density, and bulk.

a. The*City Council* is authorized to approve a preliminary *site plan* in accordance with §10-2132.2 either within the Downtown Overlay District or in any Pedestrian Business Overlay District. The *site plan* may:

1. Increase the densities of*multi-family dwellings* , *townhouse developments* , *cluster unit developments, residential unit ownership (condominium) developments, group housing developments, congregate care or congregate living structures* , or any other residential development including conversions of buildings or portions of nonresidential buildings to *dwellings* or *congregate care or congregate care living structures* , or the addition of *dwelling units* or *lodging units* in new and existing hotels or motels to:

i. Exceed the maximum residential density allowed as either a general use, or a conditional use in the underlying zoning district; or

Cross reference: Schedule of Minimum Net Lot Areas for*Dwelling Units* and *Equivalent Dwelling Units* , §10-2073.

ii. Exceed fourteen (14)*dwelling units* or *equivalent dwelling units* per net acre.

2. Reduce the standard minimum*net lot area* , and width and depth dimensions required by chapters 2 and 3, Part 10 of this Code for *dwelling units* of any density.

3. Allow*dwellings, dwelling units, congregate care* and *congregate living structures, lodging units* , in new and existing hotels or motels in the Industrial-1 and 2 Districts.

4. Allow*dwellings, congregate care* and *congregate living structures, lodging units* and *equivalent dwellings* to locate in the Industrial-1 and 2 Districts.

5. Allow retail uses listed under the COMMERCIAL land use category within §10-2071, SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS, when the property is zoned Office and Institution-1 or Office and Institution-2, located within the Downtown Overlay District [with the exception of those properties located within one hundred (100) feet of the perimeter boundary of the Downtown Overlay District] and proposes residential densities in excess of that permitted by the underlying zoning district.

No residential density in Industrial zoning districts, no reduction in the standard minimum*net lot area* and no increase in density authorized herein *shall* be permitted except when the standards of subsection b below are met without resort to any exception pursuant to §10-2051(d)(5) and §10-2051(e)(1). When the standards of subsection b are met, residential densities of up to forty (40) units per acre for new construction and up to one hundred sixty (160) units per acre for conversion projects are allowed.

Residential developments for which a*site plan* is issued pursuant to these provisions *may* also contain any of the *accessory* or other uses allowed by the underlying zoning district or districts. All of the other lawful uses which are allowed by the underlying district or districts are unaffected by the *site plan* regulations in this subdivision.

Parking facilities located off-site on a different*lot* than the *principal building* in the Residential Business District are allowed for residential developments approved pursuant to subsection (d)(1) provided that all the standards of Parking facility, off-site, in a Residential Business District for residential housing projects within the Downtown Overlay District, §10-2072(b) are met.

b. *Site plan* approval standards for all residential *site plans.*

No increase in residential density greater than that permitted by the underlying zoning district or greater than fourteen (14) units per net acre, nor any reduction in*net lot area* or width and depth dimensions for *dwellings shall* be allowed, nor any *dwelling, congregate care or congregate living structure, lodging unit* or *equivalent dwelling unit* *shall* be allowed in any industrial zoning district until after the *City Council* finds that the standards of §10-2132.2(d) are met, and each of the following standards are met.

1. Open space.

For the purposes of this subsection, and subsection 10-2051(d)(1)c.6., below, "open space"*shall* include greenways and any common outdoor landscaped and recreation spaces (excluding *vehicular surface areas*); outdoor balconies, decks, and roof gardens; indoor recreational areas, central lobbies, meeting rooms, and other similar indoor community space accessible to and available for use by the residents.

The minimum "open space" provided on the site*shall* be fifteen (15) per cent of the total land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from the right-of-way, but not to

exceed four hundred thirty-five and six-tenths (435.6) square feet per unit or in the case of *congregate care* or *congregate living structures* , not to exceed two hundred eighteen (218) square feet per *dwelling* or *rooming unit* .

In no case*shall* less than ten (10) per cent of the total land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way, be devoted to common outdoor open space accessible to all residents.

No open space*shall* be required for any of the following:

- Conversions of buildings or portions of buildings to sixteen (16) or fewer*dwelling units or congregate care or congregate living units* , per building.

-*Single family* detached *dwellings* or *duplex dwellings* on their own *lot* , where "open space" equivalent to the greater of twenty (20) per cent of the area of the *lot* or four hundred thirty-five and six-tenths (435.6) square feet per *dwelling* or *rooming unit* is provided.

2. Parking.

Within the Downtown and Pedestrian Business Overlay Districts, developments*shall* provide parking in accordance with the following:

(i) Conversions of buildings to*dwelling units,* or *congregate care or congregate living structures* .

Projects with sixteen (16) or fewer*dwelling units* per building *shall* not be required to provide any off-street spaces. Projects with seventeen (17) or more *dwelling units* per building *shall* provide at least one (1) off-street parking space per unit; with the exception that, units occupied by residents sixty-two (62) years and older *shall* provide a minimum of one-half (1/2) space per unit. No more than two (2) parking spaces per unit *shall* be permitted on the site within the Downtown and Pedestrian Business Overlay District. All parking *shall* be provided in accordance with §10-2081(b).

(ii) New construction that is not a conversion.

A minimum of one (1) off-street parking space per*dwelling unit shall* be provided, with the exception that units occupied by persons sixty-two (62) years and older *shall* provide a minimum of one-half (1/2) off-street space per *dwelling unit* . No more than two (2) parking spaces per *dwelling unit shall* be located on the site within the Downtown and Pedestrian Business Overlay District. All parking *shall* be provided in accordance with §10-2081(b).

3. Minimum*net lot area* .

The minimum*net lot area* or lot width and depth dimensions *may* be reduced provided that, *net lot area* of at least one thousand eighty-nine (1,089) square feet *shall* be provided for each *dwelling unit* and each *equivalent dwelling unit* unless the project complies with subsection c. below.

4. Yard setbacks.

The minimum district yard setbacks of the Downtown Overlay District are met. See Schedule of Zoning District Yard Setbacks, §10-2075(b).

5. Detached*single family dwelling* .

Detached*single family dwelling* developments *shall* conform with the standards of §10-2103(f) and §10-2107(b)(2).

c. *Site plan* approval standards with greater density allowances.

All new construction projects with residential densities in excess of forty (40) units per net acre*shall* comply with both the standards of subsection b., above, and with the following standards of subsection c. All conversion projects with residential densities in excess of one hundred sixty (160) units per net acre *shall* comply with both the standards of subsection b. above and with the following standards of subsection c.

For each of the following ten (10) standards which are entirely met, the project*shall* be allowed an increase in residential density of an additional sixty (60) units per net acre for new construction and an additional eighty (80) units per net acre for conversions for compliance with Tier 1 and Tier 2 standards and forty (40) units per net acre for new construction and an additional eighty (80) units per net acre for conversions for compliance with Tier 3 standards, but the total number of units contained in the development shall not exceed three hundred twenty (320) units per net acre.

The following standards are separated into three (3) tiers for new construction. All standards within each tier shall be complied with prior to seeking to apply standards in the subsequent tier except for projects not meeting the location and preservation standards for Tier 1 may proceed to Tiers 2 through 3.

Tiering System

Tier 1: Location and Preservation

- Location
- Historic landmark

Tier 2: Urban Form

- Parking deck
- Service and retail facility

Tier 3:*Affordable Housing* and Amenities

-*Affordable Housing*
- Open space
- Architectural style and site development
- Public amenities and facilities
- Environmental design
- Public art

Tier 1

1. Location.

The development is located within one of the following areas:

(i) a block immediately adjacent to a public open space greater than one (1) acre, or

(ii) located within the central downtown area described as follows: beginning at the intersection of Harrington Street and

Morgan Street, east on Morgan Street, north on Dawson Street, east on Edenton Street, north on McDowell Street, east on Jones Street, south on Blount Street, east on Morgan Street, east on New Bern Avenue, south on Bloodworth Street, west on Davie Street, south on Wilmington Street, west on South Street, north on Salisbury Street, west on Cabarrus Street, northwest along the eastern edge ofthe Seaboard Coastline Railroad right-of-way, west on Davie Street, north on Harrington Street to the point of beginning, or

(iii) located within one-quarter (1/4) mile of an existing or proposed Triangle Transit Authority rail transit station platform (determined by straight line from edge of platform to*property* line).

2. Historic landmark.

Perpetual preservation easements approved by the City Attorney are recorded for any*property* which is located within the proposed development or located within the same or an adjacent block of the proposed development and which is either designated an *historic landmark* pursuant to Article D, Chapter 1, Part 10 of this Code, or is designated individually on the National Register of Historic Places or is determined eligible for National Register designation.

Tier 2

3. Parking deck.

At least eighty (80) per cent of the off-street parking spaces required are contained in a multilevel parking structure.

Parking decks*shall* be visually integrated into the *principle building* . Parking decks *shall* be designed to be compatible with other *buildings* on the site by using compatible *building* materials and architectural designs, as reflected in scale, color, texture, fenestration, width, height, roof lines, and other similar architectural gauges. However, parking decks located within the interior of the *property* and not visible from any public *street* , private *street* , common open space area or adjacent *property* shall be exempt from this provision.

No more than seventy-five (75) feet total of the ground level of the sides of the*building* or parking deck (measured twenty (20) feet deep from the facade of the *building*) located on the sides of the *lot fronting* a public *street* , private *street* or common open space area *shall* be devoted to parking, driveways and/or *loading areas* .

4. Service and retail facility.

The development contains on-site a minimum of fifty (50) square feet per unit for the total number of units within the development of service or retail facilities to serve the*residents* . Such facilities may include *retail sales - convenience* , *retail sales - personal services* , *eating establishment* , *food store-retail* , movie theater-indoor, *recreational indoor use - commercial* and medical and dental offices. No service or retail facility *may* be located on the site unless it is permitted by the underlying zoning district.

Cross reference:*Residential related services,* §10-2072(b).

Tier 3

5. *Affordable housing* .

The development provides one (1) of the following:

(i) a minimum of twenty (20) per cent of the additional units approved through compliance with this standard*shall* be affordable to and at its initial occupancy and extending for a minimum period of fifteen (15) years for *affordable housing* as defined by §10-2002 of this Code, all in accordance with *City* -adopted policies with no individual *affordable housing* unit being smaller in size than that generally available within the development, or

(ii) an amount of the greater of either (1) ten thousand dollars ($10,000.00) for each additional unit approved through compliance with this standard or (2) one hundred thousand dollars ($100,000.00) is paid to the*City* to be placed within an *affordable housing* fund to be utilized within designated *City* redevelopment areas, within the applicable Downtown or Pedestrian Business Overlay District or within those portions of low income census tracts as identified by the 2000 census (census tracts: 050100, 050600, 050700, 050800, 050900) located within one half (1/2) mile of the boundary of the Downtown Overlay District as shown on the *City* -adopted map available in the Department of Community Development. Upon receipt of this payment, the *City shall* be responsible for obligating the expenditure of these funds within a maximum period of five (5) years and spent within a maximum period of seven (7) years, or

(iii) a combination of standards (i) and (ii) above which results in an equivalent compliance.

Affordable housing provided per this section *shall* be required to adhere to the *property* standards of 24 CFR 92.251. Lease forms for affordable rental units *shall* be the same as for equivalent market rental units in the development, with the exception of provisions required to conform to the requirements of this section such as income certification, rent limits, and affordability provisions. Monthly rents for affordable rental units *shall* not exceed the lesser of (1) the fair market rent for units of that bedroom size as established annually by the U.S. Department of Housing and Urban Development under 24 CFR 888 et. seq. or (2) thirty (30) per cent of monthly household income (minus tenant-paid utility payments). Housing units sold or rented to full-time or part-time students *shall* not be considered to meet the requirements of this section unless the student meets one or more of the exceptions listed in 26 U.S.C. 42(i)(3)(D) or any successor provision. If, after commencement of occupancy, a tenant's household income rises above the income limit established by §10-2002 of this Code, the unit rented to that tenant *shall* be considered to be in compliance with this section until the tenant's household income rises to one hundred twenty (120) per cent of that income limit. A household exceeding one hundred twenty (120) per cent of the income limit established in §10-2002 may not occupy the unit for more than six (6) months without rendering the unit noncompliant with the requirements of this section.

6. Open space.

The development provides one (1) of the following:

(i) on-site "open space" in excess of the minimum standard set forth in provision b.1. above is provided on the basis of a minimum of an additional fifty (50) square feet per unit for the total number of units within the development, or

(ii) an amount of five thousand dollars ($5,000.00) for each additional unit allowed through compliance with this standard is paid to the*City* to be placed within an "open space" fund and designated to establish new *City* -owned open space areas or improve existing *City* -owned open space areas within the applicable Downtown or Pedestrian Business Overlay District or within one-quarter (1/4) mile of the boundary of the applicable Downtown or Pedestrian Business Overlay District. Upon receipt of this payment, the *City shall* be responsible for obligating the expenditure of these funds within a maximum period of five (5) years and spent within a maximum period of seven (7) years.

7. Architectural style and site development.

The development contains innovative architectural elements and design such as atriums, innovative roof lines, building step-backs, pedestrian-oriented and publicly visible squares, courtyards, plazas and walks and*building* materials which are both compatible to the site and its setting and which enhance the appearance of the project and the visual image of the *City,* and features pedestrian friendly elements such as a distinct base, middle and top cornices, and ground level architectural detail. The building has a significant connection to the public realm, through the use of elements such as commercial storefronts, multiple entrances, and stoops, and minimizes street frontage used for service functions and parking.

8. Public amenities and facilities.

The development contains on-site a minimum of fifty (50) square feet per unit for the total number of units within the development, or seventy-five hundred (7,500) square feet, whichever is less, which is continuously devoted to active recreation facilities available to the public,*day care facilities* , public library, museum or "community meeting rooms" or a combination thereof. Active recreation facilities and "community meeting rooms" as used herein means a facility which is open to the public from at least 6:00 p.m. through 9:00 p.m. on week nights and 9:00 a.m. through 5:00 p.m. on weekends, and it is operated under rules and charges comparable to similar *City* facilities.

9. Environmental Design.

The development is designed and constructed to incorporate two (2) of the following three (3) standards:

(i) Water conservation. Potable water use is reduced a minimum of twenty (20) per cent from baseline calculated for the building (not including irrigation) after meeting the Energy Policy Act of 1992 fixture performance requirements. Calculations are based on estimated occupant usage and shall include only the following fixtures (as applicable to the building): water closets, urinals, lavatory faucets, showers and kitchen sinks.

Potential Technologies & Strategies: Use high-efficiency fixtures, dry fixtures such as composting toilet systems and non-water

using urinals, and occupant sensors to reduce the potable water demand. Consider reuse of stormwater and greywater for non-potable applications such as toilet and urinal flushing and custodial uses.

(ii) Sewer conservation. Reduce potable water use for building sewage conveyance by fifty (50) per cent through the use of water-conserving fixtures (water closets, urinals) or non-potable water (captured rainwater, recycled greywater, and on-site or municipally treated wastewater).

Potential Technologies & Strategies: Specify high-efficiency fixtures and dry fixtures such as composting toilet systems and non-water using urinals to reduce wastewater volumes. Consider reusing stormwater or greywater for sewage conveyance or on-site wastewater treatment systems (mechanical and/or natural).

(iii) Reduce urban heat-island effect. A minimum of fifty (50) per cent of the roof surface of the principal building(s) is vegetated and permanently maintained (green roof).

10. Public Art.

The development commits to erecting on-site a work(s) of art, fountain(s) or water display(s) which are located outdoors, visible and equally accessible to the general public. All such works shall be permanently maintained. In lieu of on-site construction, an amount of five thousand dollars ($5,000.00) for each additional unit allowed through compliance with this standard is paid to the*City* to be placed within a "public art" fund to erect works of art, fountains or water displays located outdoors, visible and equally accessible to the general public within the applicable Downtown or Pedestrian Business Overlay District. Upon receipt of this payment, the *City shall* be responsible for obligating the expenditure of these funds within a maximum period of five (5) years and spent within a maximum period of seven (7) years.

(2) Floor Area Ratio and Building Lot Coverage.

The maximum*floor area ratio* and maximum *building lot coverage* limitations of the office and institution zoning districts, §10-2072(b) office agency or studio of a profession or business agent or political labor or service association, located within the Downtown Overlay District *may* be increased as part of a subdivision or *site plan* approved by the Planning Commission or *City Council* in accordance with §10-2132.2 after a finding that such increase in the *floor area ratio* and *building lot coverage* is in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

(3) Yard.

a. Unless a yard setback reduction is approved in accordance with subsection c. below, the minimum district yard setbacks for*buildings* that do not contain any *dwelling* or *congregate care or congregate living structure* , unless otherwise required by this Code, *shall* meet the minimum district yard setbacks of the underlying district.

b. Unless a yard setback reduction is approved in accordance with subsection c. below, the minimum district yard setbacks for*dwellings, congregate care, and congregate living structures* unless otherwise required by this Code are:

1. *Single-family dwelling* unit, detached or attached, other than *townhouse developments* :

_____

front yard *

same as underlying zoning district but not less than five (5) feet on the perimeter of the development when the yard does not adjoin a street right-of-way

_____

aggregate*front yard* and *rear yard* *

same as underlying zoning district but not less than five (5) feet if either the front or rear yard is on the perimeter of the development, and not less than ten (10) feet if both yards are on the perimeter.

_____

side yard * (other than corner)

same as underlying zoning district but not less than five (5) feet on the perimeter of the development, provided aggregate side yard is met

_____

aggregate*side yard* *

ten (10) feet

_____

corner lot side yard *

same as underlying zoning district

_____

rear yard *

same as underlying zoning district but not less than five (5) feet on the perimeter of the development when the yard does not adjoin a street right-of-way

*No*yard area* adjoining any other *lot* within the development *shall* be less than five (5) feet unless *building* envelopes are approved which allow two (2) *dwellings* to be built on a common zero (0) interior lot line, or unless a recorded *building* envelope on the adjoining *lot* maintains a minimum of ten (10) feet separation between *buildings* and a perpetual recorded access easement over the adjoining *lot* allows the residential structure to be maintained.

_____

2. All other *dwellings, congregate care and congregate living structures shall* comply with both the applicable minimum setbacks of Article F, chapter 2, Part 10 and those of the underlying district.

c. Zoning district yard setbacks required by this Code for structures or uses on properties located within the Downtown Overlay District*may* be reduced as part of a subdivision or *site plan* approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such reduction in setback is in accordance with the general plans for the physical development of the *City* as embodied in the current Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(4) Height.

a. Subject to other overlay districts,*buildings* and structures *may* be constructed to any height allowed by the underlying district unless otherwise regulated by this Code or an increase in height is approved in accordance with section b. below.

b. *Building* and structure height required by this Code on properties located within the Downtown Overlay District *may* be increased as part of a *site plan* approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such increase in height is in accordance with the general plans for the physical development of the *City* as embodied in the current Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d)

See §10-2076 for method of height calculation, exceptions and illustrations.

(5) Required open space.

Wherever this Code requires a residential development to contain open space and that development is located within the Downtown Overlay District, this open space, in addition to any common landscaped outdoor areas, greenways, and common recreation spaces (excluding*vehicular surface areas*), *may* include outdoor balconies, decks, and roof gardens on residential *buildings* . Indoor recreational areas, central lobbies, meeting rooms, and other similar community spaces that are accessible to and available for use by all the *residents* of the residential development located in this Overlay District *may* be included as part of the open space requirements for those *dwellings* in excess of ten (10) units per net acre.

Cross reference: Open space is required for any*cluster unit development, congregate care structure or congregate living structure, group housing development, life care community* , *manufactured home park, multi-family dwelling development, residential unit ownership (condominiums)* and *townhouse development* , Part 10, chapter 2, Article F.

For developments not exceeding an average density of forty (40) units per acre, the minimum open space required by this Code for*dwelling units* or *congregate care or congregate living structures* located in the Downtown Overlay District *may* be reduced as part of the subdivision or *site plan* approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such reduction in open space is in accordance with the general plans for the physical development of the *City* as embodied in the current Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

(e) Supplementary Regulations.

All uses and activities of this Overlay District are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

(1) Off-street parking see §10-2081.

Except for*site plans* approved pursuant to subsection (d)(1) above or for projects in the Transit Orientated Development Overlay District, the minimum and maximum number of off-street parking spaces required as set forth in the Schedule of Off-Street Parking Standards, §10-2081 for new structures, additions or expansions to existing structures or changes in use, all in excess of ten thousand (10,000) square feet for properties located in the Downtown Overlay District, *shall* be as approved on the *site plan* approved by

the Planning Commission or *City Council* in accordance with §10-2132.2 after a finding that the number of off-street parking spaces provided on the *site plan* is in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

Except for*site plans* approved pursuant to subsection (d)(1) above or for projects in the Transit Orientated Development Overlay District, all existing uses and *plot plans* or *site plans* for new structures, additions or expansions to existing structures or changes in use, all ten thousand (10,000) square feet or less, located on properties within the Downtown Overlay District *shall* be specifically exempted from the off-street parking requirements as set forth in the Schedule of Off-Street Parking Standards, §10-2081.

Within the Downtown or Pedestrian Business Overlay District, whenever a*site plan* is approved pursuant to subsection (d)(1) above, the minimum and maximum number of off-street parking spaces *shall* be as approved in accordance with subsection (d)(1) above.

(Ord. No. 2004-746-TC-261, §2, TC-20-04, 12-7-04; Ord. No. 2005-932-TC-275, §§8, 9, 11, TC-6-05, 11-15-05; Ord. No. 2006-1-TC-283, §1, TC-5-06, 4-18-06; Ord. No. 2006-105-TC-294, §§2--5, TC-16-06, 10-3-06; Ord. No. 2006-139-TC-297, §§1--3, TC-20-06, 12-5-06)

Sec. 10-2052. HISTORIC OVERLAY DISTRICT.

(a) Approval.

(1) ***Site plans*** **and** ***plot plans*** .

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(2) Certificate of appropriateness.

a. Required.

In addition to all other approval processes, within the Historic Overlay District, and for any*Historic Landmark* , no portion of the *exterior features* of any *building* or other structure (including walls, fences, light fixtures, steps, pavement, path, or any other appurtenant features), trees, nor above ground utility structure nor any type of *outdoor advertising sign* , or portion of the designated interior features of a *Historic Landmark* , is to be erected, altered, restored, demolished, or moved unless and until after an application for a certificate of appropriateness as to the *exterior features* , or portion of the designated interior features of a *Historic Landmark* , has been submitted to and approved by the Historic Districts Commission. A certificate of appropriateness *shall* be issued prior to any application for a building permit or other permit granted for the purpose of constructing, altering, moving or demolishing structures or appurtenant features being made, and *shall* be issued or denied, subject to such reasonable conditions as the Historic Districts Commission *may* impose thereon, according to such procedures as *may* be set forth elsewhere in this section or adopted by the Historic Districts Commission. A certificate of appropriateness *shall* be required for all activities specified in this section whether a building permit or other permit is otherwise required or not; except no certificate of appropriateness *shall* be required for:

1. The ordinary maintenance or repair of any features which do not involve a change in design, material, color, or outer appearance thereof.

2. The construction, reconstruction, alteration, restoration, moving, or demolition of any feature which the Director of Inspections or his designee*shall* certify is required by the public safety because of an unsafe or dangerous condition.

3. The ordinary maintenance or repair of*streets* , sidewalks, pavement markings, above-ground *utility service* lines, *street* signs, traffic *signs* and/or replacement of streetlight fixtures in the event of equipment failure, accidental damage or natural occurrences such as electrical storms, tornadoes, ice storms and the like.

All of the provisions of §10-2052et seq. are hereby made applicable to construction, alteration, restoration, moving, and demolition by *the State* of North Carolina, its political subdivisions, agencies, instrumentalities, and public utilities. Individual certificates of appropriateness for each change *may* be requested or if the activity is of the same character and involves a number of objects, as in the case of utility pole replacement, a programmatic certificate of appropriateness can be requested.

State law reference:*G.S.* 160A-400.9(f)

b. Application.

All applications for a certificate of appropriateness are to be filed in the office of either the Planning Department or of the Historic Districts Commission. The application*shall* be filed no later than ten (10) working days - excluding the meeting date - prior to the next regularly scheduled meeting of the Historic Districts Commission on forms provided by the *City* , and it must be accompanied by sketches, drawings, photographs, specifications, descriptions, and other information of sufficient detail to clearly show the proposed exterior alterations, alterations to designated interior features of *Historic Landmarks* , additions, changes or new construction. The names and mailing addresses of *property owner* s filing and/or subject to the application and the addresses of *property* within one hundred (100) feet on all sides of the *property* which is the subject of the application must also be filed. No application which is unaccompanied by the aforementioned information will be accepted.

c. Action on application for certificate of appropriateness.

1. Deadline.

Applications for certificates of appropriateness*shall* be acted upon within ninety (90) days after the complete application is filed, otherwise the application *shall* be deemed to be approved and a certificate of appropriateness *shall* be issued; provided however, that the Commission *may* take the matter under advisement for a total period of up to one hundred eighty (180) days to receive additional evidence or memoranda of authority requested by the Commission for its consideration. Nothing herein *shall* prohibit an extension of time where mutual consent is given. The *City* staff *may* advise the applicant and make recommendations in regard to appropriateness.

2. Minor works.

Upon receipt of a completed application, the Planning Director or his designee*may* issue a certificate of appropriateness for minor works. Minor works are defined as those changes that do not involve substantial

alterations, additions, or removals that could impair the integrity of the Landmark, *property* and/or the Overlay District as a whole. Such minor works *shall* be limited to those listed in the "Bylaws and Rules of Procedure" of the Historic Districts Commission. Applications for minor works *shall* be reviewed by the Planning Director or his designee according to the detailed development standards of §10-2052(e)(4). All certificates of appropriateness for minor works issued by an administrative official *shall* be forwarded to the Historic Districts Commission, for its information, at its next regularly scheduled meeting. Failure to approve the requested minor work by the *City* staff *shall* in no way interfere with the applicant's right to be heard by the Historic Districts Commission; in that, no application for a certificate of appropriateness *may* be denied without the formal action of the Historic Districts Commission.

3. Notice.

Whenever a hearing on the application is to be heard by the Commission, the Planning Department*shall* make a reasonable attempt to identify and notify by mail the *owner* s of *property* within one hundred (100) feet on all sides of the *property* which is the subject of the pending application. The mailed notices are for the convenience of the *property owner* s and occupants and any defect or their omission therein *shall* not impair the validity of issuing a certificate of appropriateness, or any action *following* therefrom. The Planning Department *shall* transmit the application for a certificate of appropriateness, together with the supporting material, to the review body for its consideration.

4. Hearing.

Prior to the issuance or denial of a certificate of appropriateness by the Commission, the applicant and other*property owner* s likely to be materially affected by the application *shall* be given an opportunity to be heard. All meetings of the Historic Districts Commission *shall* be open to the public in accordance with the North Carolina open meetings law, General Statutes Chapter 143, Article 33B. Interior arrangement *shall* not be considered by the review body and no certificate of appropriateness is required for interior repairs or renovations, except for designated interior features of *Historic Landmarks* . The review body *shall* not refuse to issue a certificate of appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving, or demolition of *buildings* , structures, appurtenant features, *outdoor advertising signs* or other significant features in the Historic Overlay District or for *Historic Landmarks* , which would be incongruous with the special character of the District and/or would be incongruous with the special character of the Landmark. The Commission *shall* render its decision in *written* form, including its reasons for issuing or denying the certificate and a summary of any citation to the evidence, testimony, studies, or other authority upon which it based its decision. When with the consent of all interested parties, the Historic Districts Commission *may* hold a summary proceedings of a Certificate of Appropriateness. Such proceedings *shall* be a public meeting, and the Commission's decision *shall* be rendered in *written* form.

In all proceedings or public hearings before the Historic Districts Commission with regard to an application for a certificate of

appropriateness, the burden of producing substantial evidence or testimony is upon the applicant, and if the applicant fails to do so, the Commission*shall* deny the certificate.

Notwithstanding any other provisions of this Code, the Historic Districts Commission*may* require additional evidence or memoranda of authority to be submitted and *may* take the matter under advisement until such evidence or memoranda have been submitted and considered up to the one hundred eighty (180) day limit established in subsection c.1. above. As part of its deliberation, the Commission *may* view the *premises* and seek the advice of the North Carolina Division of Archives and History or such other expert advice as it *may* deem necessary under the circumstances.

The Commission's action on the application*shall* be approval, approval with conditions, deferral, or denial.

5. Demolition of*buildings* , structures, and sites.

i. General.

An application for a certificate of appropriateness authorizing the demolition or destruction of a*building* , structure, or site within the district *may* not be denied except as provided in paragraph iii below. However, the authorization date of such a certificate *may* be delayed for a period of up to three-hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section *shall* be reduced by the Commission where it finds that the *owner* would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such *property* by virtue of the delay. During such period of delay the Commission *may* negotiate with the *owner* and with any other parties in an effort to find a means of preserving the *building* , structure, or site. If the Commission finds that the *building* , structure, or site has no particular significance or value toward maintaining the character of the Overlay District, it *shall* waive all or part of such period and authorize earlier demolition or removal.

(Ord. No. 889-TC-381, TC-18-91, 12-8-91)

ii. Pending*Historic Landmark* and Within a Pending Historic Overlay District.

If the Commission has voted to recommend designation of a*property* as a *Historic Landmark* , or an area as a Historic Overlay District, and final designation has not been made by the *City Council* , the demolition or destruction of any *building* , site, or structure proposed as a Landmark or located in the proposed District *may* be delayed by the Commission for a period of up to one hundred eighty (180) days or until the *City Council* takes final action on the designation, whichever occurs first. Should the *Council* approve the designation prior to the expiration of the one hundred eighty (180) day delay period, an application for a certificate of appropriateness for demolition must then be filed; however, the maximum period of authorization date delay for such demolition certificate *shall* be reduced by the Commission equal to the period of delay while the designation was pending.

Cross reference: No demolition permit*shall* be issued until expiration of period of delay, §10-6035.

iii. Statewide significance.

An application for a certificate of appropriateness authorizing the demolition or destruction of a*building* , structure, or site determined by *the State* Historic Preservation *Officer* as having statewide significance as defined in the criteria of the National Register of Historic Places *may* be denied except where the Commission finds that the *owner* would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

6. Compliance with other law.

Issuance of a certificate of appropriateness*shall* not relieve the applicant, contractor, tenant or *property owner* from obtaining any other permit required by this Code or any law.

Annotation: A-S-P Associates v.*City* of Raleigh, 298 N.C. 207, 230, 258 S.E. 2d 244 (1979). The police power encompasses the right to control the exterior appearance of private *property* when the object of such control is the preservation of *the state's* legally or historically significant structures.

d. Appeals.

In any action granting or denying any certificate of appropriateness, an appeal by an aggrieved party*may* be taken to the Board of Adjustment. To perfect such an appeal, *written* notice of intent to appeal must be sent to the Historic Districts Commission, postmarked within twenty (20) days *following* the decision, unless oral notice of appeal is made to the Commission during the meeting at which the decision is rendered. A completed "Application for Review of the Historic Districts Commission's Decision Before the Raleigh Board of Adjustment" must then be filed with the Board of Adjustment within sixty (60) days *following* the decision of the Commission. Appeals *shall* be in the nature of certiorari.

The State of North Carolina*shall* have a right of appeal to the North Carolina Historical Commission or any successor agency. Notice to the Historic Districts Commission *shall* be served on the same day and in the same manner as for the North Carolina Historical Commission unless oral notice of appeal is given to the Historic Districts Commission during the meeting at which the decision is rendered. The decision of the North Carolina Historical Commission *shall* be final and binding upon both *the state* and the Historic Districts Commission.

State law reference:*G.S.* 160A-400.9(f)

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

e. Jurisdiction.

i. General.

The Historic Districts Commission always has jurisdiction for certificates of appropriateness for the exterior of all*properties* (including *Historic Landmarks*) within the Historic Overlay District. The Historic Districts Commission will also have jurisdiction for *Historic Landmarks* outside the Historic Overlay District and within Raleigh's zoning jurisdiction when there is no interlocal agreement with Wake County delegating such administration to the Wake County Historic Preservation Commission.

ii. Interior.

The Wake County Historic Preservation Commission will have jurisdiction over all designated interior spaces, unless there is no interlocal agreement with Wake County delegating such administration to the Wake County Historic Preservation Commission.

f. Expiration of certificate of appropriateness.

A certificate of appropriatenesss*shall* expire six (6) *months* after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of twelve (12) *months* , the permit therefor *shall* immediately expire. A certificate of appropriateness authorizing demolition *shall* expire if the work has not been commenced within six (6) *months* after the authorization date set by the Commission. If after commencement the demolition work is discontinued for a period of twelve (12) *months* , the approval therefor *shall* immediately expire.

No work authorized by any certificate that has expired*shall* thereafter be performed until a new certificate has been secured.

(Ord. No. 989-TC-291, §3, TC-12-87, 5-19-87)

(b) Permitted Uses.

Subject to the provisions of §10-2052 and other overlay districts, all general uses, conditional uses, and special uses - including*bed and breakfast inn* - allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts §10-2071 are allowed in the Historic Overlay District.

Annotation: A-S-P Associates v.*City* of Raleigh, 298 N.C. 207, 230, 258 S.E. 2d 244, 458 (1979). The requirement of *G.S.* 160A-382 that zoning regulations *shall* be uniform for each class of land or *building* throughout each district does not prohibit the creation of an Historic Overlay District which imposes additional regulations on some *property* within an underlying use district and not on all of the *property* within it.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited in the Historic Overlay District and for*Historic Landmarks* . If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses *shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district.

- The erection, alteration, restoration or moving of the*exterior features* of any *building* or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features), trees, or above ground utility structure, or any type of *outdoor advertising sign* within a Historic Overlay District, or any *Historic Landmark* , or portion of the designated interior features of a *Historic Landmark* , without an approved certificate of appropriateness; provided, the activities listed in §10-2052(a)(2)a.1.--3., above, *may* be undertaken without a certificate of appropriateness.

- The changing of the*exterior features* of any *building* or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features), trees, or above ground utility structure, or any type of *outdoor advertising sign* within a Historic Overlay District, or any *Historic Landmark* , or portion of the designated interior features of a *Historic Landmark* , except in accordance with the terms, plans, conditions and provisions of an approved certificate of appropriateness.

- The demolition of any*building* or structure (including walls, fences, light fixtures, steps, pavement, paths, important landscape and natural features, or any other appurtenant features), trees, or above ground utility structure, or any type of *outdoor advertising sign* that has been recommended for designation by the Historic Districts Commission as a *Historic Landmark* or is located within an area recommended as a Historic Overlay District, for a period up to one hundred eighty (180) days (unless the Commission votes to shorten it) or until the *City Council* takes final action, whichever occurs first.

- The demolition by neglect of the*exterior features* of any *building* or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features), or any type of *outdoor advertising sign* within a Historic Overlay District, or any *Historic Landmark* , or portion of the designated interior features of a *Historic Landmark* .

Cross reference: Chapter 6, Article J, Demolition by Neglect of*Historic Landmarks* and Within Historic Overlay Districts.

- The demolition of any*building* or structure (including walls, fences, light fixtures, steps, pavement, paths, important landscape and natural features, or any other appurtenant features), trees, or above ground utility structure, or any type of *outdoor advertising sign* within a Historic Overlay District, or any *Historic Landmark* , without a certificate of appropriateness.

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot areas* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c). All residential density and minimum *net lot area* requirements are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum and maximum yard setbacks within the Historic Overlay District, and for*Historic Landmarks* , *shall* be congruous with setbacks of typical well-related nearby *buildings* in the Overlay District, and congruous with the character of the *Historic Landmark* , as set forth in the development standards, subsection (e)(4).

If the yard setbacks of the underlying district conflict with these yard setbacks, the yard setbacks of the development standards*shall* control.

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures *shall* be congruous with the height of well-related nearby *buildings* and structures in the Historic Overlay District. In general, this height is within ten (10) per cent of the height of these well-related *buildings* and structures. If the height regulations of the underlying district conflict with these height regulations, the height regulations of the Historic Overlay District *shall* control.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities of this Overlay District, and for*Historic Landmarks* , are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary

regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

(3) Signage.

Signs in the Historic Overlay District and for *Historic Landmarks* are regulated by areas of special control, §10-2083.1(b)(2); no such *sign* *shall* be erected, altered, restored or moved except in compliance with a certificate of appropriateness.

(4) Development standards.

See documents entitled: "Design Guidelines for Raleigh Historic Districts," "Guidelines for Exterior Rehabilitation for the Moore Square Historic District,"and **"The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."** Said documents are incorporated herein by reference as authorized by *G.S.* 160A-76 and are made a part of this Code and on file in the Planning Department. These documents contain architectural guidelines and design standards which *shall* be applied in consideration of applications for certificates of appropriateness, to insure insofar as possible that the *exterior features* of *buildings* , structures, and their appurtenant features located within an Historic Overlay District, and designated as a *Historic Landmark* , *shall* remain in harmony with other *buildings* , structures and appurtenant features in the District, and the character of the *Historic Landmark* . The current edition of **"The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings"** ***shall*** **be the sole standards and guidelines used in reviewing applications by** ***the State*** **of North Carolina for certificates of appropriateness.**

The issuance of a certificate of appropriateness*shall* not be prohibited in situations where, owing to conditions especially affecting the structure, such as availability of materials and *lot* size but not affecting the Historic Overlay District or *Historic Landmarks* generally, compliance with the development standards would cause an unusual and unnecessary hardship on the *property* *owner* beyond what other *property* *owner* s in the Historic Overlay District or of *Historic Landmarks* would meet.

Annotation: A-S-P Associates v. Raleigh, 298 N.C. 207, 222, 258 S.E. 2d 444, 454 (1979). Architectural guidelines and design standards contained in Raleigh ordinance for use by the Historic Districts Commission in its administration of the ordinance do not constitute an impermissible delegation of legislative power.

(5) Effect of conflict with other ordinances.

Whenever any ordinance adopted pursuant to Part 3C, Article 19, Chapter 160A of the General Statutes requires a longer waiting period or imposes other higher standards with respect to a designated*historic landmark* or designated Historic Overlay District than are established under any other statute, charter provision, or regulation, Part 3C *shall* govern. Whenever the provisions of any other statute, charter provision, ordinance, or regulation require a longer waiting period or impose other higher standards than are established under general statute such other statute, charter provision, ordinance, or regulation *shall* govern.

(Ord. No. 2001-26-TC-208, §2, TC-5-01, 6-19-01; Ord. No. 2003-373-TC-231, §4, TC-23-02, 2-4-03)

(f) Designation, amendment, and repeal of historic districts.

Historic Overlay Districts, as provided for in this section,*may* from time to time be designated,

amended or repealed through the *following* procedure:

(1) An investigation and report describing the significance of the*buildings* , structures, features, sites or surroundings included in any proposed Historic Overlay District and a description of the boundaries of such Overlay District, changes in boundaries, or de-designation due to loss of significance, *shall* be prepared and/or reviewed by the Raleigh Historic Districts Commission, and its recommendation *shall* be forwarded to the *City Council* . The *Council shall* refer such report to the North Carolina Department of Cultural Resources.

(2) The Department of Cultural Resources, acting through an agent or employee designated by its Secretary,*shall* have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure by the Department to submit its *written* analysis and recommendations to the *City* of Raleigh within thirty (30) calendar days after a *written* request for such analysis has been received by the Department *shall* relieve the *City* of any responsibility for awaiting such analysis, and the *City may* at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(3) The*City Council may* also, in its discretion, refer the report and proposed boundaries to any other interested body for its recommendations prior to taking action to amend the zoning ordinance.

(4) The recommendation(s)*shall* thereupon be treated in the same manner as any request for a change in the *City's* zoning ordinance and *shall* be processed according to the procedures set forth in §10-2165.

(5) With respect to any changes in the boundaries of an adopted Historic Overlay District subsequent to its initial establishment, an investigative study and report describing such changes, and reasons therefor,*shall* be processed according to subsections (f)(1) through (f)(4) above.

State law reference: Chapter 160A, Article 19, Part 3C of North Carolina General Statutes.

(Ord. No. 431-TC-225, §1, TC-273, 11-21-84)

(*Code 1959* , §§24-57--24-75.8; Ord. No. 1 1978-945-TC-92, §1, 11-21-78; Ord. No. 1980-361-TC-117, §§1-29, 21-28, TC-Q-80, 5-6-80; Ord. No. 1980-527-TC-133, §§18-20, 11-18-80; Ord. No. 1982-49-TC-174, §§2-6, TC-174, 12-21-82; Ord. No. 1983-245-TC-205, §53, 12-6-83; Ord. No. 1989-346-TC-337, §1, 4-18-89; Ord. No. 1989-387-TC-339, §6, 6-20-89; Ord. No. 1991-879A-TC-384, §1, TC-12A-91, 11-19-91; Ord. No. 1992-29-TC-395, §2, TC-12-92, 8-4-92; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01)

Sec. 10-2053. METRO-PARK PROTECTION OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §§10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required. The required preliminary *site plan* is to be reviewed based on the standards contained in §10-2132(c).

(Ord. No. 1992-111-TC-42, §19, TC-19-92, 12-8-92; Ord. No. 1997-137-TC-153, §31, TC-18-96, 6-17-97)

(b) Permitted Uses.

Subject to the provisions of §10-2053, and other overlay districts, all general uses, conditional

uses and special uses that are allowed in the underlying district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Metro-Park Overlay District.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited in the Metro-Park Protection Overlay District. If a use is prohibited in either this Overlay District or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district

- Any establishment, use, or trade which, through properly and safely operated with ordinary care according to good reasonable practices causes adverse, noxious, or offensive dust, fumes, gas, vibration and other factors which substantially interferes with or is incompatible with the aesthetic values and recreational uses of the metro-park

- Any establishment, use, or trade in the Metro-Park Protection Overlay District that emits noise at the metro-park boundary which exceeds the sound emission limitations of Part 12, chapter 5

- Any establishment, use or trade in the Metro-Park Protection Overlay District that emits detectable odor at the metro-park boundary, more than fifteen (15) minutes in any one (1) day or more than two (2) days out of the calendar*month*

- Above-ground storage of hazardous waste (as defined in the Code of Federal Regulations2161.3 and 263.33, or as the same *may* be amended by law) except up to fifty-five (55) gallons which *shall* be stored inside a fully impervious structure. This prohibition does not include underground storage in tanks which meet applicable fire prevention standards and federal and state regulations and otherwise comply with the *City* Code

- Exterior lights that are either unshaded, unshielded or directed toward the metro-park or that because of light intensity or brightness disturb the metro-park

- Globe area lighting and similar type of lighting which illuminates in all directions

- Nighttime external illumination of*buildings* that face the metro-park except for the exterior lighting of *building* entrances, exits or loading docks

- Outdoor speakers within five hundred (500) feet of the metro-park boundary

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

a. The minimum district yard setbacks of the underlying district*shall* apply except a *protective yard* , separating *buildings* , structures, storage, loading, service, display, and *vehicular surface areas* from the boundary of the metro-

park, meeting the requirements of §10-2082.9 is required. No land disturbing activity, animal pen, structure, or vehicular surface area, *shall* be located closer than twenty (20) feet from the edge of the park.

See §10-2075 for other*yard areas* required by this *Code* , method of calculating, exceptions and reductions to, *yard areas* and illustrations.

b. Watercourse buffer areas.

After application* of the Metro-Park Protection Overlay District, all watercourses which both drain into the metro-park and have concentrated flow from a drainage area of at least five (5) acres*shall* contain a *natural resource buffer yard* in accordance with §10-9040.

No use, encroachment, land-disturbing activity, placement of*impervious surface* , construction, nor installation *shall* occur within *natural resource buffer yards* except as allowed in §10-9041 and §10-9042.

*Editor's Note: This regulation first became applicable on June 20, 1989. (Ord. No. (1989)-390-TC-340).

(3) Height.

Buildings , structures, and lighting located within one thousand (1,000) feet from the metro-park unless otherwise restricted to a lower height by this Code, *may* be constructed to forty-five (45) feet in height, provided that no *building* *shall* be greater than two and one-half (2 1/2) stories above-ground.

Buildings , structures, and lighting, not otherwise restricted to a lower height by this Code and located further than one thousand (1,000) feet from the metro-park, which are greater than forty-five (45) feet high or contain more than two and one-half (2 1/2) above-ground stories *shall* add twenty-five (25) feet of additional setback from the one thousand (1,000) foot distance from the edge of the metro-park boundary for each foot of height greater than forty-five (45) feet high.

(Ord. No. 1996-851-TC-128, §9, TC-23-95, 4-2-96; Ord. No. 2001-991-TC-206, §§5, 6, TC-8-00, 5-1-01)

(e) Supplementary Regulations.

All uses and activities of this Overlay District are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(3) Lighting.

No exterior lighting*shall* cause illumination in excess of four-tenths (0.4) footcandle measured at the metro-park boundary line. No provision of this Overlay District *shall* prevent compliance with applicable FAA lighting regulations. Downlights *shall* be *used for* area lighting instead of lights that illuminate in all directions.

(4) ***Impervious surface*** **coverage.**

After application of the Metro-Park Protection Overlay District,*impervious surface* areas,

excluding public and private *streets* , *may* not be added so that the *impervious surface* lot coverage *shall* exceed the *following* table:

TABLE INSET:

	no measure required	tree inventory report and replacement for trees 5 dbh or greater in size
impervious limits	30% or less	30% to 60%

Impervious surface coverage greater than thirty (30) per cent of the *lot* but not more than sixty (60) per cent of the *lot* is allowed when all of the *following* are met:

a. Tree inventory.

An inventory of existing trees fifteen and five-eighths (15 5/8) inches in circumference (five-inch caliper) or greater, measured at four and one-half (4 1/2) feet above grade, is shown on the*site plan* when such trees are located within:

1. Any required*protective yard* on said *lot* ; and
2. Fifty (50) feet from the park boundary; and
3. Any*street protective yard*

The inventory*shall* contain, at a minimum, the scientific name and caliper of all trees identified on the inventory.

b. Report.

A*written* report is submitted with the *site plan* identifying any tree on the inventory which:

1. Is to be removed; or
2. Lies within the*critical root zone* of a tree.

c. Replacement.

If such grading or such tree removal is proposed to occur, a specific planting plan using primarily indigenous species of at least one-half (1/2) the caliper of the tree removed or graded but not less than 10.9375 inches in circumference (three-and-one-half-inch caliper, measured six (6) inches above grade) and not more than eighteen and three-quarter (18 3/4) inches in circumference (six-inch caliper, measured six (6) inches above grade)*shall* first be submitted to and approved by the *City* .

Such plan*shall* provide equal or greater reduction of the perceived intensity of the site or surrounding area than that which would have been achieved if grading, tree removal, and *impervious surfaces* in excess of thirty (30) per cent were not undertaken.

When replacements would overcrowd the particular area to be replanted, the*owner may* submit alternative measures for consideration for:

1. Replacing elsewhere on the site where more appropriate; or
2. Replacing off-site where reforestation in the Metro-Park Protection Overlay District is desired, and easements can be obtained.

No alternative measure*shall* lessen any other landscaping requirement of this Code.

The provisions of this subsection*shall* be inapplicable to the removal of dead, damaged,

or diseased trees caused by natural conditions. Trees which are installed in accordance with this subsection *shall* be maintained in the same manner as provided for in subsection §10-2082.3(d)(3).

(5) Hardships.

In those instances in which the Planning Commission determines that the application of these regulations would deprive the land*owner* s of reasonable use of their land, the Planning Commission *may* alter *impervious surface* coverage limits, increase height restrictions, and reduce the widths of the *natural resource buffer yards* of the Metro-Park Protection Overlay District as determined necessary. Maintenance of the *natural resource buffer yards* should be given the highest priority by the Planning Commission when making its determination to modify one (1) or more of these regulations.

(6) Existing structures, uses and ***impervious surfaces*** .

Structures, uses and*impervious surfaces* , existing at the time that the Metro-Park Protection Overlay District is first applied to the *property* *shall* not be deemed a *zoning nonconformity* solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the regulations of the underlying district are allowed. All additions, changes, expansions, and alterations to such structures, impervious surfaces and uses must comply with the regulations of the Metro-Park Protection Overlay District, unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion, or alteration as if the existing structure or use were made nonconforming by the Overlay District. Substitution of *impervious surfaces* done in accordance with §10-2146.2(a)(5) *shall* not require the approval of the Board of Adjustment.

(7) Landscaping.

Landscaping regulations of §10-2082et seq. *shall* be met.

(Ord. No. 1996-851-TC-128, §9, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §§32--34, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §12, TC-3-99, 8-3-99; Ord. No. 2005-762-TC-264, §5, TC-7-04, 1-4-05)

(f) Locational Guidelines.

The general characteristics desires of the land placed in the Metro-Park Protection Overlay District are the*following* :

(1) The*property* is approximately one thousand (1,000) to one thousand five hundred (1,500) feet from the boundary of the metro-park.

(2) The District surrounds the metro-park and follows identifiable features or boundaries wherever possible

(Ord. No. 1989-390-TC-340, §2, TC-14-88, 7-20-89; Ord. No. 1990-499-TC-349, §47, TC-15-89, 3-7-90)

Sec. 10-2054. NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City* *Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2054 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying district by the Schedule of Permitted Uses in Zoning Districts, §10-2071 are allowed in the Neighborhood Conservation Overlay District. In addition, any*street* design, greenway standard, *street* right-of-way requirement, and *built environmental* regulation contained in the Neighborhood Plan, which *may* be more stringent or less stringent than those of the underlying zoning district *shall* control notwithstanding any contrary regulation of the underlying districts.

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed by both the underlying district by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 and subsection (b) above is prohibited. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying zoning district

-*Built environmental characteristics* , *street* design, greenways and *street* rights-of-way established or modified after the application of this Overlay District except in conformance with the terms, conditions, plans, and provisions of the Neighborhood Plan unless approved by the Board of Adjustment in accordance with §10-2146.3(a)(7).

(Ord. No. 1999-616-TC-181, §13, TC-3-99, 8-3-99)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. Subject to any other applicable overlay district, the required minimum net area for any*dwelling unit* and *equivalent dwelling unit* *shall* be that established in the Neighborhood Plan. If the minimum *net lot area* in the underlying district conflicts with the minimum *net lot area* standard of the Neighborhood Plan, the Plan *shall* control. Whenever the Neighborhood Plan fails to adopt a minimum *net lot area* , those of the underlying zoning district *shall* be applied to *lots* .

b. The maximum residential density per net acre*shall* be that established in the Neighborhood Plan. If the maximum density in underlying district conflicts with the density standard of the Neighborhood Plan, the Plan *shall* control. Whenever the Neighborhood Plan fails to adopt a density or minimum *net lot area* standard, those of the underlying zoning district *shall* be applied to the *property* .

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks*shall* be those established in the Neighborhood Plan. If the district yard setbacks of the underlying district conflict with any yard setback standard of the Neighborhood Plan, the Plan *shall* control. Whenever the Neighborhood Plan fails to adopt yard setbacks, those of the underlying zoning district *shall* be applied to the *property* .

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and structures *may* be constructed to any height established in the Neighborhood Plan. If the height regulations of the underlying district conflict with the height regulations of the Neighborhood Plan, the Plan *shall* control. Whenever the Neighborhood Plan fails to adopt height limitations, those of the underlying zoning district *shall* be applied to the *property* .

See §10-2075 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**
(3)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(4) Neighborhood Plan.

No*building* , structure, *street* , right-of-way, or greenway *shall* be constructed, moved, altered, changed, or increased in size within a Neighborhood Conservation Overlay District except in conformity with the adopted Neighborhood Plan. The Plan *may* contain standards which are more stringent or less stringent than the underlying district; in the event of any conflict, the Plan *shall* control. Nothing contained in the Neighborhood Plan *shall* be construed to affect the Planning and Development Regulations, Part 10 of this Code, except as it involves greenways, *street* rights-of-way, *street* design, and *built environmental characteristics* .

(5) Existing ***lots*** **and structures.**

All*lots* and structures existing at the time that the Neighborhood Conservation Overlay District is first applied to the *property* *shall* not be deemed a *zoning nonconformity* solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures must comply with the regulations of the Neighborhood Conservation Overlay District unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion or alteration, as if the existing structure were made nonconforming by the Overlay District.

(Ord. No. 1999-616-TC-181, §14, TC-3-99, 8-3-99)

(f) Designation of a Neighborhood Conservation Overlay District and adoption of a Neighborhood Plan.

(1) Locational guidelines.

The general characteristics desired of land placed in the Neighborhood Conservation Overlay District are the*following* :

a. It is located in an area in which development began at least twenty-five (25) *years* prior to application of the Neighborhood Conservation Overlay District.

b. At least seventy-five (75) per cent of the land within the area is developed.

c. The area contains at least fifteen (15) (contiguous) acres unless either it is an extension of any existing Neighborhood Conservation Overlay District, or the application is authorized by*City Council* to amend the Official Zoning Map to the Neighborhood Conservation Overlay District.

d. The area possesses unifying distinctive elements of either*exterior features* or *built environmental characteristics* that create an identifiable setting, character and association.

Cross reference: Petition to Zone*Property* Neighborhood Conservation Overlay District, §10-2165(d)(3).

(2) Neighborhood Plan.

A Neighborhood Plan*shall* be completed prior to the application of the Neighborhood Conservation Overlay District. No Neighborhood Plan *shall* be approved by the *City Council* until after a recommendation thereon has been made by the Planning Commission. At least ten (10) days before the Planning Commission makes its recommendation, a copy of the Neighborhood Plan *shall* be mailed to the *property owner* s within the proposed Neighborhood Conservation Overlay District. The Neighborhood Plan *shall* be approved prior to or in conjunction with the zoning of any area as a Neighborhood Conservation Overlay District. The Neighborhood Plan records neighborhood-specific policies to promote the well being of the neighborhood. The Neighborhood Plan *shall* include at least these elements:

a. Neighborhood history and evolution

b. Land use inventory

c. Description of housing; existing, new development and maintenance

d. Inventory of*built environmental characteristics*

e. *Lot* size and configuration

f. Open space and recreation

g. Commercial development revitalization

h. Circulation/transportation

i. Capital improvement needs

Cross references: Procedure for adopting a Neighborhood Plan, §10-2165 (d) (3) b.*Lot* size in Neighborhood Conservation Overlay District, §10-3022(b).

(Ord. No. 1988-292-TC-328, §3, TC-22-88, 1-3-89; Ord. No. 1995-760-TC-122, §5, TC-20B-95, 11-21-95)

Sec. 10-2055. PEDESTRIAN BUSINESS OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §§10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required. The required *site plan* is to be reviewed based on the standards contained in §10-2132.2(c).

(Ord. No. 1992-111-TC-42, §20, TC-19-92, 12-8-92; Ord. No. 1997-137-TC-153, §31, TC-18-96, 6-17-97)

(b) Permitted Uses.

Subject to the provisions of §10-2055 and other overlay districts, all general uses, conditional uses and special uses that are allowed in the underlying district by the Schedule of Permitted Uses in Zoning Districts §10-2071 are allowed in the Pedestrian Business Overlay District.

Following the approval of a *site plan* by the *City Council* , in accordance with §10-2051(e)(2), additional residential density, conversions of *building(s)* to *dwelling(s)* , reductions *net lot area* for *dwellings, dwellings* and *lodging units* with two (2) burner cook tops, and housing within the underlying industrial zoning districts are all permitted.

(Ord. No. 1992-88-TC-401, §13, TC-4-92, 11-4-92; Ord. No. 1997-137-TC-153, §35, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code and*residences* allowed in Industrial districts by the special use permit authorized by this overlay district, any use not explicitly allowed by both the underlying district by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 and subsection (b) above is prohibited. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses *shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying zoning district

- Improvements to the sides of*buildings* fronting on a *thoroughfare* or collector *streets* to *street* rights-of-way except in conformance with the terms, conditions, plans, and provisions of the Streetscape Plan or Streetscape and Parking Plan unless approved by the Board of Adjustment in accordance with §10-2146.3(a)(7)

- Improvements to*street* rights-of-way except in conformance with the terms, conditions, plans, and provisions of the Streetscape Plan or Streetscape and Parking Plan unless approved by the Board of Adjustment in accordance with §10-2146.3(a)(7)

-*Vehicular display areas*

(Ord. No. 1992-88-TC-401, §10, TC-4-92, 11-4-92; Ord. No. 2000-740-TC-190, TC-1-99, §1, 2-18-00; Ord. No. 2004-596-TC-245, §3, TC-14-03, 4-6-04)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district unless a *site plan* is approved in accordance with §10-2051(d).

b. The maximum residential density per net acre is that of the underlying zoning district unless a*site plan* is approved in accordance with §10-2051(d).

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(Ord. No. 2005-932-TC-275, §10, TC-6-05, 11-15-05)

(2) Yard.

The minimum overlay district yard setbacks, unless otherwise required by this Code, are:

TABLE INSET:

front yard , *corner lot side yard,* and *rear yard* that adjoin a *street* right-of-way	-0- provided widths of pedestrian ways required in the Overlay District are met

TABLE INSET:

all other yards	same as underlying zoning district

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

Cross reference: Required width of pedestrian ways §10-2055(e)(5)

(3) Height.

Buildings and structures *may* be constructed to any height established in the Streetscape Plan or Streetscape and Parking Plan. If the height regulations of the underlying district conflict with the height regulations of the Streetscape Plan or Streetscape and Parking Plan, the Plan *shall* control. Whenever the Streetscape Plan or Streetscape and Parking Plan fails to adopt height limitations, those of the underlying zoning district *shall* be applied to the *property* .

See §10-2075 for method of height calculation, exceptions, and illustrations.

(Ord. No. 2000-740-TC-190, TC-1-99, §1, 2-18-00)

(4) Required open space.

Wherever this chapter requires a residential development to contain open space and that development is located within the Pedestrian Business Overlay District, this open space, in addition to any common landscaped outdoor areas, greenways, and common recreation spaces (excluding vehicular surface areas),*may* include outdoor balconies, decks and roof gardens on residential *buildings* .

Cross reference: Open space is required for any*cluster unit development* , *congregate care structure or congregate living structure* , *group housing development* , *life care community* , *manufactured home park* , *multi-family dwelling* development, residential *unit ownership (condominiums)* and *townhouse development* , Part 10, chapter 2, Article F.

(Ord. No. 1992-88-TC-401, §24, TC-4-92, 11-4-92; Ord. No. 1997-137-TC-153, §36, TC-18-96, 6-17-97)

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

(1) Off-street parking.

From the effective date of this ordinance, February 23, 2000, the minimum number of off-street parking spaces required for commercial and recreational land uses in the Schedule of Off-Street Parking Standards, §10-2081,*shall* be based upon the ratios and coordinating strategies recommended by the adopted Streetscape and Parking Plan for the subject area of the Overlay District. Where a Streetscape Plan had previously been adopted, but no Streetscape and Parking Plan has been subsequently adopted, the minimum number of off-street parking spaces for commercial and recreational land uses *shall* be fifty-five (55) per cent of the number of spaces required. In no case *shall* the Streetscape and Parking Plan permit less than fifty-five (55) per cent of the number of parking spaces required by the Schedule of Off-Street Parking Standards, §10-2081.

Parking that cannot be provided on the same*lot* as the *principal building* or *principal use may* be provided within the Overlay District on any *lot* within eight hundred (800) feet of any entrance of the *principal use* for customer, patron, or resident parking and within twelve hundred (1,200) feet of any entrance of the *principal use* for employee parking; provided that the *property* in the underlying district is zoned an *office and institution district* , Shopping Center District, Neighborhood Business District, Business Zone District, Thoroughfare District, Industrial-1 District, Industrial-2 District or Buffer Commercial District, but in the Buffer Commercial District the parking must be located inside a parking deck. Provided further, if a Streetscape and Parking Plan has been adopted, required parking that cannot be provided on the same *lot* as the *principal building* or *principal use may* be provided within parking areas designated by the adopted Streetscape and Parking Plan which are located within twelve hundred (1,200) feet of any entrance of the *principal use.* Such off-site parking not designated for employees *shall* be available for all commercial business patrons within the Pedestrian Business Overlay District.

(Ord. No. 2000-740-TC-190, TC-1-99, §2, 2-18-00)

(2) Vehicular parking areas.

No new vehicular parking areas, including additions to vehicular parking areas existing prior to the application of the Pedestrian Business Overlay District,*shall* be located in any portion of the site parallel to and adjoining a *thoroughfare* unless such vehicular parking areas are located behind the front wall of the *principal building* as viewed perpendicular to the recorded *thoroughfare street* right-of-way.

GRAPHIC LINK:Diagram: No Parking Area Relative to Thoroughfare

Vehicular parking areas lawfully existing prior to the application of the Pedestrian Business Overlay District*may* be utilized by existing uses and *buildings* in the Overlay District. These vehicular parking areas *shall* be made to conform to the adopted Streetscape Plan or Streetscape and Parking Plan, the design standards of §10-2081(b), and the provisions for handicap spaces whenever those *buildings* and uses that utilize these vehicular parking spaces undergo one (1) or more of the *following* :

a. Expansions or additions that singularly or collectively exceed either twenty-five (25) per cent of the total*floor area gross* of the *building* or twenty-five (25) per cent of the total gross area occupied by the use where there is no principal *building* . The per cent of expansion is to be determined with reference to the size and area of the *building* or use which existed at the time the Overlay District first became applicable to the *property* .

b. Renovation or repair work which, during any one (1) calendar*year* exceeds twenty-five (25) per cent of the Wake County listed tax value.

c. Change in use which results in a change in the type of Building Codeoccupancy as set forth in the **North Carolina Building Code.**

(Ord. No. 2000-740-TC-190, TC-1-99, §3, 2-18-00)

(3) Landscape.

Landscaping*shall* be done in accordance with §10-2082, and all *street* trees *shall* be planted in accordance with the adopted Streetscape Plan or Streetscape and Parking Plan.

(Ord. No. 2000-740-TC-190, TC-1-99, §3, 2-18-00)

(4) Signage.

See §10-2083 for*on-premise signs* and §10-2084 for *off-premise signs* . No *sign shall* be erected, altered, replaced, restored, or moved unless the change is in accordance with the Streetscape Plan or Streetscape and Parking Plan.

(Ord. No. 2000-740-TC-190, TC-1-99, §3, 2-18-00)

(5) Pedestrian ways.

The minimum width of pedestrian ways from the curb to the*building* line for all new *buildings* and uses *shall* be eighteen (18) feet wide, unless the width of pedestrian ways for more than seventy-five (75) per cent of the linear frontage of pedestrian ways on the same side of the *street* as the new development, within a single block, are less than eighteen (18) feet. In such instances, the minimum pedestrian way *shall* equal the median width of pedestrian ways of seventy-five (75) per cent of *properties* on the same side of the *street* within a single block of the new development. For all existing *buildings* and uses, the widths of existing pedestrian ways located from the curb to the *building* line *shall* not be reduced unless, after the reduction, the width of the remaining pedestrian way equals or exceeds the required minimum widths of pedestrian ways for new uses and *buildings* . For purposes of this section, the required minimum pedestrian ways can be located on *street* rights-of-way, sidewalk easements, or on private *property* provided the pedestrian way is located between the *building* line and the curb. All improvements to pedestrian ways *shall* be made in accordance with the adopted Streetscape Plan or Streetscape and Parking Plan. Upon adoption of a Streetscape and Parking Plan, alternatives to the aforementioned requirements for pedestrian ways *may* be established by the adopted Streetscape and Parking Plan. All improvements to pedestrian ways *shall* be made in accordance with the adopted Streetscape and Parking Plan whenever the *property* is developed using any of the less stringent standards of this Overlay District.

(Ord. No. 2000-740-TC-190, TC-1-99, §4, 2-18-00)

(6) Bicycle parking.

Bicycle parking spaces*shall* be provided for all new uses, new *buildings* , and for existing *buildings* and uses whenever those existing *buildings* and uses undergo any one (1) or more of the expansions, expenditures, or changes listed in subsections a. through c. of §10-2055(e)(2) above. Bicycle spaces *shall* be provided at a rate of at least one (1) bicycle space for every twenty (20) required automobile spaces. Bicycle parking facilities *shall* be located within easy access from the *street* right-of-way, and *shall* be designed in accordance with the Streetscape Plan or Streetscape and Parking Plan.

(Ord. No. 1992-111-TC-42, §21, TC-19-92, 12-8-92; Ord. No. 2000-740-TC-190, TC-1-99, §5, 2-18-00)

(7) Exterior ***building walls*** .

Fifteen (15) linear feet*shall* be the maximum length of a "blank exterior *building* wall plane" facing a *thoroughfare* for any new *building* and for any existing *building* that is either replaced or undergoes one (1) or more of the expansions, expenditures, or changes listed in subsections a. through c. of §10-2055(e)(2) above. All other existing *buildings* *shall* not increase the amount of "blank exterior *building* wall plane" beyond that which is allowed for new *buildings* . A "blank exterior *building* wall plane" is any wall unbroken to the height of nine (9) feet by any one (1) or more of the *following* :

a. A public doorway made of transparent materials.

b. A doorway made of opaque materials and recessed at least three (3) feet.

c. A stairway directly available at*street* level to the public, but not fire escapes or false stairways.

d. A window or fenestration opening in keeping with the architectural character of the surrounding area of at least twelve (12) square feet in area and no more than four (4) feet above the sidewalk at its lowest point.

(Ord. No. 2000-740-TC-190, TC-1-99, §6, 2-18-00)

(8) Thoroughfare driveway widths.

The maximum length of any curb cut made to a*thoroughfare* after application of the Pedestrian Business Overlay District *shall* be fifteen (15) feet for one-way driveways and twenty-five (25) feet for two-way driveways or joint driveways.

(9) "Streetscape Plan" and "Streetscape and Parking Plan."

No improvement to*street* rights-of-way, to *vehicular surface areas* and to the sides of any *building* that face a *thoroughfare* or a collector *street* *shall* be made within a Pedestrian Business Overlay District except in conformity with the adopted Streetscape Plan or Streetscape and Parking Plan. All additions, changes, expansions, and alterations to such existing structures must comply with the regulations of the Streetscape Plan or Streetscape and Parking Plan unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion, or alteration, as if the structure were made nonconforming by the Overlay District. Improvements to *thoroughfare* rights-of-way that are part of the Streetscape Plan or Streetscape and Parking Plan *shall* be installed whenever the *properties* that adjoin said rights-of-way acquire new *buildings* , new uses, or undergo expansions, expenditures, or changes listed in subsections a. through c. of §10-2055(e)(2) above. These required improvements to *street* rights-of-way *shall* be completed prior to the issuance of a *building* occupancy certificate.

(Ord. No. 2000-740-TC-190, TC-1-99, §7, 2-18-00; Ord. No. 2003-373-TC-231, §5, TC-23-02, 2-4-03)

(10) Existing structures and ***lots*** .

A structure existing at the time that the Pedestrian Business Overlay District is first applied to the*property* *shall* not be deemed a *zoning nonconformity* solely because of this Overlay District. All additions, changes, expansions, and alterations must comply with the Streetscape Plan or Streetscape and Parking Plan, unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion, or alteration as if the structure or use were made nonconforming by the Overlay District.

(Ord. No. 2000-740-TC-190, TC-1-99, §7, 2-18-00; Ord. No. 2003-373-TC-231, §5, TC-23-02, 2-4-03)

(f) Designation of a Pedestrian Business Overlay District and Adoption of a Streetscape and Parking Plan.

(1) Locational guidelines.

The general characteristics desired of land placed in the Pedestrian Business Overlay District are the*following* :

a. It consists primarily of*retail uses* as defined in §10-8002.

b. It comprises at least one (1) side of one (1) block, including any existing Pedestrian Business Overlay District.

c. It draws pedestrian patronage to it from an adjoining employment center or a residential neighborhood.

d. It is an area with one (1) or more of the*following* characteristics:

1. It was developed prior to the application of off-*street* parking

requirements; or

2. It possesses unifying distinctive*built environmental characteristics* that create an identifiable pedestrian setting, character or association;

3. It is an expansion of an existing Pedestrian Business Overlay District.

(2) Streetscape and Parking Plan.

A Streetscape and Parking Plan*shall* be completed for any area zoned a Pedestrian Business Overlay District. No Streetscape and Parking Plan *shall* be approved by the *City Council* until after a recommendation thereon has been made by the Appearance Commission. At least ten (10) days before the Planning Commission makes its recommendation to the *City Council* , a copy of the Streetscape and Parking Plan *shall* be mailed to *property owner* s within the proposed Pedestrian Business Overlay District. The Streetscape and Parking Plan *shall* be approved prior to or in conjunction with the zoning of any area as a Pedestrian Business Overlay District. The Streetscape and Parking Plan records designs and policies concerning the character and function of the area, and *shall* be at least one (1) block long on both sides of the block. The Streetscape and Parking Plan *shall* include at least these elements:

a. Sidewalk building materials and typical construction detail, showing the layout pattern, underlayment, and curb design

b. *Street* furniture types, including sidewalk light fixtures, benches, garbage receptacles, tree guards and grates, and other furnishings within the public right-of-way

c. Canopy or awning height above sidewalk, construction type, materials, and size

d. *Street* tree species, planting detail for *street* trees (showing drainage, planting hole design, tree support and protection), and location of *street* trees in the right-of-way

e. Pedestrian crosswalk location

f. Utility line location, either under the sidewalk or above it in the public right-of-way

g. A maintenance plan for the care of streetscape improvements to the public right-of-way

h. *Signs* , types, sizes, graphics, materials and colors

i. Location and arrangement of public off-site and off-street*parking lots* and a plan for providing adequate public off-site and off-street vehicle and bicycle parking for the Overlay District.

j. Assessment of the extent to which minimum off-street parking requirements*may* be reduced for commercial or recreational uses.

k. Width of pedestrian ways from the curb(s) to the building line.

l. Maximum height limitations.

Editor's Note: Prior to February 23, 2000 (effective date of Ordinance No. 2000-740-TC-190, TC-1-99), a Streetscape Plan (not a Streetscape and Parking Plan) was required to be approved in conjunction with a Pedestrian Business Overlay District. A Streetscape Plan did not include subparagraph "i." through "l." above.

(Ord. No. 1986-856-TC-274, §3, TC-11-86, 9-16-88; Ord. No. 1987-29-TC-294, §10, TC-14-87, 12-1-87; Ord. No. 1989-438-TC-344, §1, TC-11-89, 10-3-89; Ord. No. 2000-740-TC-190, TC-1-99, §8, 2-18-

00)

Sec. 10-2056. RESERVOIR WATERSHED PROTECTION AREA OVERLAY DISTRICT.

(a) Approval.

If the use requires a*site plan* as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Definitions.

Primary water supply watershed protection area. The area in a Reservoir Watershed Protection Area Overlay District or an Urban Water Supply Watershed Protection Area Overlay District between the intake or mean high water level of the reservoir and the *secondary water supply watershed protection area.* To protect the watershed, special standards for *impervious surface* coverage, uses, *natural resource buffer yards* and *lot* sizes are applied. *Primary water supply watershed protection areas* are delineated on the Official Zoning Maps and reflected in the Comprehensive Plan.

Secondary water supply watershed protection area. The area in a Reservoir Watershed Protection Overlay District or an Urban Water Supply Watershed Protection Area Overlay District between the *primary water supply watershed protection area* and surrounding *properties.* To provide a protective transition between the *primary water supply watershed protection area* and the surrounding *properties* , special standards for *impervious surface* coverage, uses, and *natural resource buffer yards* are applied. *Secondary water supply watershed protection areas* are delineated on the Official Zoning Maps, and reflected in the Comprehensive Plan.

(Ord. No. 2005-817-TC-267, §3, TC-7-05, 4-19-05)

(c) Permitted Uses.

Subject to the provisions of §10-2056 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Reservoir Watershed Protection Area Overlay District. In the*primary water supply watershed protection area* of this Overlay District, the *following* uses are only allowed (even if the underlying zoning district classifies the use as a Board of Adjustment special use or a general use) when a special use permit is issued by the *City Council* in accordance with §10-2145 or by the Board of Adjustment if the *City* is the applicant:

-*Recreation use restricted to membership - not for profit* in a *residential district* , Agricultural Productive, or Residential Business District.

- Recreation use of a governmental entity.

- Not for profit recreational camps.

(Ord. No. 2005-817-TC-267, §4, TC-7-05, 4-19-05)

(d) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the underlying district by either the Schedule of Permitted Land Uses in Zoning District §10-2071 or subsection (c) above is prohibited in the Reservoir Watershed Protected Area Overlay District. If a use is prohibited in either an overlay district or the underlying district,

that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

(1) Prohibited in both ***primary and secondary water supply watershed protections*** **areas of this Overlay District.**

- All uses prohibited in the underlying district

- Additional density in Office and Institution-1, Office and Institution-2, Shopping Center and Thoroughfare District permitted by §10-2132.2(c)(1)g.

- Additional*floor area ratio (F.A.R.)* allowances for office *buildings* in Office and Institution-1 and 2 Districts

- Foot and bicycle paths that are paved or graveled and that are located in a*City* greenway

-*Landfill* (all other lawfully approved)

(Ord. No. 1993-207-TC-59, §1, TC-12-93, 6-1-93; Ord. No. 1999-616-TC-181, §15, TC-3-99, 8-3-99)

(2) Uses prohibited in ***primary water supply watershed protection area*** **of this Overlay District:**

- All uses prohibited in (d)(1) above

- Airfields, landing strips, and heliports

- Church, synagogue, or religious education*building*

-*Day care facility* (child or adult) and *special care facility*

- Industrial uses listed within the industrial land use category on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, established after the effective date of this ordinance except water or sanitary sewer treatment plants,*utility services,* reservoir and water control structures, substations, conversions of a utility to another utility or municipal use, or a pre-existing *nonconforming use.* If any of the allowed exceptions (water or sanitary sewer treatment plant, *utility service,* reservoir and water control structure, substation or conversion of a utility to another utility or municipal use or a pre-existing *nonconforming* industrial *use*) involve the *on-premise* storage, use, or manufacture of hazardous materials, then a spill containment structure which is first approved by the Fire Chief must be installed and maintained. Hazardous materials are defined in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances (42 USC 11000 et seq.), as amended; the Comprehensive Environmental Responsibility, Compensation, and Liability Act (CERCLA), Hazardous Substances (42 USC 9601 et seq.), as amended; or the Clean Water Act (CWA), Section 311 (33 USC 1251 et seq.), as amended.

Editor's note: The regulations of this provision first became applicable on June 20, 1993.

(Ord. No. 1993-218-TC-60, §2, TC-10-93, 6-15-93; Ord. No. 1993-297-TC-69, §4, 12-7-93)

- Library, art gallery, or museum - governmental and nongovernmental

- Outdoor stadium, theater or racetrack of more than two hundred and fifty (250) seats; outdoor movie theatre

- Plant nursery or fruit and vegetable stand if only allowed in underlying district as a special or conditional use. (See Schedule of Permitted Land Uses in Zoning Districts, §10-2071.)

-*Recreational use restricted to membership - commercial* unless the *recreational use* is allowed in the underlying district as a general use. (See Schedule of Permitted Land

Uses in Zoning Districts, §10-2071.)

-*Recreational use restricted to membership - not for profit* without a special use permit from the *City Council* unless the recreation use is allowed as a general use in the underlying district. (See Schedule of Permitted Land Uses in Zoning Districts, §10-2071.)

-*Religious shelter units*

-*Residential related services* except laundry facilities

- Riding stable if use is allowed in the underlying district as a special use. (See Schedule of Permitted Land Uses in Zoning Districts, §10-2071.)

- Schools of all kinds

- Site for land application of sludge, residuals, or petroleum contaminated soils.

(Ord. No. 105-TC-304, §2, 5, TC-24-87, 1-10-88; Ord. No. 1993-218-TC-60, §3, TC-10-93, 6-15-93; Ord. No. 2004-647-TC-248, §5, TC-4-04, 6-1-04; Ord. No. 2005-817-TC-267, §5, TC-7-05, 4-19-05)

(e) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. In the Rural Residential District, the required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is eighty thousand (80,000) square feet in a *primary water supply watershed protection area* of the Overlay District. In all other underlying districts or portions of this Overlay District, the required minimum *net lot area* is that of the underlying zoning district.

b. In the Rural Residential District, the maximum residential density per net acre is .5445 units in the*primary water supply watershed protection area* of this Overlay District. In all other underlying districts or portions of the Overlay District, the maximum residential density is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

a. The minimum district yard setbacks of the underlying district*shall* apply.

b. Watercourse buffer areas.

After application* of the Reservoir Watershed Protection Area Overlay District, watercourses*shall* , in accordance with this §10-9040(a), contain a *natural resource buffer yard* . *Natural resource buffer yards shall* adjoin either a primary watercourse or a secondary watercourse. These *natural resource buffer yards* provide an area where stormwater flows in a diffuse manner so that the runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place.

No use, encroachment, land-disturbing activity, placement of impervious surface, construction, nor installation*shall* occur within *natural resource buffer yards* except as allowed in §10-9041 and §10-9042.

*Editor's note: This regulation first became applicable on March 10, 1985 (Ord. No. 511-TC-232, TC-270).

(3) Height.

Same as the underlying zoning district.

(Ord. No. 1993-218-TC-60, §§4--6, TC-10-93, 6-15-93; Ord. No. 2001-991-TC-206, §7, TC-8-00, 5-1-

01; Ord. No. 2005-817-TC-267, §6, TC-7-05, 4-19-05)

(f) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(3) ***Impervious surface*** **coverage.**

a. Within the Reservoir Watershed Protection Area Overlay District, the maximum amount of*impervious surface* coverage is regulated. Regulations applied to new developments, to tracts in existence prior to the effective date of *impervious surfaces* regulations (June 1, 1988), and to tracts established outside the subdivision process after that date are set forth in §10-5006(a)(11). Regulations applied to subdivisions approved after that date are set forth in Part 10, chapter 3.

b. Substitutions of*impervious surface* done in accordance with §10-2146.2(a)(5) are allowed.

Cross references: Stormwater retention, detention, or capture is required in the Reservoir Watershed Protection Area Overlay District for*streets* §10-3052(a) and for *lots* containing higher *impervious surface* coverages §10-5006(a)(11)b. and c. Other standards for *street* construction: Street, Sidewalk and Driveway Access Handbook, §§10-3052(b) and (c), §10-2075(e), **Schedule of Permitted Land Uses Within Types of Yard Areas** .

(Ord. No. 1985-511-TC-232, TC-270, 3-5-85; Ord. No. 1987-950-TC-287, §23, 4-7-87; Ord. No. 1988-105-TC-304, TC-24-87, 1-5-88; Ord. No. 1988-133-TC-305, TC-27-87, 3-1-88; Ord. No. 1992-110-TC-41, §39, TC-18-92, 12-8-92; Ord. No. 1993-218-TC-60, §7, TC-10-93, 6-15-93; Ord. No. 1995-760-TC-122, §6, TC-20B-95, 11-21-95)

Sec. 10-2057. PLANNED DEVELOPMENT CONDITIONAL USE OVERLAY DISTRICT.

(a) Approval.

Prior to the approval of a*Master Plan* by the *City Council* , if the use requires a *site plan* , as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b). If the use requires a *plot plan* , as set forth in §10-2132.2, administrative approval is required. Subsequent to approval of a *Master Plan* by the *City Council* , a preliminary *site plan* is no longer required. Final *site plan* approval *shall* be obtained from the *City* staff. The *City* staff *may* disapprove such a *site plan* if the staff finds that it does not conform to the *Master Plan* , to the conditions of the conditional use zoning district, or to the provisions of this Code. Findings of staff *shall* be subject to review by *City Council* .

(Ord. No. 1999-616-TC-181, §16, TC-3-99, 8-3-99)

(b) Permitted Uses.

(1) Subject to the provisions of §10-2057 and other overlay districts, any use or*sign* permitted in the underlying zoning district is allowed in the Planned Development

Conditional Use Overlay District; provided that, all applicable rules, regulations, standards, and procedures required in the underlying district are observed; and

(2) *Following* the approval by the *City Council* of a *Master Plan* , any use or *sign* , permitted in the Thoroughfare District or if otherwise permitted as a special use in the Planned Development Conditional Use Overlay District and not prohibited by subsection (c) is allowed in the Planned Development Conditional Use Overlay District. If any of the uses allowed by the *Master Plan* is a conditional use in the underlying district but is not a conditional use in the Thoroughfare District, then the applicable special regulations for that use *shall* be met, unless the approved *Master Plan* provides otherwise. If the use requires a special use permit in either the underlying district or the Thoroughfare District, the same special use permit *shall* be required throughout the Planned Development Conditional Use Overlay District. Following the approval of a *Master Plan,* the requirements for preliminary site plan approval for any use in accordance with §10-2132.2 *shall* not apply.

(3) Following the approval by the*City Council* of a *Master Plan, manufactured homes* are permitted in the Planned Development Conditional Use Overlay District; provided that the *Master Plan* contains design standards for each of the *following:*

a. Minimum square footage of the*manufactured homes.*

b. Maximum*building lot* coverage.

c. Height, width, and length of the*manufactured home.*

d. Landscaping.

e. Exterior building materials.

f. Foundation walls.

g. Roof pitch.

h. Fenestration.

i. Orientation of*manufactured home* and doors.

j. Eaves.

If a*manufactured home* is to be located within four hundred (400) feet of any *lot* containing any *dwelling,* the design standard *shall* also include a description of how the color of the *manufactured home* and its architectural details which *may* include porches, decks, railings, dormers, awnings, shutters, trim treatments, path and driveway design, fences, walls, decorative appurtenances such as light fixtures and window boxes will produce a *manufactured home* design which is congruous with the character of the *dwellings* within four hundred (400) feet.

Additional design standards*may* be included in the *Master Plan.*

Cross reference: Application of Planned Development Conditional Use Overlay District to be noted on recorded subdivision plats §10-3017(b)(15).

(Ord. No. 1995-760-TC-122, §7, TC-20B-95, 11-21-95; Ord. No. 1999-616-TC-181, §17, TC-3-99, 8-3-99; Ord. No. 1999-690-TC-186, §1, TC-9-99, 11-16-99)

(c) Prohibited Uses.

The manufacture of:

- Acetylene gas

- Acid

- Ammonia

- Bleaching powder

- Chlorine

- Detergent and cleaning preparations made from animal fats

- Fish meal

- Fireworks or explosives

- Nitrogenous tankage

- Paints, varnish, or shellac which requires distillation or heating of ingredients

- Phosphates and superphosphates

- Turpentine

- Vinegar

- Mining operations

- Outdoor rifle ranges

- Oil refining and petroleum distillation and bituminous concrete facilities, excluding oil recycling facilities

- Any use prohibited by an applicable conditional use zoning district, an applicable overlay zoning district, or both

- Any use or trade, which though properly and safely operated with ordinary care, according to good and reasonable practice, causes noxious or offensive dust, fumes, gas, noise, odor, smoke or vibration that substantially interferes with other lawful uses; provided that, nothing in this section*shall* be construed to exclude from this District an electrical generating power plant powered by wind, waste or solar energy

- Scrapyards and open dumps, not including*landfills* or sites devoted to receiving stumps, limbs and leaves and construction debris from on-site

-*Signs* prohibited in §10-2083.3, *signs* which do not conform to §10-2083 et seq. , §10-2084 et seq. or *signs* not allowed in the Thoroughfare District

(Ord. No. 1994-452-TC-84, §2, TC-17-94, 8-2-94)

- Any use or*sign* prohibited in the underlying zoning district unless a *Master Plan* which is approved by the *City Council* permits the use or *sign*

- Any use or*sign* prohibited by the *City Council* approved *Master Plan*

- Any use,*sign* , and improvement except in conformance with the terms, conditions, plans, and provisions of the applicable *Master Plan*

(Ord. No. 1997-137-TC-153, §39, TC-18-96, 6-17-97)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* *shall* be that established in the *Master Plan* but in no event *shall* the minimum *net lot area* for any *dwelling unit* and *equivalent dwelling unit* be less than fifteen hundred (1,500) square feet and those allowed in any applicable overlay district. Whenever the *Master Plan* fails to adopt a minimum *net lot area* , those of the underlying zoning district *shall* be applied.

b. The maximum residential density per net acre,*floor area ratio* , and *building*

lot coverage shall be that established in the *Master Plan* , but in no event *shall* residential density, *floor area ratio* , and *building lot coverage* exceed those allowed in the Thoroughfare District and in any applicable overlay district. Residential densities on individual *lots may* exceed those allowed in the Thoroughfare District and in any applicable overly district so long as the total residential density within the entirety of the *Master Plan* area does not exceed those allowed in the Thoroughfare District and in any applicable overlay district. Whenever the *Master Plan* fails to adopt a density, *floor area ratio* , and *building lot coverage* or standard those of the underlying district will be applied to the *property* .

Prior to the filing of the final plat or the issuance of any building permits, whichever*shall* first occur, the owner *shall* record a declaration of covenants and restrictions which will govern the density transfer. The covenant *shall* contain a statement that the real property is part of a Planned Development governed by a *Master Plan* approved by the *City* in which residential densities transfers are permitted; therefore, even though some *lots may* appear to contain enough land area to construct additional *dwelling units* or create additional residential *lots* prior density transfers approved in the *Master Plan may* , in fact, preclude *City* approval of additional *dwellings* or further subdivision of residential *lots.* The declaration of covenants and restrictions *may* appear in the same legal document required in section 10-2057(f)(4)c., governing open spaces. The attorney for the owner who prepared the declaration of covenants and restrictions *shall* certify in *writing* to the Raleigh *City* Attorney that the documents are in conformity with the *City* Code and the conditions of approval of the development. Certifications *shall* be on forms approved by the Raleigh *City* Attorney and *may* include, at the discretion of the Raleigh *City* Attorney, provisions to be attached to and made part of the declaration of covenants and restrictions. After the *City* Attorney or his/her deputy first either approves the certification or the declaration of covenants and restrictions, the legal documents *shall* be recorded promptly after the filing of the recording plat with the local County Register of Deeds, but all recordations must be completed prior to any conveyance or transfer of any portion of the *real property* shown on the final plat. Copies of the recorded legal documents shall be given to the Planning Department in accordance with the fourteen (14) day time period of §10-3014(c)(1).

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073 and are subject to the exceptions listed in §10-2073 (d). *Floor area ratios* and *building lot coverage* limitations *shall* be calculated in accordance with §10-2072(b): Office, agency or studio of a professional or business agent, or political, labor, or service association.

(2) Yard.

The minimum district yard setbacks*shall* be those established in the *Master Plan* . If the district yard setbacks of the underlying district conflict with any yard setback standard of the *Master Plan* , the Plan *shall* control. Whenever the *Master Plan* fails to adopt yard setbacks, those of the underlying zoning district *shall* be applied to the *property* .

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Subject to other overlay district height regulations,*buildings* and structures *may* be constructed to any height established in the *Master Plan* . If the height regulations of

the underlying district conflict with the height regulations of the *Master Plan* , the Plan *shall* control. Whenever the *Master Plan* fails to adopt height limitations, those of the underlying district *shall* be applied to the *property* .

See §10-2076 for method of height calculations, exceptions, and illustrations.

(Ord. No. 1994-452-TC-84, §3, TC-17-94, 8-2-94; Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 2005-875-TC-269, §1, 7-19-05; Ord. No. 2006-140-TC-298, §1, TC-21-06, 12-5-06)

(e) Master Plan.

No*building* , structure, *street* , sidewalk, curb and gutter *shall* be constructed, moved, altered, changed or increased in size within a Planned Development Conditional Use Overlay District except in conformity with the *City Council* adopted *Master Plan* . The Plan, in accordance with the provisions of §10-2057(d)(1), *may* contain standards which are more stringent or less stringent than the underlying district or the Thoroughfare District; in the event of any conflict, the Plan *shall* control. Nothing contained in the *Master Plan shall* be construed to affect the subdivision and *site plan* regulations of Part 10 chapter 3 of this Code, except as it involves *streets* , sidewalks, curb and gutter.

Cross reference: Alternative subdivision and*site plan* designs §10-2057(f)(4)j.

(Ord. No. 1994-452-TC-84, §4, TC-17-94, 8-2-94)

(f) Designation of a Planned Development Conditional Use Overlay District.

(1) Approved ***Master Plan*** **required.**

A*Master Plan shall* be completed prior to the application of the Planned Development Conditional Use Overlay District. The *Master Plan* in accordance with subsection (4) below *shall* be approved prior to or in conjunction with the zoning of any area as Planned Development Conditional Use Overlay District.

(2) Preparation of the ***Master Plan*** .

The*Master Plan shall* include all necessary elements to address phasing of construction and occupancy and specifically all of the *following* :

a. *Signature* of *owner* or authorized agent of all *property* within the *Master Plan* .

b. Identification of geographically, topographically, hydrologically, environmentally, historically, or archaeologically significant areas and mechanisms for maintenance or restoration.

c. Areas classified as floodway, floodway fringe, alluvial soils boundaries, flood storage easements, and watercourse buffer yards.

d. A preliminary circulation plan showing existing and proposed driveway and*access point* limitations, private *street* and driveway locations, existing *streets* within and adjoining the site, and location of extended, new, and widened public *street* rights-of-way which embrace the site.

e. Traffic impact analysis approved by the Transportation Director, including the volumes generated.

f. Locations and amounts of proposed uses, including the land use categories proposed: agricultural, residential, office, institutional/civic/services, commercial, industrial, and open space. A detailed list of uses permitted within each land use category*shall* be submitted and/or reference made to sections of this chapter which specify the use permitted within each category.

1. The locations of uses*shall* include provisions for the mixture of land

uses to provide convenience services, such as retail, office, day-care, storage, schools, and other community facilities and institutions in close proximity to planned *dwellings* . Specifications *may* be included on the mixture of housing types and styles for different populations to help provide affordable housing and *dwellings* for all age groups.

2. Indications*may* be provided of maximum scale, *floor area ratio* , *building lot coverage* , *impervious surface* coverage, or other limitations on area and bulk.

g. Phasing of development*shall* be indicated including, if required, covenants, assessments, and other applicable restrictions.

h. Locations and amounts of existing and proposed greenways, parks, and open space.*May* also include designs for buffers, *transitional yards* , and screening to protect conflicting land uses from potentially adverse influences and to enhance the identification and usability of common/public open spaces.

i. Method of water and sewer service for all*buildings* and location of existing and proposed extensions of water and sewer mains.

j. Mechanisms to provide unified approach to landscaping, signage, parking, driveways, drainage, sedimentation control, and pedestrial circulation.

k. Yard and Height. In the Planned Development Overlay District a schedule of maximum heights of*buildings* , structures, and uses by land use category and minimum/maximum yard setbacks and/or reference to existing height or district yard standards in this chapter. Setbacks cannot reduce those required by the North Carolina Building Code, or applicable overlay zoning districts, or conditional use zoning districts.

l. Net Lot Area.

If the*Master Plan* establishes a minimum *net lot area* for any *dwelling unit* or *equivalent dwelling unit* that is less than those of the underlying zoning district, the *Master Plan* *shall* contain standards, in addition to the applicable requirements of this §10-2057(f)(2), for each of the *following* :

1. Method of*utility service* for all *buildings* and locations of existing and proposed extension of utility lines.

2. Location of solid waste collection and screening.

3. Location of mailboxes or mail kiosks.

4. Emergency access.

5. *Street* and *lot* layout.

6. Size and placement of*street* trees.

Cross reference: §10-2082.5(c)(3).

7. Location of fire hydrants.

8. Method of fire prevention service for all*buildings* .

9. Provision of adequate and useable passive and active open space with pedestrian connectivity.

10. Parking and garage layout.

11. Privacy of the*residences* .

m. Residential Density Transfers.

If the*Master Plan* pursuant to section 10-2057(d)(1)b. contains residential density transfers, the *Master Plan* *shall* contain a residential density transfer map showing the properties which are transferring and receiving densities and showing how many dwelling units are to be transferred to and from the individual lots.

n. Revisions to be approved by*City* administration and *City Council* .

1. The proposed type, nature, and extent of revisions that will be approved by the*City* staff.

2. A statement that all revisions not specified as a*City* staff function must be approved by *City Council* .

o. Project Management.

1. If more than one (1)*person* is involved, definition of the responsibility for construction of public and private improvements that are required as a part of that *Master Plan* ; as well as the timing, staging, or linkage of such improvements.

2. Mechanisms for monitoring phasing and construction to account for infrastructure, community facilities, acreage and/or land use limitations over time.

p. Information to support any requested alternate design.

q. A description of the design standards listed in §10-2057(b)(3) for all existing*single-family dwellings* and existing *duplex dwellings* located within four hundred (400) feet of any *manufactured home* proposed to be located in the overlay district.

r. Other information as*may* be required by the *City* .

(Ord. No. 1999-690-TC-186, §2, TC-9-99, 11-16-99; Ord. No. 2003-373-TC-231, §§6, 7, TC-23-02, 2-4-03; Ord. No. 2005-875-TC-269, §§2, 3, 7-19-05; Ord. No. 2006-140-TC-298, §2, TC-21-06, 12-5-06)

(3) Public Hearing of the ***Master Plan*** .

Following the preparation of the *Master Plan* , it, together with a traffic study, *shall* be reviewed by the Planning Director. If the Planning Director determines the documents are complete and the *Master Plan* is suitable for advertisement for a hearing, then a joint public hearing of the *City Council* and Planning Commission to amend the Official Zoning Map for the Planned Development District will be scheduled. Adherence to the *Master Plan* *shall* be a condition of the planned development district petition to amend the **Official Zoning Map.** This hearing *shall* be advertised in the newspaper and *shall* be conducted in the same manner as Official Zoning Map amendments to this chapter.

(4) Approval of a ***Master Plan*** .

Following the public hearing and after receiving the recommendation of the Planning Commission, the *City Council* *shall* either approve the *Master Plan* , approve the *Master Plan* with modifications, or disapprove the *Master Plan* . No *Master Plan* *shall* be approved until after the *City Council* finds each of the *following* :

a. The*Master Plan* meets the requirements of §10-2132.2(d).

(Ord. No. 1999-616-TC-181, §19, TC-3-99, 8-3-99)

b. Within the planned development retail uses, as defined in §10-8002 of this Code,*shall* comply with the *following* :

1. No more than ten (10) per cent of the*floor area gross* of any industrial, office or recreational *building* or *buildings* on the same *lot shall* be *occupied* with retail uses "incidental" to the *principal use* . An "incidental use" is a use serving the general public, but which is subordinate and integral to the *principal use* of a *building* , facility or operation such as the counter sale of products manufactured on the site.

2. Nonresidential related services and office related services*shall* be both an *accessory use* and meet the standards of §10-2072(b): Nonresidential related service.

(Ord. No. 1999-616-TC-181, §18, TC-3-99, 8-3-99)

3. *Residential related services shall* comply with §10-2072(b): *Residential related service* .

4. All other retail uses*shall* be located on the *Master Plan* . No more than ten (10) per cent of the gross land area of the development, exclusive of retail uses allowed in subsections b.1. through b.3. above, *shall* be devoted to retail uses unless evidence is provided upon which the *City Council may* make a finding that additional retail use allows the development to better achieve the purposes set forth in §10-2011(b)(3)g.

Development of retail uses allowed in this subsection*shall* be phased in such a way so that at least twenty-five (25) per cent of the acreage designated for the entire planned development or twenty-five (25) acres whichever is less has been constructed before *building* permits for any retail uses not otherwise allowed are issued unless otherwise approved by the *City Council* in accordance with subsections (i) or (ii) below. For purposes of calculating acreage of lands devoted to retail uses allowed by this subsection, open space and land areas of the planned development constructed prior to the approval by the *City Council* of a *Master Plan shall* be excluded from the calculations.

(i) That the retail land uses proposed are located within a multi-story, vertical mixed-use*building* and the retail land uses represent no more than twenty-five (25) per cent of the *building floor area gross* , or,

(ii) That prior to the issuance of a*building* permit for any other retail land use, the developer *shall* post a letter of credit payable to the *City* of Raleigh in an amount equal to ten thousand dollars ($10,000.00) per acre. Upon such time that the *Master Plan* has been fully brought into compliance with this subsection 4., twenty-five (25) per cent of the development or twenty-five (25) acres, whichever is less, is developed with non-retail uses, the *City shall* release the aforementioned letter of credit. The *City shall* permit a renewal of this letter of credit each year that the *Master Plan* remains out of compliance with this subsection 4. for a maximum period of forty-six (46) months. In the event that the *Master Plan* fails to fully comply with this subsection 4. within forty-six (46) months from the posting of the original letter of credit, the *City shall* cash the letter of credit and the *City shall* withhold the issuance of *building* permits for any additional retail development until such time that the *Master Plan* fully conforms to this subsection 4.

(Ord. No. 1999-616-TC-181, §20, TC-3-99, 8-3-99; Ord. No. 2006-73-TC-291, §1, TC-15-06, 8-8-06)

c. The open space*shall* provide one (1) or more of the *following* :

1. Preservation and maintenance of features including, without limitation, irreplaceable or significant natural wetlands, floodplains, significant tree stands, endangered plant areas, steep slopes and waterbodies, all based on a complete site survey.

2. An interconnected continuous open space system within reasonable proximity to all*properties* , which allows the opportunity for alternative pedestrian access and recreation to all parts of the development, and enhances the transitional buffering qualities of open space among conflicting land uses and *buildings* and all *streets* .

3. Spaces suitable for active and passive recreation, designated to serve all occupants of a development; with appropriate guarantees for construction of proposed facilities.

The minimum amount of land indicated for greenways, parks, and open space*shall* be:

TABLE INSET:

	Area (acres) of development	Amount of land required
	500 or less	15 per cent
	More than 500	10 per cent or 75 acres whichever is greater

Variation from these minimum amounts*may* be approved by the *City Council* , taking into account the protection of important natural features, the need to be consistent with approved parks, recreation, and greenway plans, the degree facilities constructed by the applicant, if any, compensate for the need for open space within the development, and compliance with the other sections of this Code. No planned construction of recreation facilities *shall* be substituted for the required open space without security which satisfies the *City* that these facilities will be built.

Open space*shall* be held in a not for profit *property owner* s association, and it *shall* be available to all *persons* within the development, or deeded to the *City* . If the open space is not owned by the government, recreation facilities allowed by §10-2144(b), *Recreational uses restricted to membership - not for profit* , and their *accessory uses* including driveways, which meet the widths of §10-7002 and off- *street* parking required by §10-2081 which serves the recreational facilities, are allowed in these areas; such improvements *may* be placed within the open space up to a maximum of twenty-five (25) per cent *impervious surface* coverage of the open space provided. Title to the open space areas *shall* be conveyed by the developer to the *property owner* s association in fee-simple. Such open space areas *shall* not be subsequently subdivided or conveyed by the *property owner* s association. However, nothing herein *shall* prevent the mortgaging and hypothecating of open space *properties* , provided the rights of the mortgagee are subordinated to the rights of the *property owner* s and association. Furthermore nothing herein *shall* prevent the exchanging of open space *properties* for other *properties* when:

-*Written* notice of the exchange is given to each member of the association except in cases where the exchange is done to eliminate an encroachment; and

- After the notice is given, if required, the association approves the exchange; and

- The exchanged*properties* and other considerations are of like value and utility; and

- The acreage and configuration of the remaining open space equals (including*property* to be received by the association in such exchange) or exceed the requirements of this Code; and

- The exchange is approved by the Planning Director.

If the open space is deeded to a*property owner* s' association, the *owner shall* record a declaration of covenants and restrictions that will govern the open space of the association or nonprofit association. This *shall* be submitted prior to the recording of any plats or issuance of any construction permit in those instances where the *property* is already subdivided. The provision of this declaration *shall* generally conform to §10-3073 and §10-3074.

d. Internal relationships provide for safe, efficient, convenient, accessible, and harmonious groupings of land uses, facilities, and open space.

e. Organization of uses and orientation of pedestrian and vehicular facilities improve the effective use of transit within and outside the development beyond that which would have been possible under the underlying district or districts.

f. The*Master Plan* specifies the type, nature, and extent of revisions that will be approved by the *City* staff and those that will be approved by the *City Council* .

g. The yard setbacks, height standards and*net lot area* established by the *Master Plan* :

1. do not create any public safety hazards;

2. maintain adequate light, air, privacy and protection from noise;

3. enhance the useability of open space;

4. conform to the Comprehensive Plan; and

5. create an orderly, visual and compatible environment both for the planned development and nearby*properties* .

h. The off-*street* parking requirements in §10-2081 are either met or if reduced for projects within the Planned Development Conditional Use Overlay District, it is determined that:

1. access to permanent transit, carpool or other ridesharing programs, or pedestrian access are shown to reduce the need for off-*street* parking; and

2. reduction in the number of required parking spaces*shall* be based on a study, provided by the applicant, that calculates the reduction resulting from alternative access provisions; and

3. provision is made for future monitoring and covenanting the limitations based on a given use or mixture of uses.

i. In addition to alternative methods of compliance with landscaping requirements of this Code allowed by §10-2082.4, all*transitional yards* required to protect vacant *properties* within the planned development *may* be based on the proposed use shown on the *Master Plan* ; provided, that sufficient

guarantees exist that the use shown on the *Master Plan* will be built or that the adjoining vacant *property* will, upon its development, have installed a *transitional yard* that meets the standards of this Code.

j. Alternative subdivision designs.

Except as enumerated in subsections 1 through 3 below, developments in the Planned Development Conditional Use Overlay Districts*shall* conform with all applicable provisions of Part 10, Chapter 3 of this Code. All alternate design criteria must be identified as part of the approved *Master Plan* and must include submittal and approval of a subdivision plat pursuant to Chapter 3.

1. The width of public*streets* , other than *thoroughfares* , *major access corridors* , or arterial *streets* , *may* be decreased, provided that:

(i) the proposed facility can safely handle anticipated traffic at a level of service "C"; and

(ii) the*street* design, allowed uses, and provision of off-street parking is such that little on-street parking is anticipated.

2. Alternative materials for*City* -required curb and gutter on residential, collector, and commercial *streets* *may* be allowed, provided that the alternatives will provide comparable: storm drainage capabilities, protection for pedestrian walkways and *property* adjoining the road, protection for the edge of the pavement, and maintenance costs by the *City* .

Cross reference: Street, Sidewalk and Driveway Access Handbook, which is on file with the*City* Clerk.

3. Provision of a pedestrian access plan for the development*may* substitute for the requirements set forth in Street, Sidewalk and Driveway Access Handbook [which is on file with the *City* Clerk], provided that:

(i) the pedestrian access plan provides for a comparable level of pedestrian access along*thoroughfares* or arterials, connection of land uses within the development to exterior *streets* , parks, and greenways, interconnections of land uses within the development to provide access from each *dwelling* or nonresidential use to focus areas;

(ii) the plan enhances recreational opportunities; and

(iii) alternative pedestrian walkways are accessible to the handicapped.

k. Alternative*sign* regulations in accordance with §10-2083.1(b)(6) are allowed in the Overlay District.

(Ord. No. 2003-373-TC-231, §7, TC-23-02, 2-4-03; Ord. No. 2005-875-TC-269, §4, 7-19-05)

(5) Cancellation of Planned Developments.

Following the approval of a *Master Plan* , the landowner or landowners of any uncompleted phase of the *Master Plan* *may* petition the Planning Commission to terminate the Plan. *Following* the receipt of such a request, the Planning Commission *shall* conduct an investigation. Notice of such an investigation *shall* be given to current landowners of the *property* comprising the original approved *Master Plan* and all amendments thereto. All notices *shall* be given by the petitioner by first class mail at least one (1) week before the Planning Commission meeting. Any defective notification *shall* not invalidate the proceeding.

No termination proceedings*shall* continue until after the Planning Commission finds that the evidence presented at the investigation establishes each of the *following* :

a. The constructed portions of the*Master Plan* comply or could be made to comply with the zoning regulations without the Planned Development Conditional Use Overlay District.

b. Constructed alternate designs authorized by subsection (f)(4)j. above would continue to function effectively and efficiently without the remaining phases of the development.

c. The*property owner* s association without the remaining phases of the development will have sufficient resources to maintain open spaces and other *property* and facilities already deeded to it.

d. The constructed portions of the*Master Plan* comply with the provisions of §10-2057(f)(4)b.4., being that twenty-five (25) per cent of the development or twenty-five (25) acres, whichever is less, has been developed with non-retail uses. The approval by the *City Council* to permit the issuance of *building* permits for retail uses prior to compliance with this Code Section in accordance with §10-2057(f)(4)b.4.(i) or (ii) *shall* not constitute a relief from this provision when evaluating a request for cancellation of any uncompleted *Master Plan* .

The Planning Department is instructed not to accept any application to remove the Planned Development Conditional Use Overlay District or to terminate the*Master Plan* until after the Planning Commission has made the necessary findings. *Following* these findings, the zoning request and if necessary the Comprehensive Plan amendment *shall* be processed as any other similar request.

(Ord. No. 1991-868-TC-378, §1, TC-9-91, 3-1-92; Ord. No. 1992-111-TC-42, §§22-25, TC-19-92, 12-8-92; Ord. No. 1994-452-TC-84, §§5--8, TC-17-94, 8-2-94; Ord. No. 1995-760-TC-122, §§7--10, TC-20B-95, 11-21-95; Ord. No. 1996-901-TC-131, §3, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §40, TC-18-96, 6-17-97; Ord. No. 2006-73-TC-291, §2, TC-15-06, 8-8-06)

Sec. 10-2058. SPECIAL HIGHWAY OVERLAY DISTRICT-1 (SHOD-1).

(a) Approval.

If the use requires a*site plan* as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as defined in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2058 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Special Highway Overlay District-1.

(Ord. No. 1997-137-TC-153, §41, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited in the Special Highway Overlay District-1. If a use is prohibited in either an overlay district or the

underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district

-*Off-premise signs*

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

c. The minimum gross site size for all new uses and*lots* , except *dwellings* and *equivalent dwelling units* , *congregate care and congregate living structures* , is two (2) acres, and provided further, that such uses and *lots* *shall* be developed in accordance with a unified plan for landscaping and buffering, *access points* , parking and loading, lighting, noise, and siting of *buildings* . *Lots* and uses which were established prior to the application of this Overlay District that are less than two (2) acres in size *shall* not be deemed *zoning nonconformities* by virtue of this regulation, nor *shall* this regulation prevent the subdivision of tracts into *lots* of less than two (2) acres if a *unity of development* plan is approved by the *City* for the entire subdivision prior to its subdivision.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(Ord. No. 1999-616-TC-181, §21, TC-3-99, 8-3-99)

(2) Yard.

The minimum Overlay District yard setbacks, unless otherwise required by this Code, are as listed below. If there is a conflict between the yard widths required by this Overlay District and those established by the underlying district, the greater widths*shall* control.

_____

TABLE INSET:

front yard and *corner lot side yard,* and *rear yard* that adjoins a *major access corridor*	*50 feet protective yard* landscaped in accordance with subsection (e)(2) below
	When 2 *major access corridors* intersect, this 50 foot wide *protective yard* *shall* apply for the entire length of the yard adjoining the *major access corridors* inside the Overlay District.
	Where necessity requires the location of a public utility easement adjacent to the *major access corridor* which prohibits locating the required plantings of the *protective yard* immediately adjacent to the corridor right-of-way, the required *protective yard shall* be

	provided adjacent to the utility easement.
	25 feet *protective yard* if the *property* both adjoins and gains access from a public marginal access *street* and parallel to the *major access corridor;* this setback per every 100 linear feet or fraction thereof *shall* contain 5 *shade trees* , 3 understory trees, and 16 shrubs meeting the characteristics of §10-2058(e)(2)a.1.--3.

_____

TABLE INSET:

front yard , and *corner lot side yard* , and *rear yard* adjoining any *thoroughfare* or commercial *street,* as defined in Part 10, chapter 3, other than a *major access corridor* , that intersects and gains access with a *major access corridor*	*50 feet protective yard* for a distance of 200 feet from the intersections of the rights-of-way. All 50 foot wide *protective yards* *shall* be landscaped in accordance with subsection (e)(2) below

_____

TABLE INSET:

all other yards	same as underlying district yard

_____

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

The*protective yards* required in this subsection *may* be reduced in width and plantings if approved as an alternate method of compliance in accordance with §10-2082.4 of this Code; or, if approved as a special use permit in accordance with §10-2145(b) of this Code.

(Ord. No. 1993-279-TC-6, §1, TC-21-93, 11-3-93; Ord. No. 1994-429-TC-78, §§1, 3, TC-13-94, 6-21-94; Ord. No. 1994-452-TC-84, §9, TC-17-94, 8-2-94)

(3) Height.

Buildings , structures, not otherwise restricted to a lower height by this Code, *may* be constructed to a height not to exceed five (5) above-ground stories. A *building* story is above-ground whenever more than one-half (1/2) of any story, including basement height, is either above the established curb level or above the average finished *lot* grade level where the curb level has not been established.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

a. Planting requirements.

Unless approved as an alternate method of compliance per §10-2082.4, or as a special use permit per §10-2145(b) all fifty-foot *street protective yards* required in (d)(2) above for each one hundred (100) linear feet, or fraction thereof, adjoining the *street* *shall* contain all of the *following* vegetation:

1. *Shade trees* .

Ten (10)*shade trees* are required, seven (7) of which *shall* be deciduous trees and three (3) [of which] *shall* be evergreen trees. All evergreen trees *shall* be a minimum size at planting of eight (8) feet tall and the minimum circumference of six and one-fourth (6 1/4) inches (two (2) inches in diameter) measured at one-half (1/2) foot above grade, as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen; tree size at maturity *shall* meet the characteristics set forth in §10-2082.5(c)(4). In lieu of said evergreen tree, two (2) locally adapted natural evergreen trees, a minimum of four and one-half (4 1/2) feet in height when planted, *may* be substituted for each required tree. Each planted deciduous tree *shall* meet the characteristics set forth in §10-2082.5(c)(3) and (4); each required natural *shade tree* , either existing or planted, *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half-inch caliper) measured at one-half (1/2) foot above grade. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.

2. Understory trees.

Six (6) understory trees are required. Such trees*shall* be a locally adapted species with an expected mature height of fifteen (15) feet or greater and an expected mature crown spread of at least fifteen (15) feet or greater as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen. Each understory tree *shall* be a minimum height of six (6) feet tall at [planting. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.]

3. Shrubs.

Thirty-two (32) natural shrubs are required; no more than forty (40) per cent of which*shall* be deciduous. All shrubs *shall* be locally adapted species, and when planted *shall* be a minimum height of twenty-four (24) inches tall. Plantings *shall* form at least one (1) continuous row of shrubs spaced five (5) feet on center across the entire yard except for driveways. The expected maintained minimum height of the shrubs *shall* be five (5) feet tall within three (3) *years* of planting.

In lieu of planting these required shrubs, either a wall or a*solid fence* at least five (5) feet high *may* be *erected* . The *erected* structure in terms of appearance, texture, and quality, *shall* be made of the same or compatible material and color as the *principal building* . The *erected* fence or wall *shall* be landscaped so that no more than two-thirds (2/3) of its surface area will be visible within three (3) *years* after the erection of the structure; forty (40) per cent of this plant material *may* be deciduous. No planting *shall* be required for *decorative fences* .

In lieu of planting these required shrubs, a manmade*earthen berm* with a minimum height of three (3) feet, measured perpendicular to the center of the crown, *may* be substituted. The *earthen berm* *shall* contain a

rounded crown suitable for planting, and a stabilized side slope of no greater than three-to-one (3:1). A steeper side slope *may* be used in exceptional cases when all of the *following* are met:

(i) This steeper slope is sufficiently stabilized; and

(ii) The landscape objectives of the Overlay District are better achieved; and

(iii) Physical constraints of the site prevent the use of a flatter slope.

The*earthen berm* *shall* be planted with three-fourths (3/4) of the required number of shrubs. Shrubs planted on the manmade *earthen berm* *may* have a lesser mature height; provided that, the combined height of the berm and plantings after three (3) *years* is five (5) feet.

4. General.

The*yard area* required in subsection a. *shall* in all other respects conform to the landscape standards of §10-2082.5(c). No yard space *shall* remain denuded or exposed with bare soil. The location of required landscaping *shall* not obstruct the views of motorists using any *street* , private driveway, or the approach to any *street* intersection so as to constitute a traffic hazard, a condition dangerous to the public safety, or violate the guidelines set forth in §10-2086.

b. Existing Vegetation.

1. General.

Existing vegetation which meets or exceeds the quantity, spacing, and height standards,*may* be used to satisfy the requirements of subsection a. above, provided that there be no encroachments into the protected ground area as set forth in §10-2082.5(f)(2) and (3).

2. Tree preservation as a credit towards tree planting requirements.

Preservation of existing live natural trees between the*principal building* and the public *street* right-of-way can be credited towards the tree planting requirements of this section or §§10-2082.5(c)(2) and 10-2082.6 (c)(4).

(i) Method of calculation and minimum size.

The credit toward the required number of trees*shall* be a number equal to one-sixth (1/6) of the sum in inches of the circumference (s) of each preserved tree, but no fraction thereof, as measured at a height of four and one-half (4 1/2) feet above grade level. Each preserved tree *shall* be at least six and one-fourth (6 1/4) inches in circumference.

(ii) Protection.

Each preserved tree*shall* be uniformly encircled by a protected ground area the size of which *shall* be equal to the *critical root zone* of the tree. Trees in *parking lots* which are already located inside planting areas with a minimum dimension of seven (7) feet also *may* be used. During construction, the protected ground area *shall* be clearly marked in the field. Credit authorized by this subsection 2. *shall* not be allowed if there is any *tree disturbing activity* .

GRAPHIC LINK:Diagram: Area of No Encroachment Around Tree Trunk

(iii) Diseased trees.

No credit will be allowed for any tree if the tree is unhealthy or dead. The death of or replacement of any preserved tree which was*used for* credit requires the *owner* to plant new trees equal to the number of credited trees; such plantings *shall* meet the applicable requirements of this Code.

(iv) Minimum tree requirements.

In no case*shall* credits for preserved trees eliminate the *shade* and understory *tree* spacing requirement of a. above; no *protective yard* *shall* contain less than one (1) natural tree.

3. Reduction of shrubs.

The amount of required shrubs in the*major access corridor yard* *may* be reduced by fifty (50) per cent, if in that yard existing trees meeting the space, quantity, and specification requirements of a. above and being twenty-five (25) feet or taller in height are preserved and protected from encroachments in accordance with §10-2082.5(f).

4. Supplemental plantings.

Supplemental natural plantings*may* be required, if it can be reasonably inferred that after five (5) *years* , the existing vegetation will not meet the requirements of subsection a. above. Where such supplemental plantings are required, the plantings *shall* have a minimum height required of subsection a. above.

Where the existing vegetation on site does not meet the spacing, quantity, and size of plant, then the*owner* *shall* be required to plant only those trees and shrubs necessary to meet the requirements. These plants must meet the specifications set forth in subsection a. above.

c. Landscaping requirements for expansions or change of use for existing facilities.

1. Landscaping for existing facilities.

The planting requirements of subsection a. above*shall* not apply to *major access corridor yards* at the time this Overlay District becomes applicable to the *property* except as provided in subsections 2. through 5. below.

2. General requirements for new and expanded facilities.

Any new and expanded*loading* , *utility service* , and *display area, building* , structure, surface area of the use, or *vehicular surface* *shall* not locate in any *protective yard* , including *major access corridor yards* . The landscaping required for these facilities *shall* comply with §10-2082, et seq.

3. Expansions and additions.

A*street protective yard* at least twelve (12) feet wide and containing twenty-five (25) per cent of all the plantings of subsection a. above *shall* be provided on the *property* if the *floor area gross* , surface area, *vehicular surface area* , or any combination thereof singularly,

collectively, or cumulatively is increased by twenty-five (25) per cent of the area existing at the time this Overlay District first became applicable to the *property* . For each additional per cent of expansion greater than twenty-five (25) per cent, an additional factor of one and one-half (1 1/2) foot of yard width and three (3) per cent of additional planting material of the *major access corridor yard* *shall* be added to the initial requirements until one hundred (100) per cent of the yard and planting requirements are met.

Cross reference: Worksheet *following* §10-2082.10(c)(3).

4. Change of use.

Whenever any change in the type of land use results in a change in the type of building code occupancy, as set forth in the North Carolina State Building Code a*street protective yard* in accordance with §10-2082.10(c)(1) *shall* be installed. This *street protective yard* *shall* be landscaped to the same extent as set forth in §10-2082.6(b)(1)--(5), irrespective of the location of *vehicular surfaces* .

5. Reductions in yard setbacks of underlying zoning districts.

One hundred (100) per cent of the yard width and plant material of the*major access corridor yard* *shall* be provided on the *property* whenever the Overlay District is used to reduce the yard setbacks of the underlying zoning district in any way.

d. Special landscape requirements in Resource Management Zoning Districts.

Additional landscaping regulations of §10-2082.12*shall* be met.

TABLE INSET:

(3)	**Signage**	
	on-premise signs	**see §10-2083**
(4)	**Lighting**	**see §10-2089(b)**

All outdoor lighting*shall* be shielded in such a manner that no glare from the light can be seen from the arterial roads, *major access corridors* , or *thoroughfares* located in the Overlay District. No exterior lighting located in the Overlay District *shall* cause illumination in excess of four-tenths (0.4) maintained footcandle on any *lot* containing a *dwelling* , *congregate care or congregate living structure* , or zoned a *residential district* boundary.

(5) Noise.

The noise standards contained in Part 12 chapter 5 of this Code are incorporated into the Special Highway Overlay District-1.

(6) Outdoor service facilities.

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine, or any other outdoor service facility that is located on a*lot* which either abuts a *dwelling* , a *congregate care or congregate living structure* , or a boundary line of a *residential district* , other than in a *street* , *shall* be located at least one hundred (100) feet away from such *property* . Later establishment of either a *dwelling* , a *congregate care or congregate living structure* or of a *residential zoning district* boundary within the one hundred (100) foot distance *shall* not render the previously lawfully existing outdoor service facility nonconforming or illegal.

(Ord. No. 1994-429-TC-78, §4, TC-13-94, 6-21-94; Ord. No. 1995-760-TC-122, §4, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §10, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §42, TC-18-96, 6-17-97; Ord. No. 2003-373-TC-231, §23, TC-23-02, 2-4-03; Ord. No. 2005-762-TC-264, §6, TC-7-04, 1-4-05)

(f) Designation of Special Highway Overlay District-1.

The general characteristics desired of land placed in the Special Highway Overlay District-1 are the*following* :

(1) It should be generally located along limited access interstate or divided highway approaches to the*City* , near or adjacent to metro-parks, airports, research parks, or Wake County Special Highway Overlay Districts.

(2) It should be generally located where sites less than two (2) acres in size and*buildings* over five (5) stories in height are inappropriate.

In general, the Overlay District is located on either side of an existing or proposed*major access corridor* , *thoroughfare* , or arterial, beginning at the outer edge of the right-of-way. The District should be one thousand (1,000) to one thousand five hundred (1,500) feet deep except a lesser distance should be applied where identifiable conditions exist to screen the visibility of motorists. The Overlay District *shall* follow identifiable boundaries whenever possible. However, when a new right-of-way has been established by the approved Thoroughfare Plan, the district boundaries *shall* be calculated from the newly established right-of-way line.

(Ord. No. 1986-847-TC-273, §3, TC-16-86, 9-2-86; Ord. No. 1987-29-TC-294, §10, TC-14-87, 12-1-87; Ord. No. 1988-150-TC-306, TC-1-88, §§1-4, 4-24-88; Ord. No. 1993-133-TC-46, §§8--10, 16, TC-11-92, 2-2-93; Ord. No. 1994-452-TC-84, §9, TC-17-94, 8-2-94)

Sec. 10-2059. SPECIAL HIGHWAY OVERLAY DISTRICT-2 (SHOD-2).

(a) Approval.

If the use requires a*site plan* as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2059 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Special Highway Overlay District-2.

(Ord. No. 1994-452-TC-84, §10, TC-17-94, 8-2-94; Ord. No. 1997-137-TC-153, §41, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts §10-2071 is prohibited in the Special Highway Overlay District-2. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district

-*Off-premise signs*

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum*net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum Overlay District yard setbacks, unless otherwise required by this Code, are as listed below. If there is a conflict between the yard widths required by this Overlay District and those established by the underlying district, the greater widths*shall* control.

_____

TABLE INSET:

front yard and *corner lot side yard,* and *rear yard* that adjoins a *major access corridor*	*25 feet protective yard* and landscaped in accordance with subsection (e)(2) below

TABLE INSET:

	When 2 *major access corridors* intersect, this 25 foot wide *protective yard* *shall* apply for the entire length of the yard adjoining the *major access corridors* inside the Overlay District.
	Where necessity requires the location of a public utility easement adjacent to the *major access corridor* which prohibits locating the required plantings of the *protective yard* immediately adjacent to the corridor right-of-way, the required *protective yard shall* be provided adjacent to the utility easement.

_____

TABLE INSET:

	25 feet *protective yard* if the *property* both adjoins and gains access from a public marginal access *street* and parallel to the *major access corridor* ; this setback per every 100 linear feet or fraction thereof *shall* contain 3 *shade trees* , 2 understory trees, and 8 shrubs meeting the characteristics of §10-2059(e)(2)a.1.--3.

_____

TABLE INSET:

front yard , and *corner lot side yard* , and *rear yard* adjoining any *thoroughfare* or commercial *street,* as defined in Part 10, chapter 3, other than a *major access corridor* ,	*25 feet protective yard* for a distance of 200 feet from the intersections of the rights-of-way. All 25 foot wide *protective yards* *shall* be landscaped in

that intersects and gains access with a *major access corridor*	accordance with subsection (e)(2) below

TABLE INSET:

all other yards	same as underlying district yard

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

The*protective yards* required in this subsection *may* be reduced in width and plantings if approved as an alternate method of compliance in accordance with §10-2082.4 of this Code; or, if approved as a special use permit in accordance with §10-2145(b) of this Code.

(Ord. No. 1993-279-TC-6, §2, TC-21-93, 11-3-93; Ord. No. 1994-429-TC-78, §§1, 3, TC-13-94, 6-21-94; Ord. No. 1996-851-TC-128, §11, TC-23-95, 4-2-96)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code, *may* be constructed to any height allowed by the underlying district.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

a. Planting requirements.

Unless approved as an alternate method of compliance per §10-2082.4, or as a special use permit per §10-2145(b), all twenty-five-foot*street protective yards* required in subsection (d)(2) above for each one hundred (100) linear feet, or fraction thereof, adjoining the *street* *shall* contain all of the *following* vegetation:

1. *Shade trees* .

Five (5)*shade trees* are required, three (3) of which *shall* be deciduous trees and two (2) [of which] *shall* be evergreen trees. All evergreen trees *shall* be a minimum size at planting of eight (8) feet tall and the minimum circumference of six and one-fourth (6 1/4) inches (two (2) inches in diameter) measured at one-half (1/2) foot above grade, as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen; tree size at maturity *shall* meet the characteristics set forth in §10-2082.5(c)(4). In lieu of said evergreen tree, two (2) locally adapted natural evergreen trees, a minimum of four and one-half (4 1/2) feet in height, when planted, *may* be substituted for each required tree. Each planting deciduous tree *shall* meet the characteristics set forth in §10-2082.5(c)

(3) and (4); each required natural *shade tree* , either existing or planted, *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half-inch caliper) measured at one-half (1/2) foot above grade. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.

2. Understory trees.

Three (3) understory trees are required. Such trees*shall* be a locally adapted species with an expected mature height of fifteen (15) feet or greater and an expected mature crown spread of at least fifteen (15) feet or greater as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen. Each understory tree *shall* be a minimum height of six (6) feet tall at planting. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.

3. Shrubs.

Sixteen (16) natural shrubs are required; no more than forty (40) per cent of which*shall* be deciduous. All shrubs *shall* be locally adapted species, and when planted *shall* be a minimum height of twenty-four (24) inches tall. Plantings *shall* form at least one (1) continuous row of shrubs spaced five (5) feet on center across the entire yard except for driveways. The expected maintained minimum height of the shrubs *shall* be five (5) feet tall within three (3) *years* of planting.

In lieu of planting these required shrubs, either a wall or a*solid fence* at least five (5) feet high *may* be *erected* . The *erected* structure in terms of appearance, texture, and quality, *shall* be made of the same or compatible material and color as the *principal building* . The *erected* fence or wall *shall* be landscaped so that no more than two-thirds (2/3) of its surface area will be visible within three (3) *years* after the erection of the structure; forty (40) per cent of this plant material *may* be deciduous. No planting *shall* be required for *decorative fences* .

In lieu of planting these required shrubs, a manmade*earthen berm* with a minimum height of three (3) feet, measured perpendicular to the center of the crown, *may* be substituted. The *earthen berm* *shall* contain a rounded crown suitable for planting, and a stabilized side slope of no greater than three-to-one (3:1). A steeper side slope *may* be used in exceptional cases when all of the *following* are met:

(i) This steeper slope is sufficiently stabilized; and

(ii) The landscape objectives of the Overlay District are better achieved; and

(iii) Physical constraints of the site prevent the use of a flatter slope.

The*earthen berm* *shall* be planted with three-fourths (3/4) of the required number of shrubs. Shrubs planted on the manmade *earthen berm* *may* have a lesser mature height; provided that, the combined height of the berm and plantings after three (3) *years* is five (5) feet.

4. General.

The*yard area* required in subsection a. *shall* in all other respects conform to the landscape standards of §10-2082.5(c). No yard space *shall* remain denuded or exposed with bare soil. The location of required

landscaping *shall* not obstruct the views of motorists using any *street* , private driveway, or the approach to any *street* intersection so as to constitute a traffic hazard, a condition dangerous to the public safety, or violate the guidelines set forth in §10-2086.

b. Existing Vegetation.

1. General.

Existing vegetation which meets or exceeds the quantity, spacing, and height standards,*may* be used to satisfy the requirements of subsection a. above, provided that there be no encroachments into the protected ground area as set forth in §10-2082.5(f)(2) and (3).

2. Tree preservation as a credit towards tree planting requirements.

Preservation of existing live natural trees between the*principal building* and the public *street* right-of-way can be credited towards the tree planting requirements of this section or §§10-2082.5(c)(2) and 10-2082.6 (c)(4).

(i) Method of calculation and minimum size.

The credit toward the required number of trees*shall* be a number equal to one-sixth (1/6) of the sum in inches of the circumference (s) of each preserved tree, but no fraction thereof, as measured at a height of four and one-half (4 1/2) feet above grade level. Each preserved tree *shall* be at least six and one-fourth (6 1/4) inches in circumference.

(ii) Protection.

Each preserved tree*shall* be uniformly encircled by a protected ground area the size of which *shall* be equal to the *critical root zone* of the tree. Trees in *parking lots* which are already located inside planting areas with a minimum dimension of seven (7) feet also *may* be used. During construction, the protected ground area *shall* be clearly marked in the field. Credit authorized by this subsection 2. *shall* not be allowed if there is any *tree disturbing activity* .

GRAPHIC LINK:Diagram: Area of No Encroachment Around Trees

(iii) Diseased trees.

No credit will be allowed for any tree if the tree is unhealthy or dead. The death of or replacement of any preserved tree which was*used for* credit requires the *owner* to plant new trees equal to the number of credited trees; such plantings *shall* meet the applicable requirements of this Code.

(iv) Minimum tree requirements.

In no case*shall* credits for preserved trees eliminate the *shade* and understory *tree* spacing requirement of subsection a. above; no *protective yard* *shall* contain less than one (1) natural tree.

3. Reduction of shrubs.

The amount of required shrubs in the*major access corridor yard* *may* be reduced by fifty (50) per cent, if in that yard existing trees meeting the

space, quantity, and specification requirements of subsection a. above and being twenty-five (25) feet or taller in height are preserved and protected from encroachments in accordance with §10-2082.5(f).

4. Supplemental plantings.

Supplemental natural plantings*may* be required, if it can be reasonably inferred that, after five (5) *years* , the existing vegetation will not meet the requirements of subsection a. above. Where such supplemental plantings are required, the plantings *shall* have a minimum height required of subsection a. above.

c. Landscaping requirements **for expansions or change of use for existing facilities.**

1. Landscaping for existing facilities.

The planting requirements of subsection a. above*shall* not apply to *major access corridor yards* at the time this Overlay District becomes applicable to the *property* except as provided in subsections 2. through 5. below.

2. General requirements for new and expanded facilities.

Any new and expanded*loading* , *utility service* , and *display area, building* , structure, surface area of the use, or *vehicular surface* *shall* not locate in any *protective yard* , including *major access corridor yards* . The landscaping required for these facilities *shall* comply with §10-2082, et seq.

3. Expansions and additions.

A*street protective yard* at least ten (10) feet wide and containing forty (40) per cent of all the plantings of subsection a. above *shall* be provided on the *property* if the *floor area gross* , surface area, *vehicular surface area* , or any combination thereof singularly, collectively, or cumulatively is increased by twenty-five (25) per cent of the area existing at the time this Overlay District first became applicable to the *property* . For each additional per cent of expansion greater than twenty-five (25) per cent, an additional factor of six-tenths (0.6) foot of yard width and two and four-tenths (2.4) per cent of additional planting material of the *major access corridor yard* *shall* be added to the initial requirements until one hundred (100) per cent of the yard and planting requirements are met.

Cross reference: Worksheet*following* §10-2082.10 (c)(3).

4. Change of use.

Whenever any change in the type of land use results in a change in the type of building code occupancy, as set forth in the North Carolina State Building Code, a*street protective yard* in accordance with §10-2082.10(c)(1) *shall* be installed. This *street protective yard* *shall* be landscaped to the same extent as set forth in §10-2082.6(b)(1)--(5), irrespective of the location of *vehicular surfaces* .

5. Reductions in yard setbacks of underlying zoning districts.

One hundred (100) per cent of the yard width and plant material of the*major access corridor yard* *shall* be provided on the *property* whenever the Overlay District is used to reduce the yard setbacks of the underlying zoning district in any way.

d. Special landscape requirements in Resource Management Zoning Districts.

Additional landscaping regulations of §10-2082.12*shall* be met.

TABLE INSET:

(3)	**Signage**	**see §10-2083**
	on-premise signs	**see §10-2084**
(4)	**Lighting**	**see §10-2089(b)**

All outdoor lighting*shall* be shielded in such a manner that no glare from the light can be seen from the arterial roads, *major access corridors* , or *thoroughfares* located in the Overlay District. No exterior lighting located in the Overlay District *shall* cause illumination in excess of four-tenths (0.4) maintained footcandle on any *lot* containing a *dwelling* , *congregate care or congregate living structure* , or zoned a *residential district* .

(5) Noise.

The noise standards contained in Part 12 chapter 5 of this Code are incorporated into the Special Highway Overlay District-2.

(6) Outdoor service facilities.

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine, or any other outdoor service facility that is located on a *lot* which either abuts a *dwelling* , a *congregate care or congregate living structure* , or a boundary line of a *residential district* , other than in a *street* , *shall* be located at least one hundred (100) feet away from such *property* . Later establishment of either a *dwelling* , a *congregate care or congregate living structure* or of a *residential zoning district* boundary within the one hundred (100) foot distance *shall* not render the previously lawfully existing outdoor service facility nonconforming or illegal.

(Ord. No. 1994-429-TC-78, §4, TC-13-94, 6-21-94; Ord. No. 1995-760-TC-122, §4, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §10, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §43, TC-18-96, 6-17-97; Ord. No. 2003-373-TC-231, §23, TC-23-02, 2-4-03; Ord. No. 2005-762-TC-264, §6, TC-7-04, 1-4-05)

(f) Designation of Special Highway Overlay District-2.

The general characteristics desired of land placed in the Special Highway Overlay District-2 are the*following* :

(1) It should be generally located along and near*principal arterials* as designated in the *City's* Comprehensive Plan.

(2) It should be generally located where*buildings* taller than five (5) stories in height or where sites less than two (2) acres in size are appropriate.

In general, the Overlay District is located on either side of an existing or proposed*major access corridor* and should begin at the outer edge of the existing or proposed right-of-way. The Overlay District *shall* follow identifiable boundaries whenever possible. However, when a new right-of-way has been established by an approved Thoroughfare Plan, the district boundaries *shall* be calculated from the newly established right-of-way line.

(Ord. No. 1986-847-TC-273, §4, TC-16-86, 9-2-86; Ord. No. 1987-29-TC-294, §10, TC-14-87, 12-1-87; Ord. No. 1988-150-TC-306, §§5--7, TC-1-88, 4-19-88; Ord. No. 1993-133-TC-46, §§8, 11--14, 16, TC-11-92, 2-2-93)

Sec. 10-2060. SPECIAL HIGHWAY OVERLAY DISTRICT-3 (SHOD-3) (BUFFER YARD).

(a) Approval.

If the use requires a site planas set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2060 and other Overlay Districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Special Highway Overlay District-3.

(Ord. No. 1997-137-TC-153, §41, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited in the Special Highway Overlay District-3. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses *shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district

-*Off-premise signs*

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net lot areafor any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setback of the underlying district shallapply unless otherwise required by this Code and except as provided herein. If the yard widths required herein are less than those established by the underlying general use district, the yard widths established by this Overlay District *shall* control:

_____

TABLE INSET:

front yard, and *corner lot side yard,* and *rear yard* that adjoins a *major access corridor*	*50 feet minimum average protective yard* and landscaped in accordance with subsection (e)(2) below. This *protective yard* *shall* be at least 35 feet wide and no more than 75 feet wide as measured perpendicular to the recorded *major access corridor* right-of-way abutting the *property* . The minimum area of this yard in square feet *shall* be equal to the length of the *property* along the *major access corridor* in linear feet multiplied by 50 feet unless a planted *earthen berm* meeting the characteristics of (e)(2)a.4. is installed in open areas with no vegetation, in such instance the width of the *protective yard* *may* be reduced to a uniform dimension of 35 feet.
	When 2 *major access corridors* intersect, this 50 foot wide minimum average *protective yard* *shall* apply for the entire length of the yard adjoining the *major access corridors* inside the Overlay District.
	25 feet *protective yard* if the *property* both adjoins and gains access from a public marginal access *street* immediately adjacent and parallel to the *major access corridor* ; this setback *shall* contain per every 100 linear feet or fraction thereof 5 *shade trees* , 3 understory trees, and 16 shrubs meeting the characteristics of (e)(2)a.1.--3.

_____

TABLE INSET:

front yard , and *corner lot side yard* , and *rear yard* adjoining any *thoroughfare* or commercial *street,* as defined in Part 10, chapter 3, other than a *major access corridor* , that intersects and gains access with a *major access corridor*	*50 feet minimum average protective yard* for a distance of 100 feet from the intersections of the rights-of-way. This *protective yard* *shall* be at least 35 feet wide and no more than 75 feet wide, unless an *earthen berm* meeting the characteristics of (e)(2)a.4. is installed in open areas with no vegetation; in such instance the width of the *protective yard* *may* be reduced to a uniform width of 35 feet. All *protective yards* required herein *shall* be landscaped in accordance with subsection (e)(2) below.

_____

TABLE INSET:

all other yards	same as underlying district yard

_____

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

The*protective yards* required in this subsection *may* be reduced in width and plantings if approved as an alternate method of compliance in accordance with §10-2082.4 of this Code; or, if approved as a special use permit in accordance with §10-2145(b) of this Code.

(Ord. No. 1994-429-TC-78, §§1, 3, TC-13-94, 6-21-94)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code,*may* be constructed to any height allowed by the underlying district.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

a. Planting requirements.

Unless approved as an alternate method of compliance per §10-2082.4, or as a special use permit per §10-2145(b), all fifty-foot and thirty-five-foot minimum average street protective yardsin (d)(2) above for each one hundred (100) linear feet, or fraction thereof, adjoining the *street* *shall* contain all of the *following* vegetation:

1. *Shade trees* .

Ten (10)*shade trees,* are required, seven (7) of which *shall* be deciduous trees and three (3) [of which] *shall* be evergreen trees. All evergreen trees *shall* be a minimum size at planting of eight (8) feet tall and the minimum circumference of six and one-fourth (6 1/4) inches (two (2) inches in diameter) measured at one-half (1/2) foot above grade, as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen; tree size at maturity *shall* meet the characteristics set forth in §10-2082.5(c)(4). In lieu of said evergreen tree, two (2) locally adapted natural evergreen trees, a minimum of four and one-half (4 1/2) feet in height, when planted, *may* be substituted for each required tree. Each planted deciduous tree *shall* meet the characteristics set forth in §10-2082.5(c)(3) and (4); each required natural *shade tree* , either existing or planted, *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half-inch caliper) measured at one-half (1/2) foot above grade. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.

2. Understory trees.

Six (6) understory trees are required. Such trees shallbe a locally adapted species with an expected mature height of fifteen (15) feet or greater and an expected mature crown spread of at least fifteen (15) feet or greater as determined by the latest edition of "American Standards of Nursery Stocks" set forth by the American Association of Nurserymen. Each understory tree *shall* be a minimum height of six (6) feet tall at planting. Trees *shall* be planted at least ten (10) feet from any other tree and no further than fifty (50) feet from any other tree.

3. Shrubs.

Thirty-two (32) natural shrubs are required; no more than forty (40) per cent of which*shall* be deciduous. All shrubs *shall* be locally adapted species, and when planted *shall* be a minimum height of twenty-four (24) inches tall. Plantings *shall* form at least one (1) continuous row of shrubs spaced five (5) feet on center across the entire yard except for driveways. The expected maintained minimum height of the shrubs *shall* be five (5) feet tall within three (3) *years* of planting.

No shrub plantings*shall* be required if an *earthen berm* meeting the characteristics of subsection a.4. below is installed in open areas with no vegetation.

4. Alternate *protective yard* for *earthen berms* in open areas with no vegetation.

In lieu of this required planted*protective yard* , a manmade *earthen berm* with a minimum height of three (3) feet, measured perpendicular to the center of the crown, *may* be substituted in open areas with no vegetation. The *earthen berm* *shall* contain a rounded crown suitable for planting, and a stabilized side slope of no greater than three-to-one (3:1). A steeper side slope *may* be used in exceptional cases when all of the *following* are met:

(i) this steeper slope is sufficiently stabilized; and

(ii) the landscape objectives of the Overlay District are better achieved; and

(iii) physical constraints of the site prevent the use of a flatter slope.

The*earthen berm* per every one hundred (100) linear feet or fraction thereof *shall* be planted with at least nine (9) *shade trees* (six (6) deciduous trees, three (3) evergreen trees) and five (5) understory trees required in subsections 1. and 2. above. Said *earthen berm* *shall* be stabilized with a low maintenance ground cover, such as: bahla grass, crown vetch, weeping love grass, lespedeze, appalow Korean Kole. If an *earthen berm* with these characteristics is installed, the width of the *protective yard* *may* be reduced to a uniform width of thirty-five (35) feet.

5. General.

The*yard area* required in subsection a. *shall* in all other respects conform to the landscape standards of §10-2082.5(c). No yard space *shall* remain denuded or exposed with bare soil. The location of required landscaping *shall* not obstruct the views of motorists using any *street* , private driveway, or the approach to any *street* intersection so as to constitute a traffic hazard, a condition dangerous to the public safety, or violate the guidelines set forth in §10-2086.

b. Existing Vegetation.

1. General.

Existing vegetation which meets or exceeds the quantity, spacing, and height standards,*may* be used to satisfy the requirements of subsection a. above, provided that there be no encroachments into the protected ground area as set forth in §10-2082.5(f)(2) and (3).

2. Tree preservation as a credit towards tree planting requirements.

Preservation of existing live natural trees between the*principal building* and the public *street* right-of-way can be credited towards the tree planting requirements of this section or §§10-2082.5(c)(2) and 10-2082.6 (c)(4).

(i) Method of calculation and minimum size.

The credit toward the required number of trees*shall* be a number equal to one-sixth (1/6) of the sum in inches of the circumference (s) of each preserved tree, but no fraction thereof, as measured at a height of four and one-half (4 1/2) feet above grade level. Each preserved tree *shall* be at least six and one-fourth (6 1/4) inches in circumference.

(ii) Protection.

Each preserved tree*shall* be uniformly encircled by a protected ground area the size of which *shall* be equal to the *critical root zone* of the tree. Trees in *parking lots* which are already located inside planting areas with a minimum dimension of seven (7) feet also *may* be used. During construction, the protected ground area *shall* be clearly marked in the field. Credit authorized by this subsection 2. *shall* not be allowed if there is any *tree disturbing activity* .

GRAPHIC LINK: Diagram: Area of No Encroachment Around Trees

(iii) Diseased trees.

No credit will be allowed for any tree if the tree is unhealthy or dead. The death of or replacement of any preserved tree which was*used for* credit requires the *owner* to plant new trees equal to the number of credited trees; such plantings *shall* meet the applicable requirements of this Code.

(iv) Minimum tree requirements.

In no case*shall* credits for preserved trees eliminate the *shade* and understory *tree* spacing requirement of subsection a. above; no *protective yard* *shall* contain less than one (1) natural tree.

3. Reduction of shrubs.

The amount of required shrubs in the*major access corridor yard* *may* be reduced by fifty (50) per cent, if in that yard existing trees meeting the space, quantity, and specification requirements of subsection a. above and being twenty-five (25) feet or taller in height are preserved and protected from encroachments in accordance with §10-2082.5(f).

4. Supplemental plantings.

Supplemental natural plantings*may* be required, if it can be reasonably inferred that, after five (5) *years* , the existing vegetation will not meet the requirements of subsection a. above. Where such supplemental plantings are required, the plantings *shall* have a minimum height required of subsection a. above.

Where the existing vegetation on site does not meet the spacing, quantity, and size of plant, then the*owner* *shall* be required to plant only those trees and shrubs necessary to meet the requirements. These plants must meet the specifications set forth in subsection a. above.

c. Landscaping requirements for expansions or change of use for existing facilities.

1. Landscaping for existing facilities.

The planting requirements of subsection a. above*shall* not apply to *major access corridor yards* at the time this Overlay District becomes applicable to the *property* except as provided in subsections 2. through 5. below.

2. General requirements for new and expanded facilities.

Any new and expanded*loading* , *utility service* , and *display areas, building* , structure, surface area of the use, or *vehicular surface* *shall* not locate in any *protective yard* , including *major access corridor yards* . The landscaping required for these facilities *shall* comply with §10-2082, et seq.

3. Expansions and additions.

A*street protective yard* at least twelve (12) feet wide and containing twenty-five (25) per cent of all the plantings of subsection a. above *shall* be provided on the *property* if the *floor area gross* , surface area, *vehicular surface area* , or any combination thereof singularly, collectively, or cumulatively is increased by twenty-five (25) per cent of the area existing at the time this Overlay District first became applicable to the *property* . Each additional per cent of expansion greater than twenty-five (25) per cent *shall* be multiplied by a factor of one and one-half (1 1/2) for additional yard width and a factor of two and four-tenths (2.4) for additional planting material of the *major access corridor* yard which *shall* be added to the initial requirements until one hundred (100) per cent of the yard and planting requirements are met.

Cross reference: Worksheet*following* §10-2082.10 (c)(3).

4. Change of use.

Whenever any change in the type of land use results in a change in the type of building code occupancy, as set forth in the North Carolina State Building Code, a*street protective yard* in accordance with §10-2082.10(c)(1) *shall* be installed. This *street protective yard* *shall* be landscaped to the same extent as set forth in §10-2082.6(b)(1)--(5), irrespective of the location of *vehicular surfaces* .

5. Reductions in yard setbacks of underlying zoning districts.

One hundred (100) per cent of the yard width and plant material of the*major access corridor yard* *shall* be provided on the *property* whenever the Overlay District is used to reduce the yard setbacks of the underlying zoning district in any way.

d. Special landscape requirements in ***Resource Management Zoning Districts*** .

Additional landscaping regulations of §10-2082.12*shall* be met.

TABLE INSET:

(3)	**Signage**	
	on-premise [signs]	**see §10-2083**
(4)	**Lighting**	**see §10-2089(b)**

All outdoor lighting*shall* be shielded in such a manner that no glare from the light can be

seen from the arterial roads, *major access corridors* , or *thoroughfares* located in the Overlay District. No exterior lighting located in the Overlay District *shall* cause illumination in excess of four-tenths (0.4) maintained footcandle on any *lot* containing a *dwelling* , *congregate care or congregate living structure* , or zoned a *residential district* .

(5) Noise.

The noise standards contained in Part 12 chapter 5 of this Code are incorporated into the Special Highway Overlay District-3.

(6) Outdoor service facilities.

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine, or any other outdoor service facility that is located on a*lot* which either abuts a *dwelling* , a *congregate care or congregate living structure* , or a boundary line of a *residential district* , other than in a *street* , *shall* be located at least one hundred (100) feet away from such *property* . Later establishment of either a *dwelling* , a *congregate care or congregate living structure* or of a *residential zoning district* boundary within the one hundred-foot distance *shall* not render the previously lawfully existing outdoor service facility nonconforming or illegal.

(Ord. No. 1994-429-TC-78, §4, TC-13-94, 6-21-94; Ord. No. 1995-760-TC-122, §4, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §§10, 12, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §44, TC-18-96, 6-17-97; Ord. No. 2003-373-TC-231, §23, TC-23-02, 2-4-03; Ord. No. 2005-762-TC-264, §6, TC-7-04, 1-4-05)

(f) Designation of Special Highway Overlay District-3.

The general characteristics desired of land placed in the Special Highway Overlay District-3 are the following:

(1) It should be generally located along and near*principal arterials* as designated in the *City's* Comprehensive Plan.

(2) It should be generally located where*buildings* and uses are to be screened from view from *major access corridors* .

In general, the Overlay District is located on either side of an existing or proposed*major access corridor* and should begin at the outer edge of the existing or proposed right-of-way. The Overlay District *shall* follow identifiable boundaries whenever possible. However, when a new right-of-way has been established by an approved Thoroughfare Plan, the district boundaries *shall* be calculated from the newly established right-of-way line.

(Ord. No. 1993-133-TC-46, §15, TC-11-92, 2-2-93)

Sec. 10-2061. SPECIAL HIGHWAY OVERLAY DISTRICT-4 (SHOD-4) (CONNECTIVE YARD).

(a) Approval.

If the use requires a site planas set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2(b) and (c). If the use requires a *plot plan* , as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

(b) Permitted Uses.

Subject to the provisions of §10-2061 and other overlay districts, all general uses, conditional

uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Special Highway Overlay District-4.

(Ord. No. 1997-137-TC-153, §41, TC-18-96, 6-17-97)

(c) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, is prohibited in the Special Highway Overlay District-4. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses *shall* not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying district

-*Off-premise signs*

- Unlawful tree clearing, in whole or in part

(Ord. No. 1996-851-TC-128, §6, TC-23-95, 4-2-96)

(d) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum net lot areafor any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density per net acre is that of the underlying zoning district.

All minimum *net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

The minimum district yard setbacks of the underlying district shallapply unless otherwise required by this Code and except as provided herein. If the yard widths required herein are less than those established by the underlying general use district, the yard widths established by this Overlay District *shall* control:

TABLE INSET:

front yard and *corner lot side yard,* and *rear yard* that adjoins a *major access corridor*	*25 feet protective yard* and landscaped in accordance with subsection (e)(2) below.
	When 2 *major access corridors* intersect, this 25 foot wide *protective yard* *shall* apply for the entire length of the yard adjoining the *major access corridors* inside the Overlay District.
	25 feet *protective yard* if the *property* both adjoins and gains access from a public marginal access *street* immediately adjacent and parallel to the *major access corridor* ; this setback per every 100 linear feet or fraction thereof *shall* contain 3 *shade trees* , 4 understory trees, and 16 shrubs meeting the characteristics of §10-

	2061(e)(2)a.1.--3.

_____

TABLE INSET:

front yard , and *corner lot side yard* , and *rear yard* adjoining any *thoroughfare* or commercial *street,* as defined in Part 10, chapter 3, other than a *major access corridor* , that intersects and gains access with a *major access corridor*	*25 feet protective yard* for a distance of 100 feet from the intersections of the rights-of-way. All 25 foot wide *protective yards* *shall* be landscaped in accordance with subsection (e)(2) below.

_____

TABLE INSET:

all other yards	same as underlying district yard

_____

See §10-2075 for other*yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

The*protective yards* required in this subsection *may* be reduced in width and plantings if approved as an alternate method of compliance in accordance with §10-2082.4 of this Code; or, if approved as a special use permit in accordance with §10-2145(b) of this Code.

(Ord. No. 1994-429-TC-78, §§1, 3, TC-13-94, 6-21-94)

Cross reference: Landscape alternate method of compliance §10-2082.4(b)

(3) Height.

Buildings and structures, unless otherwise regulated by this Code,*may* be constructed to any height allowed by the underlying district.

See §10-2076 for method of height calculation, exceptions, and illustrations.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, overlay zoning districts, conditional use zoning district, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	**Off-street parking**	**see §10-2081**
(2)	**Landscaping**	**see §10-2082**

a. Planting requirements.

Unless approved as an alternate method of compliance per §10-2082.4, or as a special use permit per §10-2145(b), all twenty-five-foot*street protective yards* required in (d)(2) above for each one hundred (100) linear feet, or fraction thereof, adjoining the *street* *shall* contain all of the *following* vegetation:

1. *Shade trees* .

Three (3)*shade trees* meeting the characteristics set forth in §10-2082.5 (c)(3) and (4) are required; provided that, each required natural *shade*

tree , either existing or planted, *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half-inch caliper) measured at one-half (1/2) foot above grade [as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen]. Trees *shall* be planted at least ten (10) feet from any other tree. Trees *shall* be planted no further than seventy-five (75) feet from any other tree in those portions of the yard that are located outside the foreground of the *principal buildings* as viewed perpendicular to the *building* wall extended to the right-of-way of the recorded *major access corridor* . In those portions of the *yard area* in the foreground of the *principal buildings* , as viewed perpendicular to the right-of-way of the recorded *major access corridor* the maximum spacing between trees *shall* be one hundred fifty (150) feet.

2. Understory trees.

Four (4) understory trees are required. Such trees*shall* be a locally adapted species with an expected mature height of fifteen (15) feet or greater and an expected mature crown spread of at least fifteen (15) feet or greater as determined by the latest edition of "American Standards of Nursery Stock" set forth by the American Association of Nurserymen. Each understory tree *shall* be a minimum height of six (6) feet tall at planting. Trees *shall* be planted at least ten (10) feet from any other tree and no further than seventy-five (75) feet from any other tree in those portions of the yard that are located outside the foreground of the *principal buildings* as viewed perpendicular to the right-of-way of the recorded *major access corridor* . In those portions of the *yard area* in the foreground of the *principal buildings* , as viewed perpendicular to the right-of-way of the recorded *major access corridor,* the maximum spacing between trees *shall* be one hundred and fifty (150) feet.

3. Shrubs.

Fifty (50) natural evergreen shrubs are required. All shrubs*shall* be a locally adapted species, and when planted *shall* be a minimum height of eighteen (18) inches tall. Shrubs *shall* be spaced at least five (5) feet on center from one another. The expected maintained minimum height of the shrubs *shall* be four (4) feet tall within three (3) *years* of planting.

In lieu of planting these required shrubs, either a wall or a*solid fence* at least four (4) feet high *may* be *erected* . The *erected* structure in terms of appearance, texture, and quality, *shall* be made of the same or compatible material and color as the *principal building* . The *erected* fence or wall *shall* be landscaped so that no more than two-thirds (2/3) of its surface area will be visible within three (3) *years* after the erection of the structure; forty (40) per cent of this plant material *may* be deciduous. No planting *shall* be required for *decorative fences* .

In lieu of planting these required shrubs, a manmade*earthen berm* with a minimum height of three (3) feet, measured perpendicular to the center of the crown, *may* be substituted. The *earthen berm* *shall* contain a rounded crown suitable for planting, and a stabilized side slope of no greater than three-to-one (3:1). A steeper side slope *may* be used in exceptional cases when all of the *following* are met:

(i) this steeper slope is sufficiently stabilized; and

(ii) the landscape objectives of the Overlay District are better achieved; and

(iii) physical constraints of the site prevent the use of a flatter slope.

The*earthen berm* *shall* be planted with three-fourths (3/4) of the required number of shrubs. Shrubs planted on the manmade *earthen berm* *may* have a lesser mature height; provided that, the combined height of the berm and plantings after three (3) *years* is four (4) feet.

4. General.

The*yard area* required in subsection a. *shall* in all other respects conform to the landscape standards of §10-2082.5(c). No yard space *shall* remain denuded or exposed with bare soil. The location of required landscaping *shall* not obstruct the views of motorists using any *street* , private driveway, or the approach to any *street* intersection so as to constitute a traffic hazard, a condition dangerous to the public safety, or violate the guidelines set forth in §10-2086.

b. Existing Vegetation.

1. General.

Existing vegetation which meets or exceeds the quantity, spacing, and height standards,*may* be used to satisfy the requirements of subsection a. above, provided that there be no encroachments into the protected ground area as set forth in §10-2082.5(f)(2) and (3).

2. Tree preservation as a credit towards tree planting requirements.

Preservation of existing live natural trees between the*principal building* and the public *street* right-of-way can be credited towards the tree planting requirements of this section or §§10-2082.5(c)(2) and 10-2082.6 (c)(4).

(i) Method of calculation and minimum size.

The credit toward the required number of trees*shall* be a number equal to one-sixth (1/6) of the sum in inches of the circumference (s) of each preserved tree, but no fraction thereof, as measured at a height of four and one-half (4 1/2) feet above grade level. Each preserved tree *shall* be at least six and one-fourth (6 1/4) inches in circumference.

(ii) Protection.

Each preserved tree*shall* be uniformly encircled by a protected ground area the size of which *shall* be equal to the *critical root zone* of the tree. Trees in *parking lots* which are already located inside planting areas with a minimum dimension of seven (7) feet also *may* be used. During construction, the protected ground area *shall* be clearly marked in the field. Credit authorized by this subsection 2. *shall* not be allowed if there is any *tree disturbing activity* .

GRAPHIC LINK: Diagram: Area of No Encroachment Around Trees

(iii) Diseased trees.

No credit will be allowed for any tree if the tree is unhealthy or dead. The death of or replacement of any preserved tree which

was*used for* credit requires the *owner* to plant new trees equal to the number of credited trees; such plantings *shall* meet the applicable requirements of this Code.

(iv) Minimum tree requirements.

In no case*shall* credits for preserved trees eliminate the *shade* and understory *tree* spacing requirement of subsection a. above; no *protective yard* *shall* contain less than one (1) natural tree.

3. Reduction of shrubs.

The amount of required shrubs in the*major access corridor yard* *may* be reduced by fifty (50) per cent, if in that yard existing trees meeting the space, quantity, and specification requirements of subsection a. above and being twenty-five (25) feet or taller in height are preserved and protected from encroachments in accordance with §10-2082.5(f).

4. Supplemental plantings.

Supplemental natural plantings*may* be required, if it can be reasonably inferred that, after five (5) *years* , the existing vegetation will not meet the requirements of subsection a. above. Where such supplemental plantings are required, the plantings *shall* have a minimum height required of subsection a. above.

Where the existing vegetation on site does not meet the spacing, quantity, and size of plant, then the*owner* *shall* be required to plant only those trees and shrubs necessary to meet the requirements. These plants must meet the specifications set forth in subsection a. above.

c. Landscaping requirements for expansions or change of use for existing facilities.

1. Landscaping for existing facilities.

The planting requirements of subsection a. above*shall* not apply to *major access corridor yards* at the time this Overlay District becomes applicable to the *property* except as provided in subsections 2. through 5. below.

2. General requirements for new and expanded facilities.

Any new and expanded*loading* , *utility service* , and *display areas* , *building* , structure, surface area of the use, or *vehicular surface* *shall* not locate in any *protective yard* , including *major access corridor yards* . The landscaping required for these facilities *shall* comply with §10-2082, et seq.

3. Expansions and additions.

A*street protective yard* at least ten (10) feet wide and containing forty (40) per cent of all the plantings of subsection a. above *shall* be provided on the *property* if the *floor area gross* , surface area, *vehicular surface area* , or any combination thereof singularly, collectively, or cumulatively is increased by twenty-five (25) per cent of the area existing at the time this Overlay District first became applicable to the *property* . Each additional per cent of expansion greater than twenty-five (25) per cent *shall* be multiplied by a factor of six-tenths (0.6) for additional yard width and a factor of two and four-tenths (2.4) for additional planting material of the *major access corridor* yard which *shall* be added to the initial

requirements until one hundred (100) per cent of the yard and planting requirements are met.

Cross-reference: Worksheet*following* §10-2082.10(c)(3).

4. Change of use.

Whenever any change in the type of land use results in a change in the type of building code occupancy, as set forth in the North Carolina State Building Code a*street protective yard* in accordance with §10-2082.10(c)(1) *shall* be installed. This *street protective yard* *shall* be landscaped to the same extent as set forth in §10-2082.6(b)(1)--(5), irrespective of the location of *vehicular surfaces* .

5. Reductions in yard setbacks of underlying zoning districts.

One hundred (100) per cent of the yard width and plant material of the*major access corridor yard* *shall* be provided on the *property* whenever the Overlay District is used to reduce the yard setbacks of the underlying zoning district in any way.

d. Special landscape requirements in ***Resource Management Zoning Districts*** .

Additional landscaping regulations of §10-2082.12*shall* be met.

(3) Signage

on-premise[*signs*] see §10-2083

(4) Lighting see §10-2089(b)

All outdoor lighting*shall* be shielded in such a manner that no glare from the light can be seen from the arterial roads, *major access corridors* , or *thoroughfares* located in the Overlay District. No exterior lighting located in the Overlay District *shall* cause illumination in excess of four-tenths (0.4) maintained footcandle on any *lot* containing a *dwelling* , *congregate care or congregate living structure* , or zoned a *residential district*

(5) Noise.

The noise standards contained in Part 12, chapter 5 of this Code are incorporated into the Special Highway Overlay District-4.

(6) Outdoor service facilities.

Any outdoor pay window, drive-in facility, drive-thru facility, automated teller machine, or any other outdoor service facility that is located on a *lot* which either abuts a *dwelling* , a *congregate care or congregate living structure* , or a boundary line of a *residential district* , other than in a *street* , *shall* be located at least one hundred (100) feet away from such *property* . Later establishment of either a *dwelling* , a *congregate care or congregate living structure* or of a *residential zoning district* boundary within the one hundred (100) foot distance *shall* not render the previously lawfully existing outdoor service facility nonconforming or illegal.

(Ord. No. 1994-429-TC-78, §4, TC-13-94, 6-21-94; Ord. No. 1995-760-TC-122, §4, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §§10, 12, TC-23-95, 4-2-96; Ord. No. 2003-373-TC-231, §23, TC-23-02, 2-4-03; Ord. No. 2005-762-TC-264, §6, TC-7-04, 1-4-05)

(f) Designation of Special Highway Overlay District-4.

The general characteristics desired of land placed in the Special Highway Overlay District-4 are the following:

(1) It should be generally located along and near*principal arterials* as designated in the *City's* Comprehensive Plan.

(2) It should be generally located where*buildings* are desired to be near the right-of-way.

(3) It should be generally located where*buildings* are to be framed and visually tied to the *principal arterial* by landscaping.

In general, the Overlay District is located on either side of an existing or proposed*major access corridor* and should begin at the outer edge of the existing or proposed right-of-way. The Overlay District *shall* follow identifiable boundaries whenever possible. However, when a new right-of-way has been established by an approved Thoroughfare Plan, the district boundaries *shall* be calculated from the newly established right-of-way line.

(Ord. No. 1993-133-TC-46, §15, TC-11-92, 2-2-93)

Sec. 10-2062. TRANSIT ORIENTED DEVELOPMENT OVERLAY DISTRICT.

(a) Approval.

In a Transit Oriented Development Overlay District, a preliminary*site plan* is no longer required. Final *site plan* approval *shall* be obtained from the *City* staff. The *City* staff *may* disapprove such a *site plan* if the staff finds that the *site plan* fails to be in accordance with the *City Council* -adopted transit station area plan, the overlay district regulations, or to the provisions of this Code. Findings of staff *shall* be subject to review by *City Council* .

(b) Permitted Uses.

Subject to the provisions of §10-2062(c) below and other overlay districts, the*following* additional land uses are also permitted in the Transit Oriented Development Overlay District:

- All general uses, conditional uses,*signs* , and special uses that are allowed in the Thoroughfare District by the Schedule of Permitted Land Uses in Zoning Districts, §10-2071, notwithstanding the underlying district regulations

- Any use permitted by this overlay district even if a use is prohibited in an underlying district

-*Dwelling units* and *equivalent dwelling units* , irrespective of gross development site size, are permitted as allowed by the applicable adopted transit station area plan, but no greater than three hundred twenty (320) units per acre

If any of the uses allowed in the Transit Oriented Development Overlay District is a conditional use in the underlying district but is not a conditional use in the Thoroughfare District, then the applicable special regulations for that use*shall* be met. If the use requires a special use permit in either the underlying district or the Thoroughfare District, the same special use permit *shall* be required in the Transit Oriented Development Overlay District.

The*following* land uses are allowed in the Transit Oriented Development Overlay District pursuant to a special use permit approved by the *City Council* under §10-2145.

- Commercial surface parking lot as a principal use

-*Retail sales - highway*

-*Retail sales* exceeding 50,000 square feet of *floor area gross* in a single establishment

Any requirement, regulation, prohibition or standard, like height and yard regulations, contained in the Transit Oriented Development Overlay District, or in the applicable adopted transit station area plan, which is more stringent or less stringent*shall* control over the underlying zoning district and Thoroughfare District regulations in the event of a conflict.

(c) Prohibited Uses.

The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive.

The*following* uses are prohibited within the Overlay District:

- Any use prohibited in this overlay district even if that use is allowed in the underlying district

- Any use not allowed in either the underlying district or in this overlay district except for improvements made pursuant to Part 10, Chapter 3 and for uses explicitly permitted in subsection (a) above

- Bottling plant

- Drive-in and/or drive-through facilities

- Gas plant

- Improvements to the sides of*buildings* fronting on a *street* right-of-way except in strict conformance with the transit station area plan

- Improvements to*street* rights-of-way except in strict conformance with the transit station area plan

- Incinerator

- Land uses prohibited by the applicable adopted transit station area plan

- Mini warehouse storage facility

- Mining and quarrying

- Outdoor storage including *building* materials or contractors construction equipment, coal and lumber yard/mill, recyclable material, and unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles

- Power plants of any type

- Solid waste reclamation (indoor and outdoor), and landfill (of all types)

-*Vehicular display areas*

- Warehousing/distribution center

(d) **Area, Density, Bulk, *Yard,* Height and Open Space Requirements.**

(1) Area, density, and bulk.

a. The required*minimum net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the applicable adopted transit station area plan.

b. The maximum residential density per net acre is that of the applicable adopted transit station area plan.

c. The minimum residential density is that of the applicable adopted transit station area plan.

d. The minimum*floor area ratio* for uses, other than *dwelling units* or *equivalent dwelling units,* is that of the applicable adopted transit station area plan.

e. The minimum*building lot coverage* for *buildings* is that of the applicable adopted transit station area plan.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

With the exception of allowable commercial surface parking lots,*passenger transit station or stops* , telecommunication towers, cemeteries of all types, temporary events, reservoir and water control structures, taxicab stands, substations, *utility* services, dish antenna, Christmas tree, greens and ornamental outdoor display sale areas between November 15 and December 31, governmental grounds, recreational uses, all *principal uses shall* be located within or underneath an enclosed area as established by *floor area gross* .

(2) Yard.

The minimum and maximum district yard setbacks*shall* be that of the applicable adopted transit station area plan, unless otherwise required by this Code. See §10-2075 for other *yard areas* required by this Code, method of calculating, exceptions and reductions to *yard areas* , and illustrations.

(3) Height.

Buildings and *structures shall* be constructed to the minimum and maximum heights as established in the applicable adopted transit station area plan. See §10-2075 for method of height calculation, exceptions, and illustrations.

(4) Required open space.

a. Within this overlay district, except the*station area core* , wherever this chapter requires a residential development to contain common open space, this open space, in addition to any common landscaped outdoor areas, greenways, and common recreation spaces (excluding *vehicular surface areas*), *may* include outdoor balconies, decks and roof gardens on residential buildings.

b. Within the*station area core* open space required for any *cluster unit development, congregate care structure or congregate living structure, group housing development, life care community, manufactured home park, multi-family dwelling development, residential unit ownership (condominiums)* and *townhouse development* , Part 10, chapter 2, Article F *shall* not apply.

(e) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

(1) **Off- *street* parking.**

After application of this overlay district*, the minimum and maximum number of off-*street* parking spaces *shall* be determined by the ratios and coordinating strategies established in the applicable adopted transit station area plan.

Parking that cannot be provided on the same lot as the*principal building* or *principal use may* be provided within the overlay district on any *lot* within eight hundred (800) feet of any entrance of the *principal use* for customer, patron, or resident parking and within twelve hundred (1,200) feet of any entrance of the *principal use* for employee parking. However, such *property* in the underlying district must be zoned an Office and Institution district, Shopping Center district, Neighborhood Business district, Business district, Thoroughfare District, Industrial-1 district, Industrial-2 district or Buffer Commercial district. Furthermore, in the Buffer Commercial district the parking must be located inside a parking deck.

(2) ***Vehicular surface areas.***

Within this overlay district,*vehicular surface areas shall* not occupy more than the equivalent of one-third (1/3) of the linear frontage of the adjacent building or no more than sixty-four (64) linear feet of frontage, whichever is less, with the exception of a

retail sales - highway use containing the outdoor sale of petroleum products approved as a special use permit in accordance with §10-2145(b). Within this overlay district, no improvements to *vehicular surface areas shall* be made except in conformance with the applicable adopted transit station area plan.

Within the station area core , no new *vehicular surface areas* , including additions to *vehicular surface areas* existing prior to the application of a Transit Oriented Development Overlay District, *shall* be located in any portion of the site parallel to and adjoining a *street* unless such *vehicular surface areas* are located behind the *principal building* line extended to the wings of the *building* , as viewed perpendicular to the recorded *street right-of-way* , and that such *vehicular surface areas* are screened from view from any public *street* by a minimum six-foot high *solid wall* or *closed fence* (not including openings necessary for reasonable access to the *lot*) and that such *solid wall* or *closed fence* is the same compatible appearance as the *principal building* in terms of materials, color, texture and design and includes planting materials so that no more than two-thirds (2/3) of the surface area of the *wall* or fence is visible from the *street* within three (3) years of erection of the structure. Forty (40) per cent of this plant material *may* be deciduous.

Within the*station area transition* , all new *vehicular surface areas* , including additions to *vehicular surface areas* existing prior to the application of a Transit Oriented Development Overlay district, that are located within fifty (50) feet of the *street* right of way *shall* be screened from view from the public *street* by a minimum three and one-half (3 1/2) foot high *solid wall* or *closed fence* (not including openings necessary for reasonable access to the *lot*) and that such *solid wall* or *closed fence* is the same or compatible appearance as the *principal building* in terms of materials, color, texture and design and includes planting materials so that no more than two-thirds (2/3) of the surface area of the *wall* or fence is visible from the *street* within three (3) years of erection of the structure. Forty (40) per cent of this plant material *may* be deciduous.

Existing*vehicular surface areas* lawfully existing prior to the application of a Transit Oriented Development Overlay District *may* be utilized by existing uses and buildings in this overlay district. These *vehicular parking areas shall* be made to conform to the applicable adopted transit station area plan and the design standards of §10-2081(b) whenever those *buildings* and uses that utilize these vehicular parking spaces undergo one (1) or more of the following:

a. Expansions or additions that singularly or collectively exceed either twenty-five (25) per cent of the total*floor area gross* of the *building* or twenty-five (25) per cent of the total gross area occupied by the use where there is no *principal building* . The per cent of expansion is to be determined with reference to the size and area of the *building* or use which existed at the time this overlay district first became applicable to the *property* .

b. Renovation or repair work which, during any one (1) calendar year exceeds twenty-five (25) per cent of the local listed county tax value.

c. Change in use that results in a change in the type of Building Codeoccupancy as set forth in the **North Carolina Building Code .**

(3) Parking structures.

Parking structures located within fifty (50) feet of the*street* right-of-way within a Transit Oriented Development Overlay District *shall* include ground-level uses other than the parking structure along at least two-thirds (2/3) of the *street* facade. When the parking structure is located at the intersection of two (2) or more *streets* , *street* facades must include uses other than the parking structure at the ground-level for two-thirds (2/3) of the total *street* facade. The facade of the parking structure visible from the *street* must complement the *principal building* , if any, by using compatible *building* materials and

architectural designs, as reflected in scale, color, texture, fenestration, width, height, roof lines, and other similar architectural gauges.

(4) Landscape.

Landscaping*shall* be installed in accordance with the applicable adopted transit station area plan and §10-2082 et seq. , provided that:

a. The*street protective yard* requirements of §10-2082.5 are inapplicable when a pedestrian way is installed in accordance with the applicable adopted transit station area plan and pursuant to subsection (e)(6) below.

b. Except within the*station area edge* , the *transitional protective yard* requirements of §10-2082.9 are inapplicable when in conflict with the Streets, Sidewalks, and Driveway Access Handbook Section 4.13, Guidelines for Mixed-Use Centers.

(5) Signage.

No*sign shall* be *erected* , altered, replaced, restored, or moved unless the change is in accordance with the applicable adopted transit station area plan. See §10-2083 et seq. for *on-premise signs* and §10-2084 for *off-premise signs* .

(6) Pedestrian ways.

The design of new pedestrian facilities*shall* be determined by the applicable adopted transit station area plan, but not less than the widths specified in figures 14a-14d of 4.13 of the Streets, Sidewalks, and Driveway Access Handbook. For all existing buildings and uses, the widths of existing pedestrian ways located from the curb to the *building* line *shall* not be reduced unless, after the reduction, the width of the remaining pedestrian way equals or exceeds the required minimum widths of pedestrian ways for new uses and *buildings* as shown in the applicable adopted transit station area plan, but not less than the widths specified in figures 14a-14d of the Streets, Sidewalks, and Driveway Access Handbook. For purposes of this section, the required minimum pedestrian ways can be located on *street* rights-of-way, sidewalk, and pedestrian easements provided the pedestrian way is located between the *building* line and the curb. All improvements to pedestrian ways *shall* be made in accordance with the applicable adopted transit station area plan.

(7) Bicycle parking.

Bicycle parking spaces*shall* be provided for all new uses, and new *buildings* , and for existing *buildings* and uses whenever those existing *buildings* and uses undergo any one (1) or more of the expansions, expenditures, or changes listed in subsections a. through c. of §10-2062(e)(2) above. Bicycle spaces *shall* be provided within easy access from the *street* right-of-way at a rate and design that is in accordance with the applicable adopted transit station area plan.

(8) ***Building*** **orientation and exterior** ***building*** **walls.**

a. The primary entrance*shall* be both architecturally and functionally designed and located on the front facade of the *building* facing the primary public *street* adjacent to the site.

b. Within the*station area core* , fifteen (15) linear feet *shall* be the maximum length of any "blank exterior *building* wall plane" facing a public *street* for any new *building* and for any existing *building* that is either replaced or undergoes one (1) or more of the expansions, expenditures, or changes listed in subsections a. through c. of §10-2062(e)(2) above. All other alterations and renovations of existing *buildings shall* not increase the amount of "blank exterior *building* wall plane" beyond that which is allowed for new *buildings* . A

"blank exterior *building* wall plane" is any wall unbroken to the height of nine (9) feet by any one (1) or more of the *following* :

1. A public doorway made of transparent materials.

2. A doorway made of opaque materials and recessed at least three (3) feet.

3. A stairway directly available at*street* level to the public, but not fire escapes or false stairways.

4. A window or fenestration opening in keeping with the architectural character of the surrounding area of at least twelve (12) square feet in area and no more than four (4) feet above the sidewalk at its lowest point.

c. Within a Transit Oriented Development Overlay District, no improvements to the sides of any*building* facing a public *street shall* be made except in conformity to the applicable adopted transit station area plan.

(9) Driveways and cross access.

The maximum length of any curb cut made to a public*street* after application of the Transit Oriented Development Overlay District *shall* be fifteen (15) feet for one-way driveways and twenty-five (25) feet for two-way driveways or joint driveways. The surface material of the sidewalk *shall* extend across the driveway to emphasize the pedestrian way.

Any*site plan* or subdivision *shall* comply with section 4.13, Guidelines for Mixed-Use Centers of the Streets, Sidewalks, and Driveway Access Handbook and provide vehicular and pedestrian cross-access easements to adjacent properties and construct the connection if an immediate benefit can be derived. If no immediate benefit is derived, a development plan *shall* provide vehicular and pedestrian cross-access and construction easements and arrange the site design, the grade of the connection, parking, and landscaping so when the adjoining *property* owner extends the connection to the *property* line, the link will be completed. Internal access drives *shall* be located to join together existing *streets* and/or connect to adjacent private drives so that the internal circulation functions as an integral part of the surrounding transportation network. Developments *shall* minimize or eliminate curb cuts along adjacent *streets* . Where possible, vehicular access *shall* be shared with the adjacent *properties* and/or alleys should be utilized for access.

(10) Transit.

To facilitate transit usage and circulation,*site plans* and subdivisions *shall* provide transit stops at key nodes with easy access to the surrounding *streets* . Transit routes *shall* be designed to accommodate the technical requirements of bus operations. Transit easements through and within subdivisions and *site plans shall* be provided as requested by the Transportation Director.

(11) **Improvements to *street* rights-of-way.**

No improvements to new*street* rights-of-way *shall* be made within any Transit Oriented Development Overlay District except in conformity with the applicable adopted transit station area plan.

Improvements to existing*street* rights-of-way that are part of the applicable adopted transit station area plan *shall* be installed whenever the *properties* that adjoin said *street* rights-of-way, or undergo expansions, expenditures, or changes listed in subsections a. through c. of §10-2062(e)(2) above or any subdivision or *site plan* . These required improvements to *street* rights-of-way *shall* be completed prior to the issuance of a *building* occupancy certificate.

(12) Existing use, structures and lots.

A structure or use existing at the time that a Transit Oriented Development Overlay District is first applied to the*property shall* not be deemed a *zoning nonconformity* solely because of this overlay district. All additions, changes, expansions, and alterations must comply with the Transit Oriented Development Overlay District and with the applicable adopted transit station area plan, unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion, or alteration as if the structure or use were made nonconforming by this overlay district.

(f) Designation of a Transit Oriented Development Overlay District and Adoption of a TRansit Station Area Plan.

(1) Locational guidelines.

The general characteristics desired of land to be designated for a Transit Oriented Development Overlay District are the following:

a. It is generally located within one-half (1/2) mile of a*passenger transit station or stop* ,

b. It includes*properties* within walking distance of a *passenger transit station or stop* that would support pedestrian oriented development patterns and a broad mix of uses,

c. It includes properties identified by a boundary in a*City Council* -adopted transit station area plan.

d. It is an expansion of an existing Transit Oriented Development Overlay District.

(2) **Findings to be made by *City Council.***

Prior to adoption of a Transit Oriented Development Overlay District,*City Council shall* make all the following findings:

a. Within the transit station area plan additional standards are needed to prohibit certain land uses, and permit other land uses, intensities and densities that are not permitted under the current zoning;

b. Additional standards are needed to provide incentives to achieve the objectives of the transit station area.

c. New regulations are needed for one (1) or more of the*following* : alternative parking, alternative open space or residential densities in excess of forty (40) *dwelling* units per acre.

d. Additional design standards are needed to ensure that new development complies with the objectives and terms of the transit station area plan, including streetscapes, building setbacks and heights, building orientation, transit stops, driveways, pedestrian ways, signage, and bicycle parking.

(3) Transit station area plan.

A transit station area plan*shall* be completed for any area proposed to be zoned a Transit Oriented Development Overlay District. At least twenty (20) days before the public hearing of a transit station area plan, a copy of the proposed transit station area plan *shall* be mailed to *property* owners within the proposed Transit Oriented Development Overlay District. The transit station area plan *shall* be approved prior to or in conjunction with the zoning of any area as a Transit Oriented Development Overlay District. The transit station area plan *shall* set forth design principles and policies concerning the character and function of the area. The transit station area plan *shall*

include at least these elements:

a. Existing conditions inventory for an appropriate area of influence surrounding the*passenger transit station or stop* to include current land use and overlay zoning districts, ownership, environmental conditions, infrastructure assessment, existing and planned transit facilities, community facilities, and public improvements existing and planned.

b. Boundaries of sub areas of the plan.

c. Uses specifically prohibited in the subcategories of the transit station area plan including the*station area core* , *station area transition,* and the *station area edge* .

d. Land use plan concept that includes a land use pattern, mix, minimum and maximum density and intensity of uses within the sub areas of the plan.

e. A method of monitoring land use and urban form changes in the planning area over time to periodically determine if the plan's objectives are being reached.

f. Population and employment target projections based upon anticipated land use patterns.

g. *Street* hierarchy and circulation concept that identifies pedestrian and vehicular travel routes, block lengths, *street* widths, cross sections, streetscape design, and treatment of adjoining *buildings* in relationship to the *street* type.

h. Site layout and design including*building* placement and minimum and maximum *building* setbacks, heights, *building lot coverage* and *floor area ratio* , as well as standards for wall articulation, fenestration, roof forms, and architectural character.

i. *Signs,* types, sizes, graphics, materials, and colors.

j. Urban open space.

k. Location and arrangement of off-site and*vehicular surface areas* and a plan for providing adequate off-site and off- *street* parking and bicycle parking. The plan *shall* contain ratios for required off- *street* parking spaces and bicycle parking.

l. Implementation strategy for application of transit oriented development, method of achieving a mix of uses, infrastructure improvements, and development incentives.

m. Specific standards for conditional approval of different land uses, residential densities,*building* heights, *yard* areas and active uses within the sub areas of the plan.

(Ord. No. 2004-596-TC-245, §4, TC-14-03, 4-6-04)

Sec. 10-2063. RESERVED.

Sec. 10-2064. URBAN WATER SUPPLY WATERSHED PROTECTION AREA OVERLAY DISTRICT.

Regulations in the Urban Water Supply Watershed Protection Area Overlay District are applicable in Class WS-IV waters only.

(a) Approval.

If the use requires a*site plan* as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council* ; see §10-2132.2 (b) and (c). If the use requires a *plot plan,* as set forth in §10-2132.1, administrative approval is required.

(b) Definitions.

Primary water supply watershed protection area. The area in a *Reservoir Watershed Protection Area Overlay District* or an *Urban Water Supply Watershed Protection Area Overlay District* between the intake or mean high water level of the reservoir and the *secondary water supply watershed protection area.* To protect the watershed, special standards for *impervious surface* coverage, uses, *natural resource buffer yards* and *lot* sizes are applied. *Primary water supply watershed protection areas* are delineated on the Official Zoning Maps and reflected in the Comprehensive Plan.

Secondary water supply watershed protection area. The area in a Reservoir Watershed Protection Overlay District or an Urban Water Supply Watershed Protection Area Overlay District between the *primary water supply watershed protection area* and surrounding *properties.* To provide a protective transition between the *primary water supply watershed protection area* and the surrounding *properties,* special standards for *impervious surface* coverage, uses, and *natural resource buffer yards* are applied. *Secondary water supply watershed protection areas* are delineated on the Official Zoning Maps, and reflected in the Comprehensive Plan.

(c) Permitted Uses.

Subject to the provisions of §10-2064 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the Schedule of Permitted Uses in Zoning Districts, §10-2071, are allowed in the Urban Water Supply Watershed Protection Area Overlay District.

(d) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the underlying district by either the Schedule of Permitted Land Uses in Zoning District §10-2071 or subsection (c) above is prohibited in the Urban Water Supply Watershed Protected Area Overlay District. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses*shall* not be deemed exclusive or all-inclusive.

(1) Prohibited uses in the ***primary water supply watershed protection area* include:**

- No new*landfills shall* be allowed.

- No new permitted sites for land application of sludge, residuals, or petroleum contaminated soils*shall* be allowed.

(e) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

a. The required minimum *net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.

b. The maximum residential density is that of the underlying zoning district.

All minimum*net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

a. The minimum district yard setbacks of the underlying districts*shall* apply.

b. Watercourse buffer areas.

After application* of the Urban Water Supply Watershed Protection Area Overlay District, watercourses*shall,* in accordance with §10-9040(c), contain a *natural resource buffer yard.* These *natural resource buffer yards* provide an area where stormwater flows in a diffuse manner so that the runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place.

No use, encroachment, land-disturbing activity, placement of impervious surface, construction, nor installation*shall* occur within *natural resource buffer yards* except as allowed in §10-9041 and §10-9042.

*Editor's note: This regulation was enacted on April 19, 2005, [Ord. No. 2005-817-TC-267, TC-7-05] and first became applicable on April 24, 2005.

(3) Height.

Same as the underlying zoning district.

(f) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	***Off-street*** **parking**	**see §10-2081**
(2)	**Signage**	
	on-premise signs	**see §10-2083**
	off-premise signs	**see §10-2084**

(3) ***Impervious surface*** **coverage.**

a. Within the Urban Water Supply Watershed Protection Area Overlay District, the maximum amount of*impervious surface* coverage is regulated. Regulations applied to new developments, to tracts in existence prior to the effective date of *impervious surfaces* regulations _____ (based on the effective date of the approved rezoning), and to tracts established outside the subdivision process after that date are set forth in §10-5006(a)(12). Regulations applied to subdivisions approved after that date are set forth in §10-3052.1

b. Substitutions of*impervious surface* done in accordance with §10-2146.2(a)(5) are allowed.

(g) Existing ***Lots*** **and Structures.**

All*lots* and structures existing at the time that the Urban Water Supply Watershed Protection Area Overlay District is first applied to the *property shall* not be deemed a *zoning nonconformity* solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures, which exceed existing impervious area, must comply with the regulations of the Urban Water Supply Watershed Protection Area Overlay District unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion or alteration, as if the existing structure were made nonconforming by the Overlay District.

(Ord. No. 2005-817-TC-267, §§1, 7, TC-7-05, 4-19-05)

Cross reference: Stormwater retention, detention, or capture is required in the Urban Water Supply Watershed Protection Area Overlay District for*streets* §10-3052.1(a) and for *lots* containing higher *impervious surface* coverages §10-5006(a)(12)b. and c. Other standards for *street* construction: **Street, Sidewalk and Driveway Access Handbook,** §§10-3052.1(b) and (c), §10-2075(e), **Schedule of Permitted Land Uses Within Types of Yard Areas** .

Secs. 10-2065--10-2070. RESERVED.

ARTICLE D. USE, RESIDENTIAL DENSITY, SETBACK, HEIGHT REGULATIONS AND SUMMARY SCHEDULES

Sec. 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS._____

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK: Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING

DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

GRAPHIC LINK:Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS (Cont'd.)

Sec. 10-2072. REGULATIONS FOR CONDITIONAL USE.

Conditional Uses - Alphabetical Listing:

- Accessory fund raising activity for*residential institution.*

-*Accessory structures and uses* - fence, garage, storage building, wall.

-*Accessory structures and uses* - one (1) *manufactured home* or *travel trailer* (unoccupied).

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Additional*dwelling units* or *equivalent dwelling units* on a *lot* (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District.

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

-*Agriculture - restricted* .

- Bar, nightclub, tavern, lounge.

-*Billboard* (*off-premise sign*).

- Boarding of well animals as an*accessory use* to a *veterinary hospital.*

(Ord. No. 1999-489-TC-177[TC-14-98], §2, 1-5-99)

- Carwash facility located within one hundred (100) feet from the *property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district,* as measured from the nearest *lot* line to *lot* line.

(Ord. No. 2003-490-TC-238, §3, TC-6-03, 8-5-03)

- Cemetery.

(Ord. No. 2007-178-TC-300, §2, TC-19-06, 3-6-07)

-*Cluster unit development* .

-*Congregate care or congregate living structure* .

- Dance, recording, music studio.

-*Dish antenna* .

-*Duplex* .

-*Eating establishment.*

(Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

-*Eating establishment* in a *residential zoning district* with no drive-thru/drive-in service and no alcohol sales for on-premise consumption.

-*Eating establishment* with no drive-thru/drive-in service, and with alcohol sales for on-premise consumption in the Buffer Commercial District.

-*Emergency shelter Type A.*

-*Emergency shelter Type B.*

- Family child care home.

(Ord. No. 2003-519-TC-241, TC-10-03, §2, 10-8-03)

-*Food store - retail* .

- Fraternity.

- Governmental*buildings* and grounds.

- *Group housing development* .

-*Home occupation* .

-*Hotel/motel* with one (1) or more *dwelling units* with cooking facilities and refrigerators of unlimited size.

(Ord. No. 1996-931-TC-138, §4, TC-27-95, 7-2-96; Ord. No. 1999-616-TC-181, §28, TC-3-99, 8-3-99)

-*Hotel/motel* with one (1) or more *lodging units* .

(Ord. No. 1996-931-TC-138, §4, TC-27-95, 7-2-96)

- Interim use in the Residential Business District within a redevelopment area.

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

-*Landfill (debris from on-site)* .

- Landmark*signs.*

- Life care community (senior citizen development).

-*Manufacturing - custom* .

-*Manufacturing - restricted* .

-*Manufacturing - specialized* .

- Mini-warehouse storage facility.

- *Mixed use development Master Plan.*

-*Manufactured home park* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Manufactured home subdivision* .

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Multi-family dwelling* development.

-*Multi-unit supportive housing residence.*

(Ord. No. 1994-365-TC-71, §13, TC-22-93, 4-5-94)

- Nongovernmental use or trade not otherwise prohibited.

- Nonresidential related service (general).

- Office, agency, or studio of a professional, business, agent, or political, labor, or service association in the Office and Institutional-1 and -2 Districts - additional floor area ratio allowance.

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

- Office, agency, or studio of a professional or business agent, or political, labor or service association.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

-*Office center* .

- Outdoor mobile vending cart (see*Retail sales - outdoor mobile vending cart*).

(Ord. No. 2006-985-TC-584, §3, TC-17-05, 4-4-06)

- Outdoor: stadium/theater/racetrack - governmental, with 250 seats or less.

- Outdoor: stadium/theater/racetrack - nongovernmental, with 250 seats or less.

- Parking facility, off-site, for residential housing projects within the Downtown Residential Housing Overlay District.

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

- Plant nursery, fruit and vegetable stand.

-*Recreational use* related to a *residential development* other than a *single-family dwelling unit* .

-*Recreational use restricted to membership - commercial* .

-*Recreational use restricted to membership - not for profit* .

-*Religious shelter unit* .

- Residential development sales office or model home.

-*Residential institutions.*

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

-*Residential related service* .

-*Rest home* .

- Room rental in*dwelling unit* (lodger).

- School, church or government building adaptively reused as an office, agency or studio, operating on a not for profit basis, for a professional, business, agent, or political, labor or service association or agency.

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

- School-private/parochial.

- Scrap materials - indoor storage.

-*Shopping area* .

-*Shopping center* .

-*Single-family* detached *dwelling unit* (farm house in Agricultural Productive District).

-*Single-family* detached *dwelling unit* (in Thoroughfare District).

- Sorority.

-*Special care facility*

(Ord. No. 2004-721-TC-260, §3, TC-16-04, 10-5-04)

-*Supportive housing residence.*

(Ord. No. 1994-365-TC-71, §13, TC-22-93, 4-5-94)

- Telecommunication tower less than two hundred and fifty (250) feet in height located within either a*nonresidential district* (other than a Conservation Management District) or located on a *residential institution premises.*

(Ord. No. 1995-692-TC-113, §3, TC-15-95, 8-1-95; Ord. No. 2000-732-TC-188, TC-17-99, §2, 2-15-00)

- Temporary event.

(Ord. No. 1993-296-TC-68, §3, TC-25-93, 12-7-93)

-*Townhouse development* .

- Trade show and temporary retail activity within*hotel/motel* .

(Ord. No. 1997-137-TC-153, §46, TC-18-96, 6-17-97)

-*Tree disturbing activity* except a *minor tree removal activity* .

(Ord. No. 2005-762-TC-264, §8, TC-7-04, 1-4-05)

-*Unit ownership (condominium)* - residential (*dwelling units*) and nonresidential developments.

-*Utility apartment* .

- Water or sanitary sewer treatment plant, community.

(Ord. No. 1992-87-TC-400, §5, TC-6-92, 11-4-92; Ord. No. 1993-207-TC-59, §2, TC-12-93, 6-1-93)

Editor's note: Ord. No. 503-TC-56 TC-88, adopted May 22, 1977, permitted a family care home and Ord. No. 895-TC-383, §§7--13, TC-21-91, adopted Dec. 8, 1991, permitted a family group home, but these two (2) land uses were removed by Ord. No. 1994-365-TC-71, §14, TC-22-93, adopted April 5, 1994. [Prior to its repeal, the category "family care home" was amended by Ord. No. 781-TC-151, TC-198, adopted Nov. 3, 1981, and the category "family group home" was amended by Ord. No. 810-TC-268, §§9--12, adopted June 22, 1986.] Ord. No. 1994-453-TC-85, §3, TC-19-94, adopted Aug. 2, 1994, set out provisions deleting in its entirety the "*day care facility* (child or adult)" conditional use category. [Prior to its repeal, the category " *day care facility* (child or adult)" was amended by Ord. No. 1992-111-TC-42, §28, TC-19-92, adopted Dec. 8, 1992.]

(a) Introduction.

Conditional uses are certain uses,*buildings* , or structures by their very nature, particular location, intensity, or combination thereof that have the potential to create adverse effects and problems in the absence of special safeguards which are identified throughout this chapter. This section establishes special regulations for each alphabetized conditional use.

No conditional use*shall* be established unless all of the applicable special regulations for that conditional use are fully met. No conditional use *shall* be deemed a lawful use and allowed to remain on the *premise* after it fails to meet fully any applicable special regulation, except as otherwise allowed as a *nonconforming use* .

The special regulations established by this section for the various conditional uses are in addition to other applicable regulations which this Code applies to uses,*buildings* , and structures such as density, off-street parking, landscaping, and setbacks. These conditional uses are also subject to the Comprehensive Plan, regulations included in any applicable overlay or conditional use zoning district or other zoning district. If there are conflicts between Code provisions, the more restrictive *shall* apply.

The enumerated conditional uses are allowed in the various zoning districts in accordance with the Schedule of Permitted Land Uses In Zoning Districts, §10-2071.

To determine how this use is processed by the*City* , see Article H.

(b) Uses Enumerated.

_____

Accessory fund raising activity for ***residential institution***

Accessory fund raising activities for a*residential institution* *shall* meet all of the *following* :

(1) The*principal use* is a lawful use in the zoning district.

(2) No outdoor activity prohibited under the Residential Business or Buffer Commercial Districts*shall* be permitted in those Districts.

(3) The fund raising activity is on a periodic basis.

(4) Outdoor activities are discontinued by 11:00 p.m.

(5) Flood and display lighting is shaded, shielded or directed so that the light intensity or brightness*shall* not disturb surrounding *premise(s)* and *shall* not exceed four-tenths (0.4) maintained footcandle illumination at the *property* lines adjacent to a *residential district* , *dwelling* , or a *congregate care* or *congregate living structure* .

(Ord. No. 865-TC-376, TC-17-91, 11-10-91)

_____

Accessory structures and uses - fence, garage, storage **building,** ***wall*** .

Fences, garages, storage*buildings* , or walls *shall* meet all of the *following* applicable conditions:

(1) Fences and walls*shall* comply with the applicable provisions of §10-2085 and §10-2086.

(2) Storage buildings and garages accessory to a*residence* *shall* comply with the yard setback provisions of §10-2075(e).

_____

Accessory structures and uses - storage of one ***manufactured home*** or ***travel trailer*** **(unoccupied).**

A*manufactured home* or *travel trailer* as an *accessory use or structure* , *shall* meet

all of the *following* :

(1) No more than one (1) unoccupied*manufactured home* or *travel trailer shall* be located on the *lot* .

(2) All*manufactured homes* and *travel trailers shall* be located in either an accessory private garage building of an *occupied dwelling* or in a *rear yard* of an *occupied dwelling* .

(3) No living quarters*shall* be maintained in the *manufactured home* or *travel trailer* .

(4) No business*shall* be conducted in the *manufactured home* or *travel trailer* .

(Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

Annotation: Recreation Vehicles. Recreation vehicles are not*travel trailers* and are not required to be stored in garages or *rear yards* : A-11-77 Chief Zoning Inspector, Board of Adjustment (Feb. 14, 1977).

_____

Additional ***dwelling units*** **or** ***equivalent dwelling units*** **on a** ***lot*** **(three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30)** ***dwelling units*** **per net acre), or both, in the Special Residential-30 District.**

Additional*dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both *shall* meet all of the *following* :

(1) The materials, including their direction, dimension, and application, used on the exterior portion of the proposed*building* or additions *shall* be the same as those materials used on any two (2) or more existing *buildings* on the *block face* , provided that, any other material used on one-third (1/3) or more of the total *block faces* within the District is allowed.

(2) The proposed*building* or additions contain a main roof with a minimum rise-to-run pitch of four (4) to twelve (12). If three (3) or more roofs on the *block face* are multidirectional or multipitched, then any multipitched or multidirectional roof style located on the *block face shall* be used.

(3) Any four-sided window and door pattern on the facade(s) of the proposed*building* or additions visible from an adjacent right-of-way, excluding alleyways, *shall* contain a minimum height-to-width ratio of one and five-tenths (1.5) to one (1). Other shaped window and door patterns *may* be used if they are found on the block face.

(4) The location, relative to the public street, of the main*building* entrance including the entryway level *shall* be the same as three (3) or more *buildings* on the *block face* . No upper story entrance *shall* be visible from an adjacent *street right-of-way* , excluding alleyways.

(5) The longest side of the proposed or existing building including its additions or the largest side of the proposed*building* does not exceed either one and one-half (1 1/2) times its height, as determined from §10-2076, or the minimum height-to-width ratio found in three (3) or more buildings on the *block face* , whichever is greater.

(6) The proposed*building lot coverage* does not exceed fifty (50) per cent of the *net lot area* .

(7) All*vehicular surface areas* containing more than four (4) spaces that are located within one hundred (100) feet of any adjoining lot that is both zoned a *residential district* and contains a *dwelling shall* provide the same *transitional protective yard* as is required for high residential density uses in §10-2082.9(e).

Editor's note: This provision was formerly codified as a special use in §10-2145. (Ord. No. 438-TC-226, TC-275, 12-11-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 799-TC-267, §36, TC-21-85, 1-1-87)

(Ord. No. 1997-137-TC-153, §47, TC-18-96, 6-17-97)

_____

Agriculture - restricted .

Agriculture - restricted is permitted only in conjunction with plant nurseries and fruit or vegetable operations, approved by the Board of Adjustment as a special use permit under the provisions of §10-2144.

_____

Bar, nightclub, tavern, lounge.

Bars, nightclubs, taverns, or lounges must be located in a*hotel* or *motel* as part of a restaurant licensed by the N.C. Alcoholic Beverage Control Commission for the sale of mixed beverages.

Cross reference: Part 12, chapter 2, Article D, division 2, Entertainment Centers.

_____

Billboard (off-premise sign) .

Billboards *shall* meet all the provisions of §10-2084.

_____

Boarding of well animals as an*accessory use* to a *veterinary hospital* .

(1) The*accessory use* is wholly enclosed within the *principal building.*

(2) The principal function of the facility is for the purpose of diagnosing, treating and preventing diseases in animals.

(3) That no more than thirty (30) per cent of the*floor area gross* of the *principal building* is devoted to the temporary boarding of well animals and other functions typically associated with the boarding of animals.

(4) A*closed fence* or wall, a minimum of six (6) feet in height and located no closer than twenty (20) feet to the *property* line, *shall* bound any portion of an outdoor enclosure located within one hundred fifty (150) feet of any adjacent *property* line of a *dwelling* , *congregate care* or *congregate living structure* or adjacent vacant *property* zoned *residential.* For purposes of defining adjacent, a *dwelling* , *congregate care* or *congregate living structure* or vacant *property* zoned *residential* which is located across a public *street* right-of-way from the subject *property* *shall* not be considered adjacent.

(5) That staff supervision is provided at all times when animals are within any outdoor exercise enclosure(s). No more than three (3) animals*shall* be permitted outside within the exercise enclosure(s) at the same time unless one-on-one supervision is being provided.

(6) *Transitional protective yards* which conform to §10-2082.9 for low impact uses *shall* be installed.

(Ord. No. 1999-489-TC-177[TC-14-98], §2, 1-5-99)

_____

Carwash facility located within one hundred (100) feet from the ***property*** **line of either any** ***lot*** **which is developed with a** ***dwelling, congregate care*** **or** ***congregate living structure*** **or any vacant** ***lot*** **located in a** ***residential zoning district,*** **as measured from the nearest** ***lot*** **line to** ***lot*** **line.**

Carwash facilities locating within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* (excepting the residence of a caretaker or watchman *accessory* to a permitted industrial use), *congregate care* or *congregate living structure* or any vacant *lot* located in a *residential zoning district,* as measured from the nearest *lot* line to *lot* line, *shall* meet all of the *following:*

(1) All washing, waxing, machine drying and related activities and operations*shall* be conducted entirely within an enclosed building (except for vehicular openings a maximum of twelve (12) feet in width) with the exception of vacuuming, hand drying and hand waxing of vehicles, the sale of items from vending machines and refuse storage and disposal. No vehicular openings providing access to the enclosed building *shall* face any adjacent *property* line containing a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district.*

(2) All vacuuming machines located outside of the enclosed building*shall* be of a design that does not exceed a noise level reading of forty-five (45) d/b/a, as measured from the *property* line, between the hour of 6:00 a.m. to 7:00 a.m. and fifty-five (55) d/b/a at all other lawful hours of operation.

Cross reference: City noise regulations Part 12 Chapter 5.

(3) Operation of the establishment*shall* be prohibited prior to 6:00 a.m. or after 11:00 p.m. on all days of the week. The hours of operation *shall* be required to be posted on site at a conspicuous location and vehicular access to any portion of the carwash facility *shall* be restricted during closed hours.

(4) If the carwash facility*property* is located immediately adjacent to the *property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or vacant *lot* located in a *residential zoning district* , the minimum width *transitional protective yard* required by §10-2082.9 *shall* not be reduced under any circumstances.

(5) The average*street protective yard* required by §10-2082.5 *shall* be the minimum width *street protective yard* required for the *property* .

If the cost of the rebuilding, reconstruction, repairing or restoration of a carwash facility located within one hundred (100) feet from the*property* line of either any *lot* which is developed with a *dwelling* , *congregate care* or *congregate living structure* or any vacant *lot* located in a *residential zoning district* and existing prior to the adoption of these regulations* will be fifty (50) per cent or more of its *county* listed *property* tax value, the carwash facility *shall* not be rebuilt, reconstructed, restored, or operated except in compliance with these regulations. However, the establishment of a *dwelling* , *congregate care* or *congregate living structure* within a *nonresidential zoning district* or the rezoning of a *nonresidential zoning district* to a *residential zoning district* occurring after the application of these regulations* and on *property* located within one hundred (100) feet of an existing carwash facility *shall* not render the existing carwash facility as nonconforming.

*Editor's Note: This regulation first became applicable on August 10, 2003, Ordinance No. (2003)490-

TC-238, TC-6-03.

Cross reference: Renovation, maintenance and repair work which during any one calendar*year* exceeds fifteen (15) per cent of the Wake County listed tax value of any zoning nonconformity, §10-2146.3.

(Ord. No. 2003-490-TC-238, §4, TC-6-03, 8-5-03)

_____

Cemetery.

Any cemetery use for the interment of human or animal remains, except for family cemeteries or non-commercial interment of animal remains,*shall* meet all of the *following* :

(1) If the cemetery use exceeds two (2) acres in size or is planned and phased to exceed two acres in size, it must comply with the public facility dedication and improvements requirements of Part 10 of the*City Code* . If an existing cemetery increases the land area for cemetery use by one-half (1/2) an acre or more from its size as of the applicable date of this section that results in a cemetery use greater than two (2) acres in size, the cemetery must comply with the public facility dedication and improvements requirements of Part 10 of the *City Code* .

(2) The cemetery use must take into account present and future public improvements, including those expressed in the current*City Comprehensive Plan* or *Thoroughfare Plan* .

(3) No grave space, mausoleum, vault, crypt, or columbarium (hereinafter called "cemetery plots") shall be established that are located within forty (40) feet from any street right-of-way (including existing or proposed right-of-way) or thoroughfare designated on the current*City Comprehensive Plan* or *Thoroughfare Plan* . The requirements of this subsection (3) may be waived in whole or in part by the Chief Zoning Inspector of the *City* if the Director of Public Works certifies that the full forty (40) foot buffer required by this subsection will not be required for the construction of future public improvements.

(4) Interments into and the conveyance of "cemetery plots" that were established within the forty (40) foot buffer, created by this section, prior to the applicable date of this section*shall* be allowed for a period of three (3) years from the applicable date of this section, and, thereafter, internments into and conveyance of "cemetery plots" within the forty (40) foot buffer created by this section will only be allowed if within three (3) years of the applicable effective date of this section:*

a. A map is provided to the Chief Zoning Inspector of the*City* showing all grave spaces, mausoleums, vaults, crypts, and columbariums located within forty (40) feet from any *street right-of-way* (including existing or proposed *right-of-way*) or *thoroughfare* designated on the current *City Comprehensive Plan* or Thoroughfare Plan; and

b. Evidence is provided to the Chief Zoning Inspector of the*City* showing that prior to the application of this section* substantial financial investment was made in the development of the cemetery and allocation of grave spaces mausoleums, vaults, crypts, and columbariums within the forty (40) foot buffer created by this section.

*Editor's note: This provision first became applicable on June 1, 2007, Ord. No. 2007-178-TC-300.

Cross reference: Required Tree Conservation Areas, §10-2082.14(b).

(Ord. No. 2007-178-TC-300, §3, TC-19-06, 3-6-07)

_____

Cluster unit development .

A*Cluster unit development* *shall* meet all the provisions of §10-2101.

_____

Congregate care structure or congregate living structure .

Congregate care structures or congregate living structures *shall* meet the provisions of §10-2102.

_____

Dance, recording, music studio.

Dance, recording, or music studios*shall* be located in an enclosed, soundproofed, air conditioned structure.

_____

Dish antenna .

A*dish antenna* *shall* meet all of the *following* :

(1) No*dish antenna* *shall* be located within any required yard setback.

(2) No*dish antenna* *shall* be located closer than thirty (30) feet to a *street* right-of-way.

(3) In a*residential zoning district* , no *dish antenna* *shall* have a dish of a diameter greater than twelve (12) feet, unless located greater than one hundred (100) feet from any *property* line.

(4) In a*residential zoning district* any antenna not mounted on a *dwelling* or residential *institution* which is over four (4) feet in diameter *shall* be screened from: the abutting right-of-way, the *property* boundary of any adjacent *dwelling* , *congregate care or congregate living structure* , and the boundary of an adjacent *lot* zoned a *residential district* . The screen *shall* be made of plant materials, *earthen berms* , *closed fences* , or walls or any combination thereof which must be immediately adjacent to the antenna so as to reduce the view from the abutting *lot* or right-of-way to a height of six (6) feet above ground elevation *year* round.

a. Plant materials utilized to meet the minimum standards of this section*shall* be evergreen shrubs and *shall* be planted in the same manner as set forth in §10-2082.9 for a ten (10) foot wide D type *transitional yard* .

b. *Closed fences or* walls utilized for screening *shall* be of the same or compatible, in terms of texture and quality, materials and color of the *principal building* , and additional planting *shall* be provided so that no more than two-thirds (2/3) of the height of the fence or wall is visible form the abutting *lot* or right-of-way within five (5) *years* of the erection of the *closed fence or wall* . A *written* statement explaining the maintenance of these "fence/wall" plantings *shall* be submitted to the *City* at the time of submittal of the building permit application.

(5) Roof-mounted*dish antennas shall* be screened from any public or private *street* that is open to vehicular traffic. All roof-mounted *dish antennas*

exceeding four (4) feet in diameter *shall* be constructed of mesh type material.

Cross reference: Height Limitations, §10-2076.

(6) Later establishment of either a*dwelling* , *congregate care or congregate living structure* in a *nonresidential district* or of an adjacent *residential district shall* not render a previously lawful *dish antenna* nonconforming or illegal.

(Ord. No. 799-TC-267, §40, TC-21-85, 1-1-87; Ord. No. 349-TC-217, §5, TC-264, 5-20-84; Ord. No. 1993-248-TC-64, §§3, 4, TC-18-93, 8-3-93)

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Duplex .

A*duplex* *shall* meet all the provisions of *multi-family dwelling* developments §10-2107.

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Eating establishment.

To permit an*eating establishment* with no drive-thru/drive-in service and no alcohol sales for on-premise consumption, and an *eating establishment* with no drive-thru/drive-in service and with alcohol sales for on-premise consumption, required to meet the conditions of a nonresidential related service, listed as a conditional use under this section, §10-2072(b).

(Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

_____

Eating establishment in a ***residential zoning district*** **with no drive-thru/drive-in service and no alcohol sales for on the** ***premise*** **consumption.**

An*eating establishment* in a *residential zoning district* must meet the conditions of a *residential related service* as set forth in this §10-2072.

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Eating establishment with no drive-thru/drive-in service, and with alcohol sales for consumption on the ***premise*** **in the Buffer Commercial District.**

An*eating establishment* with no drive-thru/drive-in service and with alcohol sales for on-premise consumption *shall* meet all of the *following* :

(1) It is located in a*hotel* or *motel* .

(2) It does not exceed*floor area gross* of three thousand (3,000) square feet per floor.

(3) It is licensed by the N.C. Alcoholic Beverage Control Commission for the sale of mixed beverages.

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Emergency shelter Type A .

An*emergency shelter Type A* *shall* meet all of the *following* :

(1) The shelter*shall* provide a minimum of fifty (50) square feet of sleeping space per *person.*

(2) The shelter will conform to all applicable health, building code, licensing laws and regulations.

(3) The shelter operators will provide an employee or volunteer to maintain continuous on-site supervision of the shelter during the shelter's hours of operation.

(4) No shelters*shall* be located within a one-half mile radius (determined by straight line and not *street* distances) of another *emergency shelter Type A* , or *emergency shelter Type B* .

(5) No*emergency shelter Type A shall* be established closer than one hundred (100) yards from any preexisting *supportive housing residence* or *multi-unit supportive housing residence* , as measured from the nearest *lot* line to *lot* line. No later establishment of a *supportive housing residence* or *multi-unit supportive housing residence* closer than one hundred (100) yards to a previously permitted emergency shelter *shall* be construed to create a nonconformity or illegality on the part of the existing emergency shelter.

(6) The shelter is not located in an Airport Overlay District.

(Ord. No. 500-TC-350, §1, TC-1-90, 3-12-90; Ord. No. 810-TC-268, §§13, 14, TC-6-86, 6-22-86; Ord. No. 579-TC-239, §2, TC-12-85, 6-9-85; Ord. No. 217-TC-200, TC-252, 11-3-83; Ord. No. 1993-206-TC-58, §1, 7-6-93; Ord. No. 1994-365-TC-71, §15, TC-22-93, 4-5-94; Ord. No. 1994-407-TC-74, §§1, 2, TC-7-94, 6-7-94; Ord. No. 1998-466-TC-174[TC-16-98], §1, 12-1-98)

Emergency shelter Type B .

An*emergency shelter Type B* *shall* meet all of the *following* :

(1) The*emergency shelter Type B* *shall* house no more than ten (10) individuals at any one time.

(2) No individuals*shall* remain in any one (1) shelter longer than thirty (30) consecutive days per calendar *year* . No individual *shall* be readmitted to an *emergency shelter Type B* until at least fourteen (14) days have elapsed from his last residency at that shelter.

(3) No counseling or therapeutic activities*shall* be conducted in an *emergency shelter Type B* . Referral of *residents* to employment agencies and other personal service agencies *shall* not be deemed to be counseling.

(4) No*emergency shelter Type B* *shall* be established closer than one hundred (100) yards from any preexisting *supportive housing residence* or *multi-unit supportive housing residence* , as measured from the nearest *lot* line to *lot* line. No later establishment of a *supportive housing residence* or *multi-unit supportive housing residence* facility closer than one hundred (100) yards to the previously permitted emergency shelter *shall* be construed to create a nonconformity or illegality on the part of the existing emergency shelter.

(5) No*emergency shelter Type B* *shall* be located within a one-half mile radius (determined by straight line and not *street* distances) of another *emergency shelter Type B* , or an emergency shelter Type A.

(6) The shelter is not located in an Airport Overlay District.

(Ord. No. 884-TC-278, §2, TC-17-86, 11-4-86; Ord. No. 810-TC-268, §5, TC-6-86, 6-22-86; Ord. No. 1993-206-TC-58, §3, 7-6-93; Ord. No. 1994-365-TC-71, §§15, 16, TC-22-93, 4-5-94)

Family Child Care Home

Family child care homes are permitted within all zoning districts which permit both residential uses and*day care facilities* and *shall* meet all of the *following* :

1. The family child care home must be carried on by a*resident* of the structure as either a sole proprietorship or a corporation that is wholly owned by the *residents* of the structure, or a partnership where all partners are *residents* of the structure.

2. The use of any accessory building or*accessory structure* for family child care home is prohibited. Any outdoor play equipment stored throughout the day and night *shall* not be permitted in the *front yard area* nor *shall* it be situated closer than fifteen (15) feet from any adjoining *lot* containing a *dwelling.*

3. One (1)*off-street* parking space *shall* be provided for each family child care home. The *off-street* parking space required for the family child care home *shall* be maintained in addition to the space or spaces required for the *residence* itself. No parking areas, other than driveways, *may* be located in the required front yard setback or in any protective yard.

4. Only one (1) vehicle used in connection with family child care home*shall* be permitted.

5. No*person,* other than members of the family residing on the *premises* , *shall* be engaged or employed. This *shall* not apply to a substitute non-*resident person* providing care on the *premise* while the owner/operator is sick or other wise unable to provide such care.

6. The structure housing the family child care home*shall* be similar in appearance to structures on the same *block face.*

7. No more than five (5) children*shall* be cared for at any given time.

8. There*shall* be no *sign* or advertisement visible from the exterior of the *dwelling* . The address of the *property* must be posted in accordance with §10-2083.1(c)(2) of the *Code.*

9. No excessive light will be generated at the facility and all the lighting*shall* be in accordance with §10-2089.

(Ord. No. 2003-519-TC-241, TC-10-03, §3, 10-8-03)

Food store - retail .

Food store - retail in *residential zoning districts* must meet all of the conditions of a *residential related service* as set forth in this §10-2072.

Fraternity.

In the Thoroughfare District the minimum land area required for any fraternity, or any residential development including a fraternity, is ten (10) acres. In the Special Residential-30 District, the developments with either three (3) or more*dwelling units* or *equivalent dwelling* on a *lot* or with a residential density of more than twenty (20) *dwelling units* and *equivalent dwelling units* per net acre *shall* comply with the standards in §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District."

Cross reference: §10-2073*equivalent dwelling unit* .

(Ord. No. 1997-137-TC-153, §53, TC-18-96, 6-17-97)

Governmental ***buildings*** **and grounds.**

Governmental*buildings* and grounds *shall* meet all of the *following* :

(1) It is a use not specifically prohibited in the zoning district.

(2) It is not listed as a permitted use in any zoning district of a lower classification as classified by §10-2012.

Group housing development .

A*group housing development* *shall* meet the provisions of §10-2103.

Home occupation .

A*home occupation* *shall* meet all of the *following* :

(1) It must be carried on by a*resident* of the structure as either a sole proprietorship or a corporation that is wholly owned by the *residents* of the structure, or a partnership where all partners are *residents* of the structure.

(2) No display of goods, products, or services*shall* be visible from outside the *dwelling* .

(3) The*home occupation* *shall* not exceed twenty-five (25) per cent of the livable portion of the *dwelling* or five hundred (500) square feet, whichever is less, and *shall* not require internal alterations or involve construction features not customarily found in *dwellings* .

(4) The use of any*accessory building* or *structure* or outdoor area for a *home occupation* is prohibited.

(5) Only handmade items, foodstuffs, and crafts made in the home*may* be offered for sale on the *premises* ; no other goods, products or commodities bought for the express purpose of resale *shall* be sold at retail or wholesale on the *premises* nor *shall* such goods or products be stored or displayed on the *premises* .

(6) No equipment of process*shall* be used in connection with the *home occupation* which creates noise, vibration, glare fumes, odors, orelectrical interference detectable to the normal senses, off the *premises* . In the case of electrical interference, no equipment or process *shall* be used which creates visual or audible interference in any radio or television receivers off the *premises* .

(7) Off-street parking*shall* be provided in accordance with the standards of §10-2081 for the type of *home occupation* maintained. The off-street parking spaces required for the *home occupation* *shall* be maintained in addition to the space or spaces required for the *residence* itself. No parking areas, other than driveways, *may* be located in the required *front yard* setback or in any *protective yard* .

(8) Only one (1) vehicle used in connection with the*home occupation* *shall* be parked or stored on the *premises* ; provided, however, the vehicle will not be a

truck, such as but not limited to a dump truck, a fuel oil delivery truck or wrecker, and no advertising or reference to the *home occupation may* be displayed on the vehicle in any manner.

(9) No*person,* other than members of the *family* residing on the *premises* , *shall* be engaged or employed in the business.

(10) No specialty service, such as but not limited to dance instruction, crafts, or music lessons*shall* be provided for a group larger than five (5) *persons* .

(11) The exterior character or appearance of the*dwelling shall* not be altered or changed to accommodate the *home occupation* .

Annotation:*Home occupation* marriage counselor. A marriage counselor, psychologist or similar professional can operate a *home occupation* provided that such activity meets the standards contained in this provision. Chief Zoning Inspector, Board of Adjustment (Feb. 11, 1980).

(Ord. No. 5-TC-293, §1, TC-11-87, 7-16-87; Ord. No. 528-TC-353, §§4, 6, TC-3-90, 4-22-90; Ord. No. 1995-694-TC-115, §1, TC-17-95, 8-1-95)

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Hotel/motel with one (1) or more ***dwelling units*** **with cooking facilities and refrigerators of "unlimited size." ["Unlimited size" means sizes in excess of those permitted for *lodging units* , §10-2072(b).]**

Any*hotel* or *motel* containing one (1) or more *dwelling units shall* comply with all of the *following* :

(1) A*hotel* or *motel* containing two (2) or more *dwelling units* contained in a single structure *shall* meet all of the *following:*

a. All provisions of §10-2107et seq. are met.

b. The facility is located in a zoning district that permits*dwelling units* or the Industrial-1 or Industrial-2 district provided that the provisions of Code §10-2051(e)(2)b. and c. are met.

c. Off-street parking is provided in accordance with §10-2081(a) for each*dwelling unit.* For each rooming unit, as defined in §10-6121(c)(21), and/or *lodging unit* , not otherwise subject to conditional use standards of *hotel/motel* with one (1) or more *lodging units* , subsection (4)b.4., off-street parking is provided in accordance with §10-2081(a) for *hotel [or] motel.*

d. Minimum net lot area is provided in accordance with §10-2073 for each*dwelling unit* and *lodging unit* subject to conditional use standards of subsection (4)b., if any.

(2) A*hotel* or *motel* which contains three (3) or more *dwelling units* in multiple structures which meet the definition of §10-2002 of a *group housing development shall* comply with all of the *following* :

a. All provisions of §10-2103et seq. are met.

b. The facility is located in a zoning district that permits*dwelling units* or the Industrial-1 or Industrial-2 district provided that the provisions of Code §10-2051(e)(2)b. and c. are met.

c. Off-street parking is provided in accordance with §10-2081(a) for each*dwelling unit.* For each rooming unit, as defined in §10-6121(c)(21), and/or *lodging units,* not otherwise subject to conditional use standards of *hotel/motel* with one (1) or more *lodging units* , subsection (4)b.4.,

off-street parking is provided in accordance with §10-2081(a) for *hotel, motel, rooming house, boarding house, lodging house* or *tourist home.*

d. Minimum net lot area is provided in accordance with §10-2073 for each*dwelling unit* and *lodging unit* subject to conditional use standards of subsection (4)b., if any.

(3) The facility*shall* conform to all applicable licensing laws and regulations pertaining to *hotels* and *motels.*

(4) *Hotels* and *motels* that have either a refrigerator or cooking facilities must provide a sink which *shall* be located in the cooking and eating area and *shall* be in addition to any sink provided for bathing purposes.

(5) If a*hotel* or *motel* contains both *dwelling units* and *lodging units,* then this conditional use and the conditional use for *hotel/motel* with one (1) or more *lodging units* *shall* be met, and if there are conflicts between any conditional use provision the more restrictive provision *shall* apply.

Cross reference: A*guest house* containing one (1) or more *dwelling units* is permitted in certain residential zoning districts in accordance with §10-2144, *guest house.*

(Ord. No. 1996-931-TC-138, §5, TC-27-95, 7-2-96; Ord. No. 1997-248-TC-160, §§2, 3, TC-19-97, 12-2-97; Ord. No. 1999-616-TC-181, §29, TC-3-99, 8-3-99)

Hotel/motel with one (1) or more ***lodging units.***

Any*hotel* or *motel* containing one (1) or more *lodging units* *shall* comply with all of the *following* :

(1) The facility*shall* conform to all applicable licensing laws and regulations pertaining to *hotels* and *motels.*

(2) For each rooming unit, as defined in §10-6121(c)(21), and for each*lodging unit* , not otherwise subject to subsection (4)b.4., below, off-street parking is provided in accordance with §10-2081(a) for *hotel, motel, rooming house, boarding house, lodging house* or *tourist home.*

(3) No refrigerator of more than seven (7) cubic feet interior capacity is permitted in a*lodging unit* unless, conditions (4)b.1. through 9. having been met, a refrigerator of up to fourteen (14) cubic feet interior capacity is permitted.

(4) No cooking facility is allowed in a*lodging unit* except:

a. A microwave oven of less than one (1) cubic feet oven capacity, or

b. A burner cook top of no more than two (2) burners when all the*following* are met:

1. The*lodging unit shall* not exceed six hundred (600) square feet of *floor area gross.*

2. The total number of*lodging units* and *dwelling units* , if any, in the *building(s)* conforms to the *dwelling unit* requirements of the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073(b), regardless of how many individuals occupy a unit, including if applicable, approval of a preliminary *site plan* by the Planning Commission under §10-2132.2(c)(1)g.

3. *Lodging units* located in the Industrial-1 and Industrial-2

zoning districts *shall* not exceed a density of forty (40) units per acre.

4. For each*lodging unit* off-street parking is provided in accordance with §10-2081(a) for *hotel* or *motel* containing *dwelling units.*

5. The development contains a registration area which is staffed twenty-four (24) hours per day. The registration area*shall* contain a registration book for the calendar year where the names of all persons occupying the facility are listed on a daily basis for each *lodging unit* and *dwelling unit* , if any.

6. Housekeeping services*shall* be provided on a daily basis. Housekeeping services *shall* include, but not be limited to: changing linen, cleaning bathroom and kitchen area, removal of trash, dusting and vacuuming.

7. No individual*shall* remain in any *lodging unit* or *dwelling unit* , if any, or rooming unit, as defined in §10-6121(c)(21), if any, or combination of units in the facility longer than thirty (30) consecutive days.

8. No more than two (2) individuals unrelated by blood, marriage, or adoption*shall* occupy a *lodging unit.*

9. The*hotel* or *motel* *shall* contain a heated swimming/exercise pool of at least five hundred (500) square feet with no dimension being less than twenty (20) feet.

(5) *Hotels* and *motels* that have either a refrigerator or cooking facilities must provide a sink which *shall* be located in the cooking and eating area and *shall* be in addition to any sink provided for bathing purposes.

(6) If a *hotel* or *motel* contains both *lodging units* and *dwelling units* , then this conditional use and the conditional use for a *hotel/motel* with one (1) or more *dwelling units* *shall* be met, and if there are conflicts between any conditional use provisions the more restrictive provision *shall* apply.

(Ord. No. 1996-931-TC-138, §6, TC-27-95, 7-2-96; Ord. No. 1999-616-TC-181, §30, TC-3-99, 8-3-99)

Interim use in the Residential Business District within a redevelopment area.

Interim uses*shall* meet all of the *following* :

(1) The site for the interim use is located in a redevelopment area established pursuant to Article 22, Chapter 160A of the North Carolina General Statutes.

(2) The use is a permitted interim use within the land use plan of adopted and currently applicable redevelopment plans and the use is not otherwise allowed in the Residential Business District.

(3) The use will exist for a specified period of time up to but not exceeding five (5)*years* .

(4) The use is not listed as an industrial use on the Schedule of Permitted Land Uses in Zoning Districts, §10-2071.

(5) Any parking use that is approved pursuant to this section must be necessary to provide parking for specified downtown economic development projects on an interim basis and that more permanent parking supplies are anticipated for later

development which would offer replacement when the interim use approved herein is discontinued. No parking lighting*shall* exceed twenty (20) feet in height.

(6) The site design provides for safe, orderly, and convenient movement of traffic and pedestrians.

(7) Any*vehicular surface area* is paved and is in conformance with §10-2081.

(8) A notification statement affecting the*property* is recordedwith the Wake Registry stating all of the *following* :

a. That the particular use is an interim use which is required to be terminated on date;

b. That the*property owner* agrees to discontinue the use by that date;

c. That failure to timely terminate the use is a violation of the Raleigh City Code and constitutes an unauthorized illegal use of the *property* ; and

d. That the notification statement cannot be terminated or amended without the prior*written* consent of the Raleigh City Attorney.

Editor's note: This provision was formerly codified as a special use in §10-2145. (Ord. No. 1991-735-TC-364, TC-2-91, 2-24-91)

(Ord. No. 1997-137-TC-153, §48, TC-18-96, 6-17-97)

Landfill (debris from on-site) .

Landfills (debris from on-site) shall meet all of the *following* :

(1) The*landfill* is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid waste from construction activities.

(2) All material placed in the*landfill* is generated from the same site as the *landfill* .

(3) If the*landfill* is located within the extraterritorial zoning jurisdiction of the *City* , prior to its initiation, the *landfill* must be approved by Wake *County* .

State law reference:Article 9, Chapter 130A, General Statutes Title 10, **North Carolina Administrative Code Chapter 10G §.0506 and .0507. Approval of this *landfill* is required from the Division of Health Services of the North Carolina Department of Environment, Health, and Natural Resources.**

Cross reference: Open dumps are prohibited throughout the entire zoning jurisdiction. See Article C, Summary of Requirements by Zoning District.

Landmark signs.

Landmark signs *shall* meet the provisions of §10-2083.2(j).

(Ord. No. 1993-207-TC-59, §2, TC-12-93, 6-1-93)

Life care community (senior citizen development).

Life care communities shall meet the provisions of §10-2104.

Manufacturing - custom .

Manufacturing - custom in the Neighborhood Business District or a Shopping Center District *shall* meet all of the *following* :

(1) More than fifty (50) per cent of the items made are sold at retail on the*premises* where they are produced.

(2) The store or shop produces custom work or makes finished articles.

Manufacturing - custom in the Business Zone District *shall* meet either of the *following* :

(1) More than fifty (50) per cent of the items made are sold at retail on the*premises* where they are produced and the store or shop produces custom work or makes finished articles; or

(2) Not more than fifty (50) per cent of the*floor area gross* of the *building* is *used* for manufacturing, and the use is located within the Downtown District. (For boundary of the Downtown District see map entitled "Height Limits Within Both the Business Zoning District and the Downtown District," §10-2076(a).)

(Ord. No. 1996-910-TC-134, §4, TC-9-96, 6-4-96)

Manufacturing - restricted .

Manufacturing - restricted *shall* meet all of the *following* :

(1) The use or facility is located within the Downtown District. (For boundary of the Downtown District, see map entitled "Height Limits Within Both the Business Zone District and the Downtown District," §10-2076(a).

(2) No more than fifty (50) per cent of the*floor area gross* of the *building* is *used for* manufacturing.

(Ord. No. 1996-910-TC-134, §4, TC-9-96, 6-4-96)

Manufacturing - specialized .

Manufacturing - specialized in a Neighborhood Business District or Shopping Center District *shall* meet either of the *following* :

(1) More than fifty (50) per cent of the items made are sold at retail on the*premises* where they are produced, or the facility occupies no more than fifteen hundred (1500) square feet of the *floor area gross* in the *building* in which it is located; or

(2) No manufacturing is performed and activities are limited to assemblage of components, custom work, making of finished articles, or a combination thereof.

Manufacturing - specialized in the Business Zone District *shall* meet either of the *following* :

(1) More than fifty (50) per cent of the items made are sold at retail on the*premises* where they are produced; provided that, no manufacturing of parts is performed and activities are limited to assemblage of components, custom work, or making of finished articles; or a combination thereof; or

(2) No more than fifty (50) per cent of the*floor area gross* of the *building* is

used for manufacturing, and the use is located within the Downtown District. (For boundary of Downtown District, see map entitled "Height Limits Within Both the Business Zone District and the Downtown District," §10-2076(a).)

(Ord. No. 1996-910-TC-134, §4, TC-9-96, 6-4-96)

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Mini-warehouse storage facility.

Mini-warehouse storage facilities, including one (1) residential living unit allowed for use as guard quarters on the same*lot* , *shall* meet all of the *following* :

(1) The minimum size of the development site is at least two (2) acres.

(2) No illumination when measured off the site*shall* exceed four-tenths (0.4) maintained foot candle.

(3) No storage of hazardous wastes (as defined in 40 Code of Federal Regulations261.3 to 261.33, or as the same *may* be amended by law), or flammable, or combustible materials (as defined in the **Fire Prevention Code or as the same *may* be amended by law) *shall* be allowed.**

(4) All storage*shall* be within individual storage *buildings* . There *shall* be no outside storage of any kind.

(5) *Transitional protective yards* which conform to §10-2082.9 for high impact uses *shall* be installed.

(Ord. No. 799-TC-267, §18, TC-21-87, 1-1-87; Ord. No.109-TC-181, §1, TC-227, 5-3-83; Ord. No. 1994-408-TC-75, §5, TC-9-94, 6-7-94)

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Mixed use development Master Plan .

A *mixed use development Master Plan* *shall* meet the provisions of §10-2121.

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Manufactured home park .

A*manufactured home park* *shall* meet the provisions of §10-2105.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

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Manufactured home subdivision .

A*manufactured home subdivision* *shall* meet the provisions of §10-2106.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

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Multi-family dwelling development.

A*multi-family dwelling* *shall* meet the provisions of §10-2107.

_____

Multi-unit supportive housing residence .

(1) Each*multi-unit supportive housing residence* *shall* be composed of no less than two (2) and no more than four (4) attached *dwelling units.*

(2) The total number of individuals occupying a*multi-unit supportive housing*

residence does not exceed six (6).

(3) Such a facility*shall* be treated for zoning purposes in the same manner as a *single-family dwelling* for all the requirements of Part 10 of this Code, except off-street parking *shall* be provided in accordance with §10-2081.

(4) No*multi-unit supportive housing residence* *shall* be located within one hundred (100) yards (determined by straight line from *property* line to *property* line) of any other *multi-unit supportive housing residence* , any *supportive housing residence,* or any existing group care facility, family care home or family group home established prior to the effective date of this ordinance.*

(5) The*multi-unit supportive housing residence* must conform to one (1) or more of the *following* :

a. It is licensed by the federal or state governments.

b. It is funded in part by government grants or loans.

c. It provides room and board, personal care, and habitation services in a family environment.

State law reference: §168-21(1).

Nothing herein*shall* prevent four (4) or fewer *persons* with disabilities from *occupying* any lawful *dwelling* as a *family.*

(Ord. No. 1994-365-TC-71, §14, TC-22-93, 4-5-94)

*Editor's note: The regulations of this provision first became applicable on June 1, 1994.

Cross reference: Registration of*multi-unit supportive housing residence,* §12-2161.

Nongovernmental use or trade not otherwise prohibited.

Any nongovernmental use or trade not otherwise prohibited, and other uses not specifically listed in the Schedule of Permitted Land Uses in Zoning Districts*shall* meet all of the *following* :

(1) It is a nongovernmental use, and it is not prohibited in the zoning district.

(2) When properly and safely operated with ordinary care, according to good and reasonable practice, the use does not substantially interfere with other permitted uses in the affected area due to noxious or offensive odors, gas, fumes, smoke, dust, vibration, or noise.

Nonresidential related service (general).

A nonresidential related service facility *shall* meet all of the *following:*

(1) The use is one (1) or more of the*following:* *eating establishment,* laundry and dry cleaning (pick up), flower shop, gift shop, newsstand, office supply sales from catalogues, or other service facility except an *adult establishment,* used primarily by the occupants of the *building(s)* on the same *lot* or within the same office center, *hotel or motel.*

(2) The facility is located in a*building* with a minimum of thirty thousand (30,000) [square feet] *floor area gross.* However, a service facility can locate in a smaller *building,* if all the *buildings* on the same lot (*office center, condominium or townhouse developments*) contain a minimum total *floor area gross* of thirty thousand (30,000) square feet.

(3) The*floor area gross* of all service facilities occupy an area no more than ten (10) per cent of any *building* with a *floor area gross* of thirty thousand (30,000) square feet or more. The *floor area gross* of all service facilities allowed to locate in a *building* with less than thirty thousand (30,000) square feet of *floor area gross, shall* be no more than ten (10) per cent of the *floor area gross* of all *buildings* on the same *lot* or *office center* and no more than twenty (20) per cent of the *floor area gross* of the *building* within which it is located.

(4) No more than three thousand (3,000) square feet is permitted for any one (1) service facility, unless the*property* is zoned Shopping Center, Neighborhood Business, Business, Thoroughfare, Industrial-1 or -2 District and the primary entrance to that service facility is located off of the main entrance within the *building,* which services all other uses within the *building.*

(5) The off-*street* parking required by the Schedule of Off-street Parking Standards are met, and additional separate off- *street* parking spaces for the operation of the service facility is provided in accordance with §10-2081.

(6) The display of products and activity of the service facility is not visible from outside the*building.*

(7) There are no drive-thru or drive-in facilities.

(8) No service facility*shall* operate before 8:00 a.m. or after 6:00 p.m. unless the routine hours of operation within more than fifty (50) per cent of the floor area within the *building* in which the facility is located is operational either before 8:00 a.m. or after 6:00 p.m.

(9) The service facility is centrally located, and its signage and location are not designed to attract clientele from outside the*building,* hotel, motel, *office center* or *lot* within which the facility is sited.

Annotation: In any multi-tenanted building, one (1) tenant*may* use as its related service facility the full ten (10) per cent of the *building* floor area and such tenant is not restricted in its application to ten (10) per cent of its lease area. A-108-81 Wake Forest Road Assoc., Board of Adjustment (Aug. 10, 1981).

(Ord. No. 1992-111-TC-42, §29, TC-19-92, 12-8-92; Ord. No. 1994-408-TC-75, §5, TC-9-94, 6-7-94; Ord. No. 1999-616-TC-181, §31, TC-3-99, 8-3-99)

Office, agency, or studio of a professional or business agent, or political, labor or service association.

An office, agency, or studio of a professional or business agent, or political, labor or service association,*shall* meet all of the *following* :

In the*office and institution districts* outside *the State* Government Center (which is set out in subsection (4) below), the *following* maximum *floor area ratios (F.A.R.)* and the maximum *building lot coverages* for any *building* devoted to or intended for an office, agency, or a studio of a professional or business agent, or political, labor or service association, and their *accessory uses* *shall* be as *following* :

TABLE INSET:

	Zoning Districts	Maximum F.A.R.	Maximum % of Building Lot Coverage

	O&I-1	0.75	.25
	O&I-2	1.00	.30
	O&I-3	0.33	.15-.20*

*In the Office and Institutional-3 District, the maximum *building lot coverage* is twenty (20) per cent for one (1) story *buildings* and fifteen (15) per cent for all other *buildings* . If both one (1) story *buildings* and *buildings* of two (2) or more stories occur on one (1) *lot* , the maximum *building lot coverage* *shall* be increased from fifteen (15) per cent to a maximum of twenty (20) per cent in the same proportion as the amount of square footage contained in *buildings* of one (1) story bears to the total amount of square footage of all *buildings* on the *lot* .

If more than one (1)*office and institution district* is located on the *lot* , the required *F.A.R.* and *building lot coverage* *shall* be proportional to the amount of the total *lot* covered by each zoning.

(1) *Floor area ratio* is calculated by dividing the *floor area gross* of the *building(s)* by the *net lot area* on which the *building(s)* is located. Only that portion of the *building* and *net lot area* zoned an *office and institution district* is included. Adjoining public *street* right-of-way *may* be included in the *lot* area in accordance with subsection (3) below. For *buildings* where more than ten (10) per cent of the *floor area gross* is devoted to *principal use(s)* for which the *F.A.R.* regulations are inapplicable, the *F.A.R.* *shall* apply to only those portions of the *building* devoted to the office, agency, studio of a professional or a business agent, political, labor or service association, including their *accessory uses* .

Cross reference: Additional*F.A.R.* is permitted in accordance with a special use permit issued by *City Council* , §10-2145: Additional *floor area ratio (F.A.R.)* allowances for office buildings in Office and Institution-1 and 2 Districts.

(2) *Building lot coverage* is calculated by dividing the land surface area of the *lot* covered by all *principal building(s)* by the *net lot area* on which the *building (s)* is located. Adjoining public *street* right-of-way *may* be included in the *lot* area in accordance with subsection (3) below. Only that portion of the *building (s)* and *net lot area* zoned *office and institution district* is included. The land surface area covered by all *principal buildings* *shall* include the area covered by the foundation of the *building* , and:

a. Overhangs and cantilevered portions of the*building* (other than roof overhangs), such as bay windows;

b. Roofs or canopies covering areas where the*principal use* is conducted such as a gasoline pump island canopy or a *display area* ;

c. Enclosed breezeways or walkways; and

d. Decks or balconies more than three and one-half (3 1/2) feet high.

The land surface area covered by the*building(s)* *shall* not include roof overhangs; unenclosed walkways and stairs; unenclosed stoops, decks, patios, balconies less than three and one-half (3 1/2) feet high; *vehicular service areas* and parking structures used exclusively for parking; loading, *utility services* , and *utility service areas* ; uncovered paved areas; and *accessory uses and structures* such as *signs* , decorative items and lighting.

For*buildings* where more than ten (10) per cent of the *floor area gross* is devoted to *principal uses* for which the *building lot coverage* are inapplicable, the land surface area covered by the *building* *shall* be reduced by a per

centage equal to the per centage of the total *floor area gross* which is devoted to the use(s) for which the *building lot coverage* regulation does not apply.

(3) A public*street* right-of-way dedicated by the owner which adjoins a *lot may* be added to the *lot* area calculation, if all the *following* are met:

a. Dedicators of the right-of-way waive their statutory right to withdraw unopened dedications.

b. Inclusions of right-of-way are restricted to*properties* which are contiguous to the included right-of-way.

c. Approved*site plans* utilizing right-of-way inclusion must be recorded in the Wake *County* Registry with an indication that the right-of-way inclusion for that *floor area ratio* and/or *building lot coverage* has been utilized for that particular *property* .

d. The dedicated right-of-way is not*used for* residential density in accordance with §10-2074(b).

(4) State government center.

The*floor area ratio* and *building lot coverage* in *office districts shall* not apply in *the State* Government Center of North Carolina, shown on a map entitled "State Government Center of North Carolina - Floor Area Ratio," incorporated herein. This area in downtown Raleigh is comprised of offices, *buildings* , and grounds included in *the State* Government Center of North Carolina Master Plan dated July, 1986.

(5) Downtown Overlay District.

The floor area ratio and building lot coverage in office districts located within the Downtown Overlay District, §10-2051,*may* be increased as part of a subdivision or *site plan* approved by the Planning Commission or *City Council* in accordance with §10-2132.2 after a finding that such increase in the *floor area ratio* and *building lot coverage* is in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

(Ord. No. 319-TC-212, TC-260, 4-8-84; Ord. No. 942-TC-283, TC-1-87, 3-17-87; Ord. No. 175-TC-309, TC-6-88, 5-23-88; Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §32, TC-3-99, 8-3-99; Ord. No. 2005-932-TC-275, §12, TC-6-05, 11-15-05)

Office, agency, or studio of a professional, business, agent, or political, labor, or service association in the Office and Institutional -1 and -2 Districts - additional ***floor area ratio (F.A.R.)*** **allowance.**

Additional*floor area ratio (F.A.R.)* allowance for office, studio, agency, or political, labor, or service association *shall* have points from all of the *following* subsections (1), (2), (3), and (4):

(1) Appearance, design, and overall quality of development:

a. At least eighty (80) per cent of the off-street parking spaces required in the Schedule of Off-Street Parking Standards are contained in a multilevel parking structure which is designed to complement other*buildings* on the site by using compatible building materials and architectural designs, as reflected in scale, color, texture, fenestration, width, height, *roof lines* , and other similar architectural gauges (twenty (20) points); or

b. At least one (1) per cent of the total project budget, including land costs, is spent to erect works of art, fountains and water displays, or special artistic gardens, which are visible or accessible to the public. All such works*shall* be permanently maintained (ten (10) points).

(2) Mitigation of off-site impacts:

a. Specific stormwater facilities are constructed or maintenance of specific lakes is undertaken as called for in any*City* -adopted stormwater drainage basin study (ten (10) points). All retention and detention devices *shall* be permanently maintained and *shall* otherwise comply with §10-5007 and §10-9027(b); or

b. Yard setbacks otherwise required in this chapter do not retain the calculated noontime winter solstice shadows on the site, and the*buildings* are set back further so that all shadows projected at noon on the winter solstice remain within the boundaries of the site (ten (10) points); or

c. All signage is either attached to the*building* or detached, in the form of ground signage, and the total area for all signage is not greater than seventy (70) square feet in area. All proposed signage is compatible with the architectural styles of existing and proposed *buildings* with regards to scale, color, and texture (ten (10) points).

(3) Open space and site development:

a. At least fifty (50) per cent of the total site acreage remains undisturbed and existing tree cover is retained within this area; provided, only those areas which contain trees equal to or greater than six and one-quarter (6 1/4) inches in circumference measured four and one-half (4 1/2) feet above grade level at a rate of one (1) tree per three hundred (300) square feet and otherwise conform to §10-2082.5(f)*shall* be used. And any tree which is designated an *historic landmark* pursuant to Article D, chapter 1, Part 10, of this Code or which is listed as the champion or co-champion of its species either on the current Natural Big Tree List as compiled by the American Forestry Association or the **Champion Big Trees of North Carolina as compiled by the Division of Forestry Resources, *shall* be preserved and adequately protected in a manner that complies with §10-2082.5(f) (ten (10) points); or**

b. Both the plantings and areas required to meet the minimum applicable*transitional yards, street protective yard,* and *vehicular surface area* landscape regulations are at least doubled (ten (10) points); or

c. At least ten (10) per cent of the site contains pedestrian-oriented squares and courtyards or permanent waterbodies which are an integral part of the overall*site plan* and are easily accessible to office workers. Such areas *shall* not be located in required setback yards, in *vehicular surface areas* nor within landscaped areas required by §10-2082 et seq. (ten (10) points); or

d. Twenty-five (25) per cent or more of the trees are preserved in accordance with §10-2082.11(a) (ten (10) points).

(4) Public amenities and facilities:

a. At least five (5) per cent of the*floor area gross* is continuously devoted to *day care facilities* or "community meeting rooms" or a combination thereof. "Community meeting rooms" as used herein means

a facility which is open to the public from at least 6:00 p.m. through 9:00 p.m. on week nights and 9:00 a.m. through 5:00 p.m. on weekends, and it is operated under rules and charges comparable to similar *City* facilities (ten (10) points); or

b. At least one (1) per cent of the total project budget, including land costs, is spent to provide active recreation facilities within the project, which are available to the public from at least 6:00 p.m. through 9:00 p.m. on week nights and 9:00 a.m. through 5:00 p.m. on weekends, and which are operated under rules and charges comparable to similar*City* facilities. Active recreation facilities include without limitation: jogging trails, exercise courses and equipment facilities, ballfields, and tennis courts. *Recreation use restricted to membership--commercial shall* not be used to comply with this provision. All provided recreation facilities must be permanently maintained (ten (10) points); or

c. Preservation plans are prepared for those properties which are located within or directly affected by a proposed development and which are either designated an*historic landmark* pursuant to Article D, chapter 1, Part 10 of this Code, or are designated on the National Register as a national historic *property* or are eligible for National Register designation, or are identified as contributing to and within a locally designated Historic Overlay District or National Register Historic District (ten (10) points); or

d. Transportation facilities beyond those which are already required by the City Code are provided. Such facilities*may* include transit facilities, shelters, establishment of permanent flex time and car pooling programs which will improve the overall transportation system of the *City* (ten (10) points).

Except within a Reservoir Watershed Protection Area Overlay District and except within a Planned Development Conditional Use Overlay District, Office developments which receive one hundred (100) or more points*may* increase their *floor area ratios* by one-third (1/3) so that the maximum allowable *floor area ratio* in the Office and Institution-1 District is 1.00 and in the Office and Institution-2 District it is 1.33; provided that, points are obtained from each subsection (1), (2), (3), and (4) above.

Except within a Reservoir Watershed Protection Area Overlay District and except within a Planned Development Conditional Use Overlay District, Office developments which receive between eighty (80) and ninety-nine (99) points*may* increase their *floor area ratios* by one-sixth (1/6) so that the maximum allowable *floor area ratio* in the Office and Institution-1 District is .87 and in the Office and Institution-2 District it is 1.16; provided that, points are obtained from each subsection (1), (2), (3), and (4) above.

Editor's note: This provision was formerly codified as a special use in §10-2145. (Ord. No. 942-TC-283, TC-1-87, 3-17-87; Ord. No. 1991-868-TC-378, §5, TC-9-91, 3-1-92; Ord. No. 1992-43-TC-397, §61, TC-10-92, 9-1-92)

(Ord. No. 1997-137-TC-153, §49, TC-18-96, 6-17-97; Ord. No. 2001-26-TC-208, §1, TC-5-01, 6-19-01; Ord. No. 2003-432, §18, TC-1-03, 4-15-03; Ord. No. 2004-571-TC-243A, §1, TC-2-04, 2-17-04)

Office center .

An*office center* *shall* meet the provisions of §10-2123.

Outdoor: stadium/theater/race track - governmental with two hundred and fifty (250) seats or

less.

Outdoor stadium/theater/race track - governmental*shall* meet all of the *following* :

(1) The facility is either an*accessory use* to a permitted use lawfully existing in the district or is part of a recreational use within a governmental park.

(2) The facility has two hundred fifty (250) or fewer seats.

Cross reference: Facilities with more than two hundred and fifty (250) seats must receive a special use permit from*City Council* in accordance with §10-2145.

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Outdoor: stadium/theater/race track - nongovernmental with two hundred and fifty (250) seats or less.

Outdoor: stadium/theater/race track - nongovernmental*shall* meet all of the *following* :

(1) The facility is an*accessory use* to a permitted use lawfully existing in the district.

(2) Activities conducted in the facility are lawful within the zoning district.

(3) The facility has two hundred and fifty (250) seats or less.

Cross reference: Facilities with more than two hundred and fifty (250) seats must receive a special use permit from*City Council* in accordance with §10-2145.

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Parking facility, off-site, in the Residential Business District, for residential housing projects within the Downtown Residential Housing Overlay District.

Parking spaces, off-site, on a different *lot* than the *principal building(s) shall* meet all of the *following* :

(1) Such parking facilities support a residential housing project approved by the Planning Commission as part of a density bonus in the Downtown Residential Housing Overlay District.

(2) Legal assurances are made that such parking facilities will be used solely for the specified*dwelling units* and that maintenance responsibilities for the parking facilities are clearly assigned.

(3) Such parking facilities provide for safe traffic movements.

(4) There is a continuous network of sidewalks between the parking facility and the approved*dwelling units* .

(5) The parking facilities meet all applicable requirements of this Code.

(6) Such parking facility will tend to relieve traffic congestion on the*streets* at or near the *premises* in question or reduce the *number* of parked vehicles on residential *streets.*

Cross references: In the Residential Business District, off-street parking can also be permitted as a conditional use for interim use in a redevelopment area, §10-2072; impact classification for required landscaping, transitional protective yard, §10-2082.9.

Editor's note: This provision was formerly codified as a special use in §10-2145. (Ord. No. 166-TC-308, TC-2-88, 5-5-88; Ord. No. 1992-88-TC-401, §28, TC-4-92, 11-4-92; Ord. No. 1994-520-TC-96, §4, TC-12-94, 12-13-94)

(Ord. No. 1997-137-TC-153, §50, TC-18-96, 6-17-97)

GRAPHIC LINK:(Map of) STATE GOVERNMENT CENTER OF NORTH CAROLINA FLOOR AREA RATIO

Plant nursery, fruit and vegetable stand.

Plant nursery, fruit and vegetable stand, including a related sales office, shallmeet all of the *following* :

(1) Sales*shall* be limited to agricultural products produced on the *premises* , hand-held garden tools, bags of fertilizer, mulch, and similar items normally associated with nursery or gardening operations.

(2) Sales offices*shall* be limited to one hundred (100) square feet of *floor area gross* per one (1) acre of land area, but in no case exceed one thousand (1,000) square feet of *floor area gross* .

(3) The uses herein*shall* not be located within a *primary reservoir watershed protection area* .

(4) No more than one (1)*on-premise* announcement *sign* not to exceed twelve (12) square feet in area and three and one-half (3 1/2) feet in height.

(Ord. No. 105-TC-304, §2, TC-24-87, 1-10-88; Ord. No. 1997-137-TC-153, §51, TC-18-96, 6-17-97)

Recreational use related to a residential development, other than a ***single-family dwelling unit*** .

Recreational uses related to residential development , other than a *single-family dwelling unit* , *shall* meet all of the *following* :

(1) Recreational use is limited to the*following* facilities: clubhouse, docks, exercise rooms, game and craft rooms, gymnasiums, party and reception rooms, pedestrian and equestrian trails, picnic areas, *play courts* , such as basketball, racquetball, and tennis courts, golf courses, driving ranges, *play fields* , playgrounds, sauna baths, swimming pools, tanning facilities.

Cross reference: Horse stalls are allowed on individual*lots* as an *accessory use* to a *residence* , §10-2071.

(2) These uses are allowed only as part of a*multi-family or group housing development* , or *cluster unit development* , *townhouse development* , residential *unit ownership (condominium) development* , *manufactured home park* , *congregate care or congregate living structure* , or *life care community* , except that in Rural Residential, Residential-2, Residential-4, and Special Residential-6 Districts, such uses are allowed only as part of a *cluster unit development* .

Cross reference: Planned residential developments, Article F.

(3) Nonresident memberships or fees paid by the general public*shall* not be permitted. This prohibition *shall* not be construed to disallow membership fees for residents of the development and their guests made on an installment basis of not less than monthly, rather than on any pay-for-use, hourly, daily or weekly basis. Membership fees are allowed for any *recreational use related to a residential development* if it also complies with all regulations of a *recreational use restricted to membership* , either *commercial* or *not for profit* .

(4) The recreation facilities*shall* be owned by either a not for profit organization, a home *owner* s association, or apartment project *owner* .

(5) No more than twenty-five (25) per cent of any minimum outdoor open space required by this code*shall* be covered by *impervious surfaces* .

(6) Any active recreational use such as a swimming pool or wading pool, diving area, outdoor*play court* , outdoor *play field* or equipment areas, or any driveway or parking areas for such facilities *shall* contain a *transitional protective yard* conforming to §10-2082.9 standards for medium impact uses, except that this subsection *shall* not apply to *dwellings* within a *group housing or multi-family development* , or *cluster unit development* , *townhouse development* , residential *unit ownership (condominium) development* , *manufactured home park or manufactured home subdivision* , *congregate care or congregate living structure* , or *life care community* served by the recreation uses.

(7) Any pool with any linear dimension greater than sixty-five (65) feet or with any area in excess of four thousand (4,000) square feet*shall* first be approved by the Raleigh Board of Adjustment as a special use permit in accordance with §10-2144, *recreational use restricted to membership - not for profit* .

(8) No signage, storage, merchandise, or display including display windows*shall* be visible from outside the facility.

(9) As part of a*cluster unit development* or *townhouse development* said recreation uses *may* be located on a separate *lot* only if the recreation facility is located on common open space owned by the home *owner* s association that either adjoins or is directly opposite the development for at least fifty (50) per cent of the perimeter of said open space.

(10) No illumination from the recreation uses*may* exceed four-tenths (0.4) maintained foot candles when measured outside the residential development.

(11) Off-street parking for the recreational uses*shall* be provided in accordance with §10-2081. The off-street parking spaces required to be maintained for the recreational facilities *shall* be in addition to the spaces required for the *dwellings* . However, the number of parking spaces required by §10-2081 for recreation uses *may* be reduced by the ratio of the total parking required for the *dwellings* that are located within four hundred (400) feet of the recreation use to the total required off-street parking for all *dwellings* in the residential development.

(12) Any sale of merchandise,*eating establishments* , or similar uses which are open at hours different from the recreational use and serve customers other than those using the recreation use *shall* meet the standards of related residential services of this section §10-2072.

Cross references: Restrictions on archery inside*City* Limits, §13-2029; fencing of outdoor swimming pools, §13-2028.

(Ord. No. 799-TC-267, §43, TC-21-85, 1-1-87; Ord. No. 679-TC-144, §1, TC-H-81, 7-7-81; Ord. No. 1992-43-TC-397, §30, TC-10-92, 9-1-92; Ord. No. 1996-877-TC-130, §4, TC-2-96, 5-7-96; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Recreational use restricted to membership - commercial .

Recreational use restricted to membership - commercial *shall* meet all of the *following* :

(1) Recreation use is limited to the*following* uses: athletic league fields,

campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, golf course, driving ranges, *play fields* , playgrounds, swimming pools, tanning facilities, weight and exercise rooms, all of which are restricted to members and their guests only.

(2) The site must have direct access to a*thoroughfare* or any *street* which meets *City* commercial *street* or collector *street* standards.

(3) *Transitional protective yards* which conform to §10- 2082.9 for medium impact uses *shall* be installed.

(4) The site*shall* not be within a *primary reservoir watershed protection area* unless it is a *recreation use restricted to membership, not for profit* , §10-2145.

(5) In a Buffer Commercial District, the size and use limitations of the zoning district must be met.

(6) Any sale of merchandise in an*office and institution zoning district* *shall* :

a. Be limited to members,

b. Not have any signage visible outside the building,

c. Not be visible from the*street* right-of-way or adjoining *lots* ,

d. Be limited to the lesser of ten (10) per cent of the*floor area gross* , or two thousand (2,000) square feet.

(7) No illumination when measured off the recreational site*shall* exceed four-tenths (0.4) maintained foot candles of lighting.

(8) The use is operated on a membership basis and payments, if any, for the recreational facilities are made on an installment basis of not less than monthly, rather than on any pay for use, hourly, daily, or weekly basis.

Cross reference: Restrictions on archery inside*City* Limits, §13-2029.

(Ord. No. 799-TC-267, §16, TC-21-85, 1-1-87; Ord. No. 105-TC-304, §6, TC-24-87, 1-10-88; Ord. No. 337-TC-214, §2, TC-263, 5-31-84; Ord. No. 540-TC-135, TC-B-80, 12-9-80; Ord. No. 1996-877-TC-130, §4, TC-2-96, 5-7-96)

Recreational use restricted to membership - not for profit .

Recreation uses restricted to membership - not for profit *shall* comply with the conditions of *recreational uses restricted to membership - commercial* , and in addition, if it is located within a *primary reservoir watershed protection area* , it must be approved as special use permit in accordance with §10-2145.

Religious shelter unit .

Religious shelter units *shall* meet all of the *following* :

(1) The facility*shall* comply with all the rooming house standards in §10-6023 of this Code.

(2) The facility is an*accessory use* to the church or synagogue and occupies a *floor area* of no more than ten (10) per cent of the *floor area gross* in any one (1) religious complex.

(3) It houses no more than twelve (12)*residents* at any one (1) time provided

that a minimum floor space of one hundred (100) square feet suitable for shelter is provided for each *person* sheltered.

(4) No individual or*family* resides in the *religious shelter unit* for a period longer than eighteen (18) months, and no *person* or *family* *shall* be readmitted until at least fourteen (14) days have elapsed from the last residency at the shelter.

(5) It is located in a church or synagogue which is established on the site for a period of one (1)*year* or longer.

(6) It provides an employee or volunteer to maintain continuous on-site supervision of the*religious shelter unit* .

(7) To prevent the creation of a defacto social service district, no more than one (1)*religious shelter unit* *shall* be located in any three-quarter (3/4) mile radius (determined by a straight line and not *street* distances).

(8) Prior to the establishment of the*religious shelter unit* a permit is issued by the zoning inspector.

(9) It is not located within a*primary reservoir watershed protection area* , or an Airport Overlay District.

(Ord. No. 895-TC-383, §6, TC-21-91, 12-3-91; Ord. No. 810-TC-268, §2, TC-6-86, 6-22-86; Ord. No. 128-TC-186, §2, TC-235, 6-7-83; Ord. No. 1995-748-TC-121, §1, TC-25-95, 10-18-95)

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Residential development sales office or model home.

A residential development sales office or model home*shall* meet all of the *following* :

(1) The use of the office*shall* be for the initial sale or lease of *rooming units* , *dwelling units* , *properties* or *buildings* within the residential development.

(2) There*shall* be no signage for a residential development sales office or model home on the *premises* in a *residential district* except for one (1) ground announcement *sign* , not internally illuminated, built to a maximum size of six (6) square feet in area, and three and one-half (3 1/2) feet in height and located on the sales office or model home *lot* .

(3) For a developing residential subdivision, any phase containing a residential development sales office or model home*shall* contain a minimum of five (5) acres and intended for a minimum of ten (10) *dwelling units* .

(4) The *building* *may* be *used for* such sales purposes for a period of three (3) *years* , but the period can be extended by the Director of Inspections on a semi-annual basis, provided the *owner* can show reasonable cause for such extensions and the unit remains *occupied* and used. In no event will the sales office or model home be continued when all of the *lots* , *rooming units* , or *dwelling units* of the development phase or *building* are sold or leased, excluding the sales office *lot* or model home *lot* within a subdivision.

(5) No sales office or model home*shall* be *used for* any other retail purpose.

(6) For a developing residential subdivision, the*building* must be located on an approved *lot* intended to be *occupied* by a *dwelling* , except for facilities located in recreational *buildings* . For all residential developments, the *building* must be located to comply with applicable district *yard* setbacks.

(7) Flood and display lighting*shall* be shaded, shielded or directed so that light intensity or brightness *shall* not disturb surrounding *premises* and *shall* not

exceed four-tenths (0.4) maintained footcandle illumination at any *lot* line.

(8) The*building* *used for* the sales office is either constructed and intended for ultimate residential use as part of the residential development or a temporary modular office unit. If a temporary modular office unit is constructed, the *following* additional conditions *shall* be met:

a. The modular office unit must be placed on a proper foundation, as recommended by the manufacturer.

b. There will be provided no greater than one (1) temporary off-street parking space per three hundred (300) square feet of office*floor area gross* , but in no case *shall* less than three (3) temporary off-street parking spaces be provided. The off-street parking surface treatment *may* be of gravel or other material which does not meet the requirements of 10-2081(b)(1)a.

c. Skirting and natural planting shrubs *shall* be installed around all sides of the modular office unit in accordance with the *following* :

1. Skirting*shall* consist of any weatherproof material providing a visual barrier between the underside of the modular office unit and the stand; and

2. All natural shrubs*shall* be evergreen, a minimum of thirty-six (36) inches tall, and planted five (5) foot on center, but no one (1) side *shall* have less than two (2) plants.

d. At the end of the maximum time period allowed for this use per subsection (4) above, the*property* *owner* *shall* remove the temporary modular office unit, the foundation, required parking, signage or other physical structures such that natural plant materials *shall* solely occupy the *lot* until such time that a permanent use allowed within the zoning district is established.

e. The term modular office unit as used herein*shall* have the same meaning characteristics as required by the North Carolina State Building Code.

(Ord. No. 1992-28-TC-394, §1, 8-4-92; Ord. No. 1998-431-TC-172, §1, 10-11-98)

Residential institution in a ***residential zoning district.***

After application* of this section, a*residential institution* in any *residential zoning district* *shall* meet all the *following* :

(1) The*buildings* and associated *accessory buildings* located on the site, including singular or collective expansions thereof, *shall* not exceed twenty-five thousand (25,000) square feet of *floor area gross* . Preliminary *site plan* approval by the Planning Commission or *City Council* in accordance with §10-2132.2 is required when the total *floor area gross* exceeds twenty-five thousand (25,000) square feet. This approval requirement *shall* also apply when the existing structure(s) was constructed without preliminary *site plan* approval by the Planning Commission or *City Council* and the existing structure(s) and the expansion collectively exceed twenty-five thousand (25,000) square feet *floor area gross* .

(2) The peak stormwater runoff leaving any site for the*two-year* and *ten-year* *storms* *shall* be no greater for post-development conditions than pre-

development conditions. The same methodologies used to calculate stormwater runoff must be *used for* both pre-development and post-development conditions. The stormwater runoff control requirements of this section *shall* not apply to one (1) or more of the *following:*

a. The increase in peak stormwater runoff between pre-development and post-development conditions for the*two-year* and *ten-year storms* is ten (10) per cent or less.

b. The maximum*impervious surface* coverage of the *lot* is no more than fifteen (15) per cent and the remaining pervious portions of the *lot* are utilized to convey and control the stormwater runoff of the *lot* to the maximum extent practical. Any *lot* which is exempted from the runoff control requirements by subsection (2)b., *shall* comply with all the requirements of subsection (2) whenever:

1. The exempted*lot* is subdivided; or

2. The exempted*lot* size is reduced by recombination; or

3. *Impervious surfaces* on the exempted *lot* equals or exceeds fifteen (15) per cent.

c. Compliance with the runoff limitations in subsection (2) above would result in greater adverse downstream impact, such as local flooding, as determined by*City* approved engineering studies.

d. The*site plan* is situated on a *lot* one-half (1/2) acre or less in aggregate size that is either recorded before May 1, 2001 or is part of subdivision approved for recordation before May 1, 2001 that has not sunsetted.

e. The*site plan* is situated on a *lot* one-half (1/2) acre or less in aggregate size approved after May 1, 2001 which cumulatively contains less than twelve thousand (12,000) square feet of *impervious surface* , including *impervious surfaces* of related on-site or off-site facilities.

f. Substitution of*impervious surfaces* when all the standards of §10-2146.2(a)(5) are met.

g. Developments that comply with the stormwater control*master plan* approved for its drainage basin are exempted from the requirements of subsection (2) above. Compliance with stormwater control *master plan shall* include the installation within the development of all stormwater control measures shown on the stormwater control *master plan* , payment of fees in lieu of installation, when allowed by the *City* , and payment of any applicable drainage fees.

Projects exempted herein*shall* protect all affected lands and receiving watercourses from accelerated erosion as defined in Chapter 5, Part 10.

Notwithstanding the foregoing, the*City* reserves the right to require stormwater runoff control measures for projects without any measures, and the *City* reserves the right to require additional stormwater runoff control measures for projects which are complying with subsection (2) if stormwater runoff from the site will cause adverse effects on other *properties* including without limitation public *streets* , greenway, and utility easements.

(3) The additional traffic generated to and from the site during peak travel periods, combined with the background traffic volume traveling on roadway(s) would not reduce the roadway or nearby intersections capacity below level-of-

service "D," as defined in the Highway Capacity Manual, 1994. Sight distance and back of curb radii *shall* be adhered to as set forth in sections 4.5, 4.6, and 4.7 of **City of Raleigh Transportation Handbook.**

(4) If a*floor area ratio* (F.A.R.) of .33 or a *building lot coverage* of twenty (20) per cent is exceeded and the adjacent *property* contains a residential density of less than fifteen (15) units per net acre, then the *transitional protective yard* required by §10-2082.9 *shall* be increased from a Type C yard to a Type B yard.

If a*residential institution* fails to meet all of the above standards, it *may* be approved by the Planning Commission or *City Council* in accordance with §10-2132.2.

If the*residential institution* is a *day care facility* for which a special use is required, then upon a finding by the Planning Commission or *City Council* that the requirements of §10-2144(b) " *Day Care facility* (child or adult)", standards (2) through (10) inclusive are met, no special use permit issuance by the Board of Adjustment is required. If the *residential institution* is a private/parochial school for which a special use permit is required, then upon a finding by the Planning Commission or *City Council* that there is a minimum of five hundred (500) square feet of total land area per enrolled pupil, no special use permit by the Board of Adjustment is required. If the *residential institution* is a *special care facility* for which a special use permit is required, then upon a finding by the Planning Commission or *City Council* that the requirements of §10-2144(b) " *Special care facility* ", standards (2) through (10) inclusive are met, no special use permit issuance by the Board of Adjustment is required.

Cross reference: Accessory fund raising activity for a residential institution, §10-2072(b).

*Editor's note: This regulation, including application of stormwater controls for the*two-year storm* , first became applicable on September 1, 1997. Ordinance No. (1997) 137-TC-18. This regulation for the *ten-year storm* first became applicable on February 29, 2004, Ordinance No. (2004) 571-TC-243A. (Ord. No. 1997-137-TC-18-96, 6-17-97; Ord. No. 204-571-TC-243A, §3, TC-2-04, 2-17-04)

(Ord. No. 1997-137-TC-153, §52, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §§33--37, 39, TC-3-99, 8-3-99; Ord. No. 2002-154-TC-214, §1, TC-1-02, 2-5-02; Ord. No. 2003-373-TC-231, §12, TC-23-02, 2-4-03; Ord. No. 2004-571-TC-243A, §§2, 3, TC-2-04, 2-17-04; Ord. No. 2004-647-TC-248, §7, TC-4-04, 6-1-04; Ord. No. 2004-721-TC-260, §4, TC-16-04, 10-5-04)

Residential related service .

Residential related services *shall* meet all of the *following* :

(1) *Residential related services* are allowed only as an *accessory use* to a *multi-family* , *group housing development* , *cluster unit development* , *unit ownership (condominium) development* , *townhouse development* , *congregate living structure* , *congregate care structure* *or* *life care community* .

Cross reference: Planned residential developments, Article F.

(2) The services provided are limited to one (1) or more of the*following* : *eating establishments* with no on-premise alcohol consumption; beauty shops; barber shops; laundry facilities; *food stores* ; newsstands; drug stores; flower and gift shops; vending machine sales and shared food preparation and common dining halls for *congregate care* , *congregate living* , *and* *life care communities* .

(3) *Floor Area Gross* .

a. The*floor area gross* of all *residential related services* *shall* not exceed a sum equal to twenty-five (25) square feet per constructed

dwelling unit in the residential development, and no facility *shall* exceed two thousand (2,000) square feet, except that laundry facilities *shall* be excluded from these limitations.

b. *Life care communities* , *congregate care structures* , and *congregate living structures* *shall* be exempted from the limitations of paragraph (3)a. above if all of the *following* are met:

1. No *building* or structure in the development is located within thirty (30) feet from the exterior boundary lines of the development.

2. No parking, except for detached*single-family dwellings* , *shall* be located within thirty (30) feet from any *lot* zoned a *residential district* or a *lot* containing a *dwelling* , or *congregate care or congregate living structure* .

3. For structures containing related*residential services* and *dwelling units* or rooming units a *transition protective yard* meeting the standards for a medium impact use *transition protective yard* contained in §10-2082.9 *shall* be installed between these structures and the perimeter of the *life care* , *congregate care* , or *congregate living* *development* .

4. The maximum square footage of *residential related services* *shall* be fifty (50) square feet per constructed *dwelling unit* or *rooming unit* in the development.

State law reference:**North Carolina Building Code** mixed occupancy separation regulations.

(4) *Residential related services* , except laundries, *may* not exceed fifty (50) per cent of the *building floor area gross* . The remainder of the *building* must be devoted to *dwellings* or *accessory uses* other than storage or *residential related services* .

(5) No signage, service facility, merchandise, including display windows,*shall* be visible from outside the *building* and recreation facility.

(6) Off-street parking for the*residential related service* *shall* be provided in accordance with §10-2081. The off-street parking spaces required to be maintained for the *residential related service* *shall* be in addition to the spaces required for the *dwellings* . However, the number of parking spaces required by §10-2081 for the *residential related service* *may* be reduced by the ratio of the total parking required for *dwellings* of the development that are located within four hundred (400) feet of the *residential related service* to the total required off-street parking for all *dwellings* in the residential development.

(7) Public entry to*residential related services* , except laundries, must be from the interior of the residential *building* , recreational facility, community center, or other *accessory structure* , with no direct outside public entrance.

(8) *Residential related services* are only allowed in Rural Residential, Residential-2, Residential-4, and Special Residential-6 Districts as part of a *cluster unit development* .

(9) *Residential related services* are not allowed in *primary reservoir watershed protection areas* .

Editor's note: Commercial uses which are allowed as part of*residential related services* can also be permitted in *nonresidential zoning districts* , in accordance with the requirements of the applicable zoning district, without complying with the above standards (1) through (9).

Cross reference: Nonresidential related service, §10-2144.

(Ord. No. 799-TC-267, §§11, 12, TC-21-85, 1-1-87; Ord. No. 31-TC-296, §69, TC-16-87, 12-1-87; Ord. No. 319-TC-335, TC-29-88, 2-26-89; Ord. No. 1992-61-TC-398, §1, 9-15-92; Ord. No. 1995-748-TC-121, §1, TC-25-95, 10-18-95)

Rest home .

In the Thoroughfare District the minimum land area required for any*rest home* , or any residential development including a *rest home* , is ten (10) acres. In the Special Residential-30 District, the developments with either three (3) or more *dwelling units* or *equivalent dwelling* on a *lot* or with a residential density of more than twenty (20) *dwelling units* and *equivalent dwelling units* per net acre *shall* comply with the standards in §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District."

Cross reference:*Equivalent dwelling unit* , §10-2073.

(Ord. No. 1997-137-TC-153, §53, TC-18-96, 6-17-97)

Retail sales - outdoor mobile vending cart.

A*retail sales - outdoor mobile vending cart* in the Shopping Center, Neighborhood Business, Business, Thoroughfare, Industrial-1 or Industrial-2 zoning district *shall* meet all of the following:

(1) *Retail sales - outdoor mobile vending carts shall* be located on the same *lot* as a *principle building(s)* with a minimum *lot* size of two and one-half (2 1/2) acres.

(2) The maximum number of*outdoor mobile vending carts* permitted on individual *lots shall* comply with all of the following:

a. The maximum number of*outdoor mobile vending carts* per *lot shall* be in accordance with the following:

1. One (1)*outdoor mobile vending cart* on *lots* less than five (5) acres.

2. Two (2)*outdoor mobile vending carts* on *lots* of five (5) acres or greater but less than ten (10) acres.

3. Three (3)*outdoor mobile vending carts* on *lots* of ten (10) acres or greater but less than fifteen (15) acres.

4. Four (4)*outdoor mobile vending carts* on lots of fifteen (15) acres or greater;

b. A maximum of one (1) *outdoor mobile vending cart* when tenant occupancy equates to less than fifty percent (50%) of *the floor area gross* of the *principal building* (s); and

c. The amount of space occupied by*retail sales- outdoor mobile vending carts shall* not exceed one percent (1%) of the occupied *floor area gross* of the *principal building* (s).

(3) The dimensions of any*retail sales - outdoor mobile vending cart may* not

exceed any of the following: fifty (50) square feet in area, a maximum length or width of ten (10) feet nor a maximum height of eight (8) feet. The maximum height of eight (8) feet shall include any protection provided for the vendor or customer from outdoor conditions in the form of an umbrella, or other protective covering which *must* be attached to the cart.

(4) All signage*must* be attached to the cart and *shall* be limited to a maximum of thirty-two (32) square feet.

(5) That a zoning permit be obtained in the Inspections Department following a review of the final*site plan* .

(6) All required Wake County and City of Raleigh permits and licenses*shall* be clearly displayed on the vending cart.

(7) The vending cart*must* be located within twenty-five (25) feet of a *principal building* facade containing a primary pedestrian entrance, located no closer than ten (10) feet to any entrance or exit and *may* not be situated such that the free flow of pedestrian or vehicular traffic is restricted.

(8) Hours of operation for any outdoor mobile vending carts*shall* be limited to the hours of operation of the associated *principal use* , but in no event be in operation between the hours of 11:00 p.m. and 8:00 a.m.

(9) Sales of goods and merchandise*shall* be limited to food and beverage items, fresh cut flowers and original artworks and handicrafts.

(Ord. No. 2006-985-TC-584, §4, TC-17-05, 4-4-06)

Room rental in ***dwelling unit*** **(lodger).**

Room rental in any*dwelling unit* unless otherwise approved by the Board of Adjustment as a *rooming house* , in accordance with §10-2144, *shall* meet all of the *following* :

(1) The structure containing the room rental is a*single-family dwelling* located on its own *lot* and said *lot* fronts on a public *street* .

(2) The*single-family dwelling* is *occupied* by the *property owner* .

(3) The room(s)*used for* rental purposes *shall* contain no more than one-fourth (1/4) of the *floor area gross* of the total *dwelling* .

(4) The rental rooms*shall* not house more that two (2) *persons* .

(5) The*lot* area for the combined *single-family dwelling* and rental room(s) equals or exceeds the minimum *net lot area* for a detached *single-family dwelling unit* in the applicable zoning district as set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073.

(Ord. No. 511-TC-232, §5, TC-270, 3-26-85; Ord. No. 499-TC-52, TC-83, 5-18-77)

School, church or government building adaptively reused as an office, agency or studio, operating on a not for profit basis, for a professional, business, agent, or political, labor or service association or agency.

A school, church or government building adaptively reused as an office, agency or studio, operating on a not-for-profit basis, for a professional, business, agent, or political, labor or service association or agency located in any Office and Institution-1 and -2 Districts*shall* meet the respective provisions of *floor area ratio (F.A.R.)* regulations of

§10-2035(d)(1)c. and §10-3036(d)(1)c. and of §10-2072(b), "Office, agency, or studio of a professional, business, agent, or political, labor, or service association" and "Office, agency, or studio of a professional, business, agent, or political, labor, or service association in the Office and Institutional-1 and -2 Districts - additional *floor area ratio* allowance.

(Ord. No. 1997-137-TC-153, §54, TC-18-96, 6-17-97)

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School - private or parochial.

A school, private or parochial*shall* meet all of the *following* :

(1) Meet the curricular teaching certification of instruction approved by*the State* Board of Education.

(2) Be located on a*lot(s)* with a total land area of five hundred (500) square feet area per enrolled pupil.

(3) Be located outside any Airport Overlay District and a*primary reservoir watershed protection area* .

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Scrap materials - indoor storage.

Scrap materials - indoor storage,*shall* meet all of the *following* :

(1) The waste consists of scrap materials from industrial plants, created by stamping, punching, milling, lathing, screw machinery, or like manufacturing process, but not by the wear, crushing, or deterioration of finished products.

(2) Storage of materials*shall* be in enclosed *buildings* .

(3) The scrap materials*shall* be transported to and from the *premises* in containers, cartons, or enclosed vehicles.

(Ord. No. 1992-87-TC-400, §5, 11-4-92)

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Shopping area .

Shopping areas *shall* meet the provisions of §10-2124.

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Shopping center .

Shopping centers *shall* meet the provisions of §10-2124.

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Single-family detached ***dwelling unit*** **(farm house in Agricultural Productive District).**

A*single-family* detached *dwelling* *shall* meet all of the *following* :

(1) The*dwelling* *shall* be located on a *lot* at least eighty thousand (80,000) square feet in area.

(2) The occupants of the*dwelling* *shall* be engaged in agricultural activities on the land sufficient to produce a gross income to qualify for special *property* tax reduction as agricultural land under N.C. *G.S.* §105-277.3.

(3) The*lot* *may* contain both *principal* and accessory agricultural or *forestry*

structures, and one (1) detached *single-family dwelling* and its residential *accessory structures and uses* .

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Single-family detached ***dwelling*** **(in Thoroughfare District).**

A*single-family* detached *dwelling* located in a Thoroughfare District *shall* be located on a *lot* of at least ten (10) acres in size, or *shall* be part of a residential development of at least ten (10) acres in size.

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Sorority.

In the Thoroughfare District the minimum land area required for any sorority, or any residential development including a sorority*shall* be ten (10) acres. In the Special Residential-30 District, the developments with either three (3) or more *dwelling units* or *equivalent dwelling* on a *lot* or with a residential density of more than twenty (20) *dwelling units* and *equivalent dwelling units* per net acre *shall* comply with the standards in §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District."

Cross reference:*Equivalent dwelling unit* , §10-2073.

(Ord. No. 1997-137-TC-153, §53, TC-18-96, 6-17-97)

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Special care facility.

No*special care facility shall* be located within one thousand two hundred (1,200) feet (determined by straight line from *property* line to *property* line) of an other *special care facility* .

(Ord. No. 2004-721-TC-260, §5, TC-16-04, 10-5-04)

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Supportive housing residence .

Supportive housing residences *shall* meet all of the *following* :

(1) No *supporting housing residence* *shall* be established, constructed, expanded, altered, changed, occupied, or increased in the number of occupants except in accordance with the Housing Code, Article H, Chapter 6 Part 10.

(2) The total number of individuals occupying a*supportive housing residence* does not exceed twelve (12).

(3) No*supportive housing residence* *shall* be established or maintained without a *responsible person* on site.

(4) Off-street parking is provided in accordance with §10-2081.

(5) No*supportive housing residence* *shall* be located within three hundred seventy-five (375) yards (determined by straight line from *property* line to *property* line) of any other *supportive housing residence* or any existing group care facility, family care home or family group home established prior to the effective date of this ordinance.*

(6) The*supportive housing residence* must conform to one (1) or more of the *following* :

a. It is licensed by the federal or state governments.

b. It is funded in part by governmental grants or loans.

c. It provides room and board, personal care, and habilitation services in a family environment.

State law reference: §168-21(1).

Nothing herein*shall* prevent four (4) or fewer *persons* with disabilities, who are unrelated by blood, marriage, or adoption as set forth in the definition of family, §10-2002, from *occupying* any lawful *dwelling* as a *family.*

(Ord. No. 1994-365-TC-71, §14, TC-22-93, 4-5-94; Ord. No. 1999-616-TC-181, §38, TC-3-99, 8-3-99)

*Editor's note: The regulations of this provision first became applicable on June 1, 1994.

Cross reference: Registration of*supportive housing residences,* §12-2161.

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Telecommunication tower less than two hundred and fifty (250) feet in height located within either a ***nonresidential district*** (other than a Conservation Management District) or located on a ***residential institution premises.***

Telecommunication tower less than two hundred and fifty (250) feet in height located within either a*nonresidential district* (other than a Conservation Management District) or located on a *residential institution premises* *shall* meet all of the *following* :

(1) Radio or television or similar reception for adjoining*properties* will not be disturbed or diminished.

(2) The height of the tower does not exceed two hundred and fifty (250) feet.

(3) The lighting of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same*may* be amended.

(4) The minimum yard width from the outside dimensions of the tower, not from guy anchors, and not located within the*property* of a *residential institution,* are as follows:

a. Installation of a new tower where no tower is being replaced.

1. Twenty (20) feet from the*property* line of either any adjoining *lot* which is developed without a *dwelling, congregate care* or *congregate living structure* or vacant *lot* located in a *nonresidential zoning district,* unless increased by subparagraph 2. or 3. below.

2. Two hundred (200) per cent of the tower height, unless the tower is constructed as a monopole in which case the minimum setback*shall* be one hundred (100) per cent of the tower height, but no less than fifty (50) feet, from the *property* line of either any *lot* which is developed at an average residential density of less than fifteen (15) *dwelling units* per acre or a vacant *lot* located in a *residential zoning district* which does not permit a density of fifteen (15) units per acre or greater.

3. One hundred (100) per cent of the tower height from the*property* line of any *lot* zoned a *residential district* allowing a density of fifteen (15) or greater units per acre or which is

developed at an average residential density equal to or greater than fifteen (15) *dwelling units* per acre.

4. Twenty (20) feet from any public*street.*

The setbacks required by subsections 2. and 3. above*shall* not be applicable to any residential *dwelling* (s) that is not a permitted use in the zoning district, or the *residence* of a caretaker or watchman accessory to a permitted industrial use.

If a telecommunication tower is located on the*property* of a *residential institution,* the setbacks in subsections 1.--4. above *shall* apply, except that in no case *shall* a tower be located less than two hundred (200) per cent of the tower height to the *property* line of a *lot* developed with a *dwelling, congregate care or congregate living structure,* or a vacant *lot* located in a *residential zoning district,* unless a *protective yard* is preserved or installed adjacent to the *property* line of a *lot* developed with a *dwelling, congregate care or congregate living structure,* or a vacant *lot* located in a *residential zoning district.* Said yard *shall* be a *natural protective yard* of a width equal to the tower height, and *shall* contain plantings meeting the minimum standards for both the fifty (50) foot wide Thoroughfare District *protective street yard,* 10-2045(d)(2), and subsection (6) below.

b. Installation of a new tower where an existing tower is being replaced.

If one or more existing telecommunication towers is to be concurrently removed and replaced by a new tower, then the required setback exceeding one hundred (100) feet in subsections 2. and 3. above*may* be reduced by fifteen (15) per cent for each additional telecommunication user in excess of that of the existing tower. Evidence *shall* be presented by the applicant that each additional user will upon installation occupy the new tower.

The*City Council may* grant a further reduction to the setbacks for the removal of an existing tower and replacement with a new tower with more telecommunications users in accordance with 10-2145(b), "Telecommunication tower", subsection (4).

The provisions of this subsection are supplemental to the yard regulations in §10-2075 and do not lessen or diminish those regulations.

(5) The base of the tower and each guy anchor are surrounded by a 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. Except for fence and wall entrances, all fences and walls *shall* be screened with plant material so that no more than two-thirds (2/3) of the surface of the fence or wall is visible within three (3) *years* after erection of the structure from a public *street* or from any adjoining *lot* which contains a *dwelling, congregate care* or *congregate living structure* , or from any adjoining *lot* zoned a *residential district.*

Cross reference: Fences and walls, §§10-2085 and 10-2086.

(6) The area adjoining*street* rights-of-way *shall* contain a minimum *street protective yard* of twenty (20) feet wide as measured perpendicular to the public *street* rights-of-way. This *street protective yard shall* comply with the requirements of §10-2082.5. No *street yard shall* be required along *street* frontage located a distance from the tower of more than twice the height of the tower.

A*transitional protective yard* which contains the same plantings required in §10-2082.9 for low impact uses *shall* be installed within all the *yard areas* required by subparagraph (4)a.2. and 3. above. The installation of any fence, wall, planting, or *earthen berm shall* not reduce or lessen this requirement.

In instances where a telecommunication tower is locating on a developed*lot* in accordance with §10-2088 of this Code, and the existing physical development on the *lot* precludes the full installation of the aforementioned *protective yards* , an alternate method of compliance as set forth under the conditions of §10-2082.4 *may* be approved.

(7) The output power from the tower*shall* not exceed federally-approved levels for exposure to electronic magnetic force (EMF).

(8) If determined by the*City* that the proposed tower is situated in a location which will benefit the *City* 's telecommunication systems, then, the tower *shall* be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.

(9) The tower is either less than one hundred (100) feet in height or located no closer than one thousand (1,000) feet (determined by a straight line and not*street* distance) to a tower greater than one hundred (100) feet in height which was constructed after the effective date of this ordinance.

Editor's note: This ordinance first became effective on August 6, 1995.

(10) If the tower is located within an Historic Overlay District or Metro Park Protection Overlay District, the tower does not exceed the maximum*building* height allowed within the underlying zoning district.

(11) No tower *shall* be approved unless evidence is presented that at least one (1) telecommunication user upon installation will occupy the tower. If the tower is between one hundred (100) feet and one hundred fifty (150) feet in height, the tower shall be engineered and constructed to accommodate a minimum of two (2) telecommunication users. If the tower equals or exceeds one hundred fifty (150) feet in height but is less than one hundred eighty (180) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of three telecommunication users. If the tower equals or exceeds one hundred eighty (180) feet in height, but is less than two hundred (200) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of four (4) telecommunication users. If the tower equals or exceeds two hundred (200) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of five (5) telecommunication users.

(12) Unless enclosed by a*closed fence* at least eight (8) feet in height to totally obscure the *building* from view, the exterior appearance of all *buildings* located in a *residential district shall* look like a residential *dwelling,* including without limitation, pitched roof(s) and frame or brick veneer construction. The *closed fence shall* be the same or compatible in terms of texture and quality with the material and color of the surrounding *dwellings.* For each potential telecommunication user to occupy the tower, there *shall* be a minimum of six hundred (600) square feet reserved on the plans for associated *building(s)* and equipment, unless the applicant provides evidence that less space is necessary.

(13) That within six (6) months after approval of a*plot plan* for the telecommunication tower the tower must be installed and operational or the *plot plan shall* be void. No telecommunication tower approved prior to application of this regulation * , which is discontinued, unused, or unoccupied by any telecommunication user for a continuous period of three hundred and sixty-five

(365) days or more *shall* be restarted, resumed, or reoccupied without the prior approval of a new *plot plan* complying with the then applicable City Code provisions.

(14) That the applicant has provided evidence that the proposed tower meets FAA requirements, and is in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.

(15) That for any telecommunication tower approved after application of this regulation* which is discontinued, unused, or unoccupied by the telecommunication user for a continuous period of three hundred and sixty-five (365) days or more, the tower*shall* be removed within thirty (30) days of notification of the *property owner* by the Chief Zoning Inspector.

Editor's note: This regulation first became applicable on February 15, 2000 (Ord. No. 2000-732-TC-188, TC-17-99).

(Ord. No. 1995-692-TC-113, §4, TC-15-95, 8-1-95; Ord. No. 1997-137-TC-153, §55, TC-18-96, 6-17-97; Ord. No. 2000-732-TC-188, TC-17-99, §§3--8, 2-15-00; Ord. No. 2003-373-TC-231, §13, TC-23-02, 2-4-03)

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Temporary event.

A temporary event lasting one (1) day*shall* be permitted on the *premise* without complying with conditions (1) through (8); provided that, no more than three (3) temporary events in any one (1) calendar *year* *shall* be permitted on that *premise.* All temporary events lasting more than one (1) day or occuring more than three (3) times on any *premise* in any one (1) calendar *year* *shall* meet all of the *following* :

(1) The proposed temporary event is a use permitted within the zoning district and, with the exception of landscaping,*shall* meet applicable zoning, conditional use, special use permit, and setback requirements.

(2) No*premise* *shall* be the site of temporary events exceeding a collective total of twenty (20) days, or four (4) weekends, within any one (1) calendar *year* .

(3) Off-street parking*shall* be provided in accordance with the standards of §10-2081(a) for the type of use maintained. If a temporary event locates on a developed *lot* , the required parking for the *principal use* *may* be utilized to fulfill this requirement when the *principal use* is required to provide at least two (2) off-street parking spaces. The parking surface requirements of §10-2081(b)(1) *shall* not apply to temporary events.

(4) All outdoor activities*shall* be discontinued by 11:00 p.m. when located closer than five hundred (500) feet to a *dwelling* or a *congregate care* or *congregate living structure.*

(5) Flood and display lighting is shaded, shielded, or directed so that the light intensity or brightness*shall* not disturb surrounding *premise(s)* , and lighting *shall* not exceed four-tenths (0.4) maintained footcandle illumination at *property* lines in a *residential zoning district,* or on a *lot* occupied by a *dwelling, congregate care* or *congregate living structure.*

(6) That a *plot plan* drawn in accordance with §10-2132.1(b) and showing the location of all off-street parking, traffic circulation, tents concession stands, restrooms, *signs,* lighting, sound amplification devices, storage areas, crowd control devices, or other related structures be submitted to the Inspections Department for their approval, and that a zoning permit be issued by the

Inspections Department prior to any event taking place.

(7) All floodprone area regulations of Part 10 Chapter 4 of this Code are met.

(8) There are no unauthorized encroachments on public rights-of-way.

(Ord. No. 1993-296-TC-68, §4, TC-23-93, 12-7-93)

_____

Townhouse development .

Townhouse developments *shall* meet the provisions of §10-2109.

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Trade show and temporary retail activity within a ***hotel*** **or** ***motel.***

A trade show and temporary retail activity located in a*hotel* or *motel* within any Office and Institutional-2 or Buffer Commercial District *shall* meet all the *following* :

(1) No more than ten (10) per cent of the*building floor area gross* is devoted to such use. This ten (10) per cent is in addition to the three-thousand (3,000) square foot limit in the Buffer Commercial District for any one (1) business establishment.

(2) No signage for such activities or shows is visible from outside the*building* .

(3) No outside storage of merchandise is located within two hundred (200) feet of a*dwelling* or *congregate care or congregate living structure* , except in Buffer Commercial District, where no outdoor storage is permitted.

(4) The duration of a single trade show or temporary retail activity will not exceed thirty (30) days.

Editor's note: This provision was formerly codified as partof a special use in §10-2145. (Ord. No. (1986) 867-TC-276, §5, TC-14-86, 1-1-87)

(Ord. No. 1997-137-TC-153, §56, TC-18-96, 6-17-97)

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Tree disturbing activity except a ***minor tree removal activity*** .

Any*tree disturbing activity* , except a *minor tree removal activity* , *shall* meet all of the *following* :

(1) That a tree protection plan is approved by the*City Forestry* Specialist in the Inspections Department for all applicable tree protected areas, and that the tree protection measures are in place in the field prior to the issuance of any *City* permit and prior to engaging in any *tree disturbing activity.*

(2) That no*tree disturbing activity* , except a *minor tree removal activity, shall* within a thirty-two (32) foot wide perimeter buffer when the adjoining or adjacent *property* is "vacant". And, that no *tree disturbing activity,* except a *minor tree removal activity, shall* occur within a sixty-five (65) foot wide perimeter buffer when the adjoining or adjacent *property* is a roadway, other than a *thoroughfare* or is not "vacant".

The term "vacant" as used herein means that at the time of application for development there is no*building* or structure or *vehicular surface area* within two hundred (200) feet from the common *property* line of the *property* being developed and the adjoining or adjacent property.

But nothing in this subsection*shall* prevent the otherwise lawful grading and

installation of street, utility or other improvements shown on subdivision plans approved pursuant to Part 10 Chapter 3 and/or shown on *site plans* approved pursuant to Part 10 chapter 2. And nothing in this subsection *shall* prevent installation of access ways in accordance with subsection (3) below. *Forestry general* is allowed in the perimeter buffers provided that the landowners *shall* first record with the local *County* Register of Deeds a covenant running with and binding the land stating: "That *forestry general* operations were initiated within regulated perimeter buffers of the *real property* on _____ (date and year), and that pursuant to State Law, no *building* permit, *site plan* , or subdivision plan will be approved by the local governing authority for a period of five (5) years *following* harvesting." A copy of this covenant recorded with the local *County* Register of Deeds *shall* be provided to the Chief Zoning Inspector and to the Planning Director.

State Law References: 2001 Sessions Laws Chapter 191 §1(d) made applicable to the*City* of Raleigh by section 1 of 2003 Session Laws Chapter 128.

In lieu of protecting perimeter buffers, tree conservation areas conforming to all the requirements of §10-2082.14et. seq. *may* be designated instead provided that, all substitute tree conservation areas are shown on recorded plats;

(3) That access ways thru perimeter buffers *shall* not exceed twenty-five (25) feet in width, and all construction entrances of the access ways must be constructed in accordance with latest *City* "Guidelines for Land-Disturbing Activities" or latest State of North Carolina "Erosion and Sediment Control Planning and Design Manual", whichever is more stringent. At least one (1) access way *shall* be permitted, and additional access ways *may* be allowed provided such additional access ways are justified by a North Carolina registered forester and additional access ways fronting the same roadway are spaced at least one thousand (1,000) feet apart;

(4) That no*champion tree,* including its *critical root zone* , is subjected to any *tree disturbing activity* ;

(5) That the allowable hours of operation any given day are between 7:00 a.m. and 8:30 p.m., other than emergency work for the preservation of public health or safety;

(6) That all applicable laws, including soil erosion and sedimentation control and tree protection regulations, are obeyed.

A violation of this conditional use regulation*shall* subject the offender to a civil penalty equal to the greater of one thousand dollars ($1,000.00) for the first tree plus thirty-five cents ($0.35) of every square foot of unlawfully disturbed perimeter buffer required by subsection (2) above, but no civil penalty *shall* exceed one-third (1/3) of the current land tax value of the entire parcel wherein the unlawful *tree disturbing activity* occurred. Said civil penalty *shall* be processed as set forth in §10-2152(5). In addition to this civil penalty, within the unlawfully disturbed perimeter buffer, the land *owner shall* install one two-inch caliper (six and one-quarter (6 1/4) inch circumference) tree measured six (6) inches above the ground for each three hundred (300) square feet of all of the unlawfully disturbed perimeter buffer; provided that, in Rural Residential and Residential -2 zoning Districts no more than fifteen (15) per cent of the acreage of the entire tract and no more ten (10) per cent of the acreage of the entire tract of all other zoning districts whereon the unlawful *tree disturbing activity* occurred *shall* be replanted. Prior to any replanting, the *City Forestry* Specialist *shall* first approve a replacement planting and maintenance plan. Replanting areas *shall* follow the priorities of §10-2082.14(b). In accordance with §10-2082.14(b), the replanting areas *shall* be designated as tree conservation areas on plats with delineated metes and bounds descriptions recorded

with the local *County* Register of Deeds. *Following* the recording of this plat, no *tree disturbing activity shall* take place within the designated tree conservation areas except in strict compliance with §10-2082.14.

(Ord. No. 2005-762-TC-264, §8, TC-7-04, 1-4-05)

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Unit ownership (condominium) - residential (dwelling units) and nonresidential developments.

(1) Residential*unit ownership* *shall* meet the provisions of §10-2108.

(2) Nonresidential*unit ownership* *shall* meet the provisions of §10-2122.

_____

Utility apartment .

A*utility apartment* *shall* meet all of the *following* :

(1) The*utility apartment* is physically part of the *single-family dwelling* located on its own *lot* , and said *lot* fronts on a public *street* .

(2) The*single-family dwelling* is *occupied* by the *property* *owner* .

(3) The*utility apartment* *shall* contain no more than one-fourth (1/4) of the *gross floor area* of the total *dwelling* .

(4) The*utility apartment* *shall* not be *occupied* by more than two (2) *persons* .

(5) The*lot* area of the combined *single-family dwelling* and *utility apartment* equals or exceeds the minimum *net lot area* for a detached *single-family dwelling unit* in the applicable zoning district as set forth in the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units, §10-2073.

(Ord. No. 499-TC-52, TC-83, 5-18-77; Ord. No. 511-TC-232, §4, TC-270, 3-26-85)

Cross reference: Rear yard*dwellings* or rear yard garage apartments are prohibited in all zoning districts See Article C, Summary of Requirements by Zoning District.

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Water or sanitary sewer treatment plant, community.

A community water or sanitary sewer treatment plant*shall* meet all of the *following* :

(1) Community water or sewer treatment plants must serve subdivisions or*site plan* developments approved by the *City* in accordance with Part 10, chapter 3, or §10-2132.2(c).

(2) Community water treatment plants must meet the standards of §10-3055(d), and community sewer treatment must meet the standards of §10-3056(d).

(3) Community water or sewer treatment plants must conform with §8-2063(d).

(Ord. No. 278-TC-326, TC-18-88, 11-20-88; Ord. No. 1995-760-TC-122, §11, TC-20B-95, 11-21-95)

Cross reference:*City* purchase of community utility systems §8-2074.

Sec. 10-2073. LOT AREA REQUIRED FOR EACH DWELLING UNIT AND EQUIVALENT DWELLING UNIT AND RESIDENTIAL DENSITY.

(a) Definitions.

(1) ***Dwelling unit*** . One (1) or more rooms physically arranged as to create an independent house-keeping establishment with separate facilities for cooking, sleeping, and toilet. A *dwelling unit* can be *occupied* by only one (1) *family* . A *dwelling unit* can also contain either a *utility apartment* or rented rooms in accordance with §10-2072 (b).

(2) ***Equivalent dwelling unit*** . Any room or rooms not provided with cooking facilities or bathroom facilities, or both, *occupied* by four (4) *persons* within a *rooming house* , fraternity, sorority, *bed and breakfast inn* , orphanage, convent, monastery, *rest home* or any *residence* , however styled, is equivalent to a *dwelling unit* . *Family care* , *family group* , *group homes* , *hotels* without *dwelling units* , *hospitals* , recreational campgrounds for park visitors, dormitories as an *accessory use* to a school, *emergency shelters* , penal institutions, and military barracks are not *equivalent dwelling units* .

(3) ***Net lot area*** . *Net lot area* is calculated from the adjoining *street* right-of-way, provided that when either a new proposed public *street* right-of-way has been established by *City Council* or an adjoining public *street* stub is to be extended, the number of *dwelling units* permitted *shall* be calculated from outside the right-of-way line which has been established and the proposed right-of-way of the extended stubbed *street* . Rights-of-way *may* be added to the *net lot area* in accordance with §10-2074.

Cross reference:*Principal Building* or *Use* on a *lot* , §10-2088.

(Ord. No. 678-TC-255, §1, TC-22-85, 11-26-85)

(b) Establishment of Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units.

No*building* or structure *shall* be constructed, expanded, altered, changed, or *occupied* except in conformance with the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units which is incorporated herein.

(Ord. No. 823-TC-371, TC-11-91, §§3, 4, 5, 7-21-91; Ord. No. 1992-43-TC-397, §31, TC-10-92, 9-1-92)

(c) Method of Calculation.

(1) Residential density.

Residential density expressed in units per net acre is computed by the formula:

TABLE INSET:

	Residential density	=	*number of dwelling units plus equivalent dwelling unit* *net lot area in acres*

Example:

Given: 7*dwelling units* , .92 acres *net lot area*

TABLE INSET:

	Residential density	=	*7 dwelling units* *.92 acres net lot area*

TABLE INSET:

	Residential density	=	*7.6 units per net acre*

a. The residential density*shall* not exceed the maximum number of *dwelling units* and *equivalent dwelling units* per acre shown for the applicable zoning district on the Schedule of Minimum Lot Areas for Dwelling Units and Equivalent Dwelling Units.

b. In the event the *property* is subject to a conditional use zoning district with special density and equivalent density or *net lot area* regulations that are more stringent than required by this section, then the density, equivalent density and *net lot area* regulations of the conditional use district *shall* apply.

GRAPHIC LINK:Section 10-2073(b) SCHEDULE OF MIN. LOT AREAS FOR DWELL. UNITS AND EQUIV. DWELL. UNITS

GRAPHIC LINK:Section 10-2073(b) SCHEDULE OF MIN. LOT AREAS FOR DWELL. UNITS AND EQUIV. DWELL. UNITS (Cont'd.)

c. No transfer of residential density*shall* be permitted among *lots* , tracts or parcels of land nor from one (1) zoning district to another unless approved in accordance with §10-2074 under a Conservation Management District transfer, *thoroughfare street* density transfer, gross density exception, greenway transfer, or approved as part of a *cluster unit development* density transfer, §10-3071(b)(3).

(Ord. No. 398-TC-341, §5, TC-8-89, 7-5-89; Ord. No. 1995-760-TC-122, §12, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96)

d. *Dwelling units* or *rooming units* contained in a *congregate care structure or congregate living structure* *shall* be equivalent to one-half (1/2) a *dwelling unit* . For instance, in a Residential-10 District, ten (10) *dwelling units* are permitted on a net acre of land; in a *congregate care structure or congregate living structure* , twenty (20) *dwelling units* would be permitted on a net acre of land.

(2) Minimum ***net lot area*** .

a. The required minimum*net lot area* is computed by the formula:

TABLE INSET:

Minimum *net lot area* * =	minimum square feet per unit required by the applicable zoning district from the table entitled "Minimum Square Feet Per Dwelling Unit or ***Equivalent Dwelling Unit*** " multiplied by the number of units to be built
* No *lot* containing three (3) or more *dwelling units* or *equivalent dwelling units* *shall* be less than 8,000 square feet in *net lot area* ; no *lot* containing two (2) *dwelling units* or *equivalent dwelling units* *shall* be less that 6,500 square feet in *net lot area* ; and no *lot* containing one (1) *dwelling unit* or *equivalent dwelling unit* *shall* be less than 5,000 square feet in *net lot area* .	

(Ord. No. 946-TC-164, §§4, 5, TC-213, 7-22-82; Ord. No. 823-TC-371, TC-11-91, 7-21-91)

b. The*net lot area* for a *lot* which abuts an alley *may* include one-half (1/2) the width of such alley.

MINIMUM SQUARE FEET PER DWELLING UNIT

AND EQUIVALENT DWELLING UNIT *

TABLE INSET:

Zoning District	Square Feet Required Per Unit
Rural Residential**	40,000
Residential-2	20,000
Residential-4	10,890
Residential-6	7,260
Special Residential-6	7,260
Manufactured Home	7,260
Residential-10	4,356
Residential-15	2,904
Residential-20	2,178
Special Residential-30	1,452
Residential-30	1,452
Agricultural Productive	43,560
Buffer Commercial	4,356
Residential Business	4,356
Neighborhood Business	4,356
Business Zone	4,356
Thoroughfare	2,178***
Shopping center	2,904***
O&I-1	2,904***
O&I-2	2,904***

* In the event the*property* is subject to a conditional use zoning district with special density or *net lot area* regulations that are more stringent than required by §10-2073, then the density and *net lot area* regulations of the conditional use district *shall* apply.

** 80,000 square feet in*primary reservoir watershed protection area* of the Reservoir Watershed Protection Area Overlay District.

*** The square feet required per unit*may* be reduced if a *site plan* is approved by the Planning Commission or *City Council* in accordance with §10-2132.2(c)(1)g., additional residential densities in Office and Institution-1 and 2, Shopping Center and Thoroughfare Districts. The new minimum square feet per *dwelling unit* is calculated by dividing the residential density permitted by *City Council* into 43,560 square feet.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2003-373-TC-231, §16, TC-23-02, 2-4-03; Ord. No. 2005-817-TC-267, §8, TC-7-05, 4-19-05)

(3) Number of ***dwelling units, or equivalent dwelling units*** .

a. The maximum number of*dwelling units* , and *equivalent dwelling units* , which are allowed for a given *net lot area* , is computed by the formula:

TABLE INSET:

		net lot area in square feet

Number of dwelling units, and equivalent dwelling units allowed on any given lot	=	---------- minimum square footage per unit from the table entitled ***"Minimum Square Feet Per Dwelling Unit and Equivalent Dwelling Unit"***

b. Fractional portions of dwelling units , or *equivalent dwelling units* are not allowed.

Example:

Given:

- 40,000 sq. ft.*net lot area*
- R-6 zoning

To solve for the number of*dwelling units* :

TABLE INSET:

? units =	40,000 sq. ft. net lot area ---------- 7,260 sq. ft. per unit (from R-6 on the table entitled ***"Minimum Square Feet Per Dwelling Unit and Equivalent Dwelling Unit"***)
? units =	5.51 units
7 units (fractional portions are ignored).	

(Ord. No. 81-TC-178, §2, TC-226, 3-15-83; Ord. No. 1998-370-TC-167, §14, TC-3-98, 7-7-98; Ord. No. 1999-616-TC-181, §40, TC-3-99, 8-3-99)

(d) Exceptions to Minimum ***Net Lot Area*** **and Residential Density.**

The*following* exceptions are established to the Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units.

(1) Downtown and Pedestrian Business Overlay Districts - Exceptions to residential density and minimum*net lot area* . The maximum residential density per net acre and the required minimum *net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district unless a *site plan* is approved in accordance with §10-2051(d)(1) et seq.

(2) Neighborhood Conservation Overlay Zoning District - Possible exception to residential density, and minimum*net lot area* . No *building* *may* be constructed, moved, altered, changed, or increased in size except in conformance with an adopted Neighborhood Plan as prescribed by §10-2054.

(3) Rectory or parish house as part of church grounds- Exception to minimum*net lot area* and residential density.

(4) *Cluster unit development* - *May* reduce the required minimum *net lot area* in accordance with §10-3071(b)(4), so long as the minimum *net lot area* for the entire development complies with schedule established in (b) above.

(5) Residential*townhouse development* - In residential *townhouse developments* built in accordance with the provisions of §10-2109 the *net lot area* for individual townhouse *lots* *may* be reduced to any size so long as the *townhouse development* , and portions of the development segmented by public *streets* within the development

comply with the minimum *net lot areas* established in (b) above.

(6) *Single-family* house on a nonconforming *lot* , see §10-2146(a)(10).

(7) Density transfers, authorized by §10-2074.

(8) *Residence* of a caretaker or watchman accessory to a permitted industrial use - Exception to residential density and minimum *net lot area* .

Cross references: Conditional use zoning districts, §10-2011,*Group care facilities* §10-2124.

(9) Planned Development Conditional Use Overlay District--Exception to minimum*net lot area* . No *building* , structure, *street* , sidewalk, curb and gutter *shall* be constructed, moved, altered, changed or increased in size within a Planned Development Conditional Use Overlay District except in conformity with the *City Council* adopted *Master Plan* . In accordance with the provisions of §10-2057(d)(1)a., the *Master Plan* *may* contain standards which are more stringent or less stringent than the underlying district or the Thoroughfare District; in the event of any conflict, the *Master Plan* *shall* control.

(Ord. No. 1992-88-TC-401, §15, TC-4-92, 11-4-92; Ord. No. 1995-760-TC-122, §13, TC-20B-95, 11-21-95; Ord. No. 1996-991-TC-141, §1, TC-14-96, 10-16-96; Ord. No. 1998-370-TC-167, §15, TC-3-98, 7-7-98; Ord. No. 2005-875-TC-269, §5, 7-19-05; Ord. No. 2005-932-TC-275, §13, TC-6-05, 11-15-05)

(e) Schedule of Minimum Gross Development Site Sizes.

The site sizes for certain developments within certain zoning districts are listed in the Schedule of Minimum Gross Development Site Sizes, incorporated herein.

GRAPHIC LINK:Section 10-2073(e) SCHEDULE OF MINIMUM GROSS DEVELOPMENT SITE SIZES

Sec. 10-2074. DWELLING UNIT DENSITY TRANSFER.

Each*lot* and each zoning district *shall* carry its own residential density. No residential density transfer *may* occur among *lots* or zoning districts unless permitted by this section.

(Ord. No. 398-TC-341, §1, TC-8-89, 7-5-89)

(a) ***Thoroughfare Street*** **Density Transfer.**

Upon the approval by*City* *Council* of a Thoroughfare Plan for the *City* that portion of *street* rights-of-way in excess of either sixty (60) feet or, if the development could lawfully be served by a residential *street* , fifty (50) feet *may* carry a residential density which can be transferred to contiguous *property* zoned to allow dwelling units under the same ownership when all of the *following* are met:

(1) This density transfer is applicable to all those portions of dedicated*street* right-of-way in excess of either sixty (60) feet, or if the development could lawfully be served by a residential *street* , fifty (50) feet provided the dedicators waive their statutory right to withdraw unopened dedications. If the standards of §10-2074(b) are met, the density transfer is also applicable to the first sixty (60) feet or fifty (50) of right-of-way, whichever is applicable.

(2) The dedicated right-of-way in excess of either sixty (60) feet or, if the development could be served by a residential*street* , fifty (50) feet carries a residential density per acre value as shown on the Official Zoning Map but in no event less than four (4) units per acre.

(3) Transfers are restricted to*properties* under the same ownership which are located

outside any Reservoir Watershed Protection Area Overlay District and in the same development as the dedication.

(4) The maximum allowable residential density for*property* receiving the transfer *shall* not exceed the residential density permitted in the *residential zoning district* which next exceeds the density permitted in the receiving district [e.g. if the receiving district is zoned O&I-1, which allows twenty-five (25) units per acre, the next highest residential density is that of the R-30 district.] If the receiving district permits more than thirty (30) dwelling units per acre, then the maximum density *shall* be no more than ten (10) per cent of the density permitted in the receiving district, unless *City Council* approves a greater density under the Downtown Residential Overlay District.

(5) The minimum*net lot area* of the *residential zoning district* which allows the next higher residential density *shall* apply to the *property* which receives the density.

(6) If developed as a*cluster unit development* , the *property* which receives the density is exempted from the minimum site sizes of twenty (20) and ten (10) acres.

(7) A map showing the*property* and rights-of-way dedication *shall* be recorded in the Wake *County* Registry with an indication that the roadway dedication density allowance has been utilized for the particular *property* prior to recording any subsequent maps in the development.

(8) No density transfer*shall* be allowed if the developer has executed a reimbursement contract under §10-3024.

State law reference: Chapter 136 Article 3b of the General Statutes.

(Ord. No. 678-TC-255, §§1, 2, TC-22-85, 11-26-85; Ord. No.177-TC-311, §§1-3, TC-3-88, 5-23-88; Ord. No. 31-TC-296, §§75--79, TC-16-87, 5-23-88; Ord. No. 440-TC-345, §§4, 5, TC-3-89, 10-3-89; Ord. No. 1995-734-TC-119, §1, TC-18-95, 10-3-95; Ord. No. 1995-760-TC-122, §14, TC-20B-95, 11-21-95; Ord. No. 1997-137-TC-153, §§57--59, TC-18-96, 6-17-97; Ord. No. 2003-374-TC-232, §§1, 2, TC-24-02, 2-4-03)

(b) Residential Street Density Transfer.

Residential density*may* be calculated from the total area of the development inclusive of that portion of public rights-of-way embraced between the *lot* lines extended from the center line of the right-of-way to the edge of the adjoining parcel when all the *following* are met:

(1) The area of the development, less any rights-of-way, is equal to or greater than two (2) acres.

(2) The development is a*manufactured home park* , or *townhouse* , residential *unit ownership (condominium)* , *cluster unit* , *multi-family dwelling or group housing development* .

(3) The public*street* rights-of-way to be included in the density calculations are for dedicated minor residential, residential, residential collector, collector and commercial *streets* .

(4) Transfers are restricted to*properties* which are under the same ownership and which are in the same development as the dedication.

(5) The development complies with the requirements of this §10-2074(a)(4)--(7), except that subsection §10-2074(a)(6), dealing with the reduction of minimum site size for*cluster unit developments* , *shall* not apply.

(Ord. No. 440-TC-345,§§5, 6, TC-3-89, 10-3-89, Ord. No.505-TC-351, §1, TC-4-90, 3-12-90; Ord. No.398-TC-341, §4, TC-8-89, 7-5-89; Ord. No. 1993-223-TC-61, §1, TC-15-93, 7-6-93; Ord. No. 1995-734-TC-119, §2, TC-18-95, 10-3-95; Ord. No. 1997-137-TC-153, §60, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §41, TC-3-99, 8-3-99; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(c) Greenway Density Transfer.

Upon approval by *City Council* of a greenway plan for the *City* , that portion of a development lying within a dedicated greenway easement *may* transfer its residential density to a contiguous *property* zoned to allow dwelling units under the same ownership when all of the *following* are met:

(1) This density transfer is applicable to all those portions of greenway dedicated after the effective date of this subsection, December 1, 1987, provided that the dedicators waive their statutory right to withdraw the dedication.

(2) The dedicated greenway easement carries the residential density as shown on the Official Zoning Map for that location.

(3) Transfers are restricted to *properties* under the same ownership and in the same development as the dedication.

(4) The maximum allowable residential density for *property* receiving the transfer *shall* not exceed the residential density permitted in the *residential zoning district* which next exceeds the density permitted in the receiving district [e.g. if the receiving district is zoned O&I-1, which allows twenty-five (25) units per acre, the next highest residential density is that of the R-30 district.] If the receiving district permits more than thirty (30) dwelling units per acre, then the maximum density *shall* be no more than ten (10) per cent of the density permitted in the receiving district, unless *City Council* approves a greater density under the Downtown Residential Overlay District.

(5) The minimum *net lot area* of the *residential zoning district* which allows the next higher residential density *shall* apply to the *property* which receives the density.

(6) If developed as a *cluster unit development* , the *property* which receives the density is exempted from the minimum site sizes of twenty (20) and ten (10) acres.

(7) The development complies with any and all zoning regulations for which the *property* is zoned, including density transfer.

(8) A map showing the *property* and rights-of-way dedication *shall* be recorded in the Wake *County* Registry with an indication that the greenway dedication density allowance has been utilized for the particular *property* prior to recording any subsequent maps in the development.

(Ord. No. 440-TC-345, §§4, 5, TC-3-89, 10-3-89; Ord. No. 1995-734-TC-119, §3, TC-18-95, 10-3-95; Ord. No. 1997-137-TC-153, §61, TC-18-96, 6-17-97; Ord. No. 2003-374-TC-232, §§1, 2, TC-24-02, 2-4-03)

(d) Conservation Management District Density Transfer.

The Conservation Management District *shall* carry a residential density which can be transferred to contiguous *property* zoned to allow dwelling units under the same ownership when all the *following* are met:

(1) For first time transfers made after September 1, 1997, the Conservation Management District *shall* carry a maximum residential density value equal to the maximum residential density of the contiguous residentially zoned *property* under the same ownership.

(2) All residential units transferred from the Conservation Management District *shall* be located outside the limits of the Conservation Management District.

(3) The maximum allowable residential density for *property* receiving the transfer *shall* not exceed the residential density permitted in the *residential zoning district* which next exceeds the density permitted in the receiving district [e.g. if the receiving district is

zoned O&I-1, which allows twenty-five (25) units per acre, the next highest residential density is that of the R-30 district.] If the receiving district permits more than thirty (30) dwelling units per acre, then the maximum density *shall* be no more than ten (10) per cent of the density permitted in the receiving district, unless *City Council* approves a greater density under the Downtown Residential Overlay District.

(4) The minimum*net lot area* of the *residential zoning district* which allows the next higher residential density *shall* apply to the *property* which receives the density.

(5) Approved plans, utilizing the density transfer*shall* be recorded in the Wake Registry, with the indication that the Conservation Management District density allowance has been utilized of that particular *property* .

(Ord. No. 1995-734-TC-119, §4, TC-18-95, 10-3-95; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §62, TC-18-96, 6-17-97; Ord. No. 2003-374-TC-232, §§1, 2, TC-24-02, 2-4-03)

(e) ***Cluster Unit Development*** **Density Transfer.**

Density transfer is allowed within a*cluster unit development* in accordance with §10-3071(b)(3).

(Ord. No. 398-TC-341, §2, TC-8-89, 7-5-89; Ord. No. 1992-43-TC-397, §32, TC-10-92, 9-1-92)

(f) Planned Development Conditional Use Overlay District Master Plan Density Transfer.

Density transfer is allowed within a Planned Development Conditional Use Overlay District in accordance with §10-2057(d)(1)b.

(Ord. No. 2006-140-TC-298, §3, TC-21-06, 12-5-06)

Sec. 10-2075. YARD SETBACKS, CALCULATIONS, EXCEPTIONS, REDUCTIONS, AND ENCROACHMENTS.

(a) Definitions.

(1) ***Corner lot*** . A *lot* of which at least two (2) intersecting sides abut for their full length upon a public or private *street* .

(2) ***Front yard area*** . The *front yard area* is located between the front line of a *principal building* , structure, or use in the absence of a *principal building* or structure, and the front boundary of a *lot* , exclusive of any existing or proposed public *street* right-of-way, and extending along the entire width of the *lot* .

(3) ***Protective yard*** . A landscaped *yard area* which contains no *buildings* , *vehicular surface areas* , loading, storage, display or *service areas* , and regulates certain other uses according to the **Schedule of Permitted Land Uses within Types of Yard Areas.**

(4) ***Rear yard area*** . The *rear yard area* is located between the rear line of the *principal building* , structure, or use in the absence of a *principal building* or structure, and the rear boundary of a *lot* , exclusive of any existing or proposed public *street* right-of-way, and extending along the entire width of the *lot* .

(5) ***Side yard area*** . The *side yard area* is located between the *principal building* , structure, or use in the absence of a *principal building* or structure and the side boundary of a *lot* , exclusive of any existing or proposed public *street* , extending the full length of the *building* , or structure, or use, and not including any *front* or *rear yard area* .

(Ord. No. 2000-914-TC-200, §1, TC-12-00, 12-5-00)

(b) Required Yard Setbacks.

(1) Schedule of Zoning District Yard Setbacks established.

No*building* , structure or use in the absence of a *principal building* or structure, or portion thereof, *shall* be constructed, extended, relocated, altered or occupied within or over the *yard areas* established by setbacks set forth in the Schedule of Zoning District Yard Setbacks, which is incorporated herein, and the *yard areas* established by setbacks in a conditional use zoning district if such a district establishes more stringent setbacks. Exceptions to yard setback widths are set forth in subsection (d) below. Encroachments allowed into the yard setbacks are set forth in subsection (e) below.

Building setbacks from property lines and *building* separations required by the North Carolina State Building Code, Volume 1, Table 600, and amendments thereto, *shall* control over the minimum setbacks set forth in the Schedule of Zoning District Yard Setbacks.

(Ord. No. 823-TC-371, §6, 9, TC-11-91, 7-21-91; Ord. No. 1994, §1, TC-29-94, 12-13-94)

(2) Supplementary Yard Setbacks required.

The*following* Code sections contain other types of yard setbacks:

a. Yard setbacks required under special conditions on the Schedule of Zoning District Height Standards, §10-2076(a), and Exceptions §10-2076(c).

b. *Cluster unit developments* , §10-2101.

c. *Group housing developments* , §10-2103, *townhouse developments* , §10-2109, and residential *unit ownership (condominium) developments* , §10-2108.

d. Landscape areas required -*street protective yards* and *transitional protective yards* , §10-2082.5; §10-2082.9; and §10-2082.10.

e. *Multi-family dwelling* developments, §10-2107.

f. *Natural resource buffer yards* , §10-9040, §10-2030(d)(2), §10-2053(d)(2); and §10-2056(e)(2) for watercourse buffers.

(Ord. No. 1996-991-TC-141, §2, TC-14-96, 10-16-96; Ord. No. 2001-991-TC-206, §8, TC-8-00, 5-1-01)

Cross references: Land disturbing activities §10-5006(1) and (11). sight triangles for fences, walls, and*ground medium profile signs* and *ground high profile signs* , §10-2086. Special uses, §10-2144, §10-2145, and conditional uses, §10-2072, *may* also require other yard setbacks.

(c) Method of Calculation.

(1) Zoning district yard setbacks - ***yard area*** **and setback measurement.**

The*yard area* for the zoning district yard setbacks is the space defined by measuring a yard setback perpendicularly from and along the entire boundary of the *lot* , excluding any existing or proposed *street* right-of-way unless otherwise provided in the *following* subsections a. and b.

a. In the case of the*protective yard* required in the Metro-Park Overlay District, the setback *shall* be measured from the boundary of the metro-park.

GRAPHIC LINK:Section 10-2075(b) SCHEDULE OF ZONING DISTRICT YARD SETBACKS

GRAPHIC LINK:Section 10-2075(b) SCHEDULE OF ZONING DISTRICT YARD SETBACKS (Cont'd.)

GRAPHIC LINK:Section 10-2075(b) SCHEDULE OF ZONING DISTRICT YARD SETBACKS (Cont'd.)

GRAPHIC LINK: Section 10-2075(b) SCHEDULE OF ZONING DISTRICT YARD SETBACKS (Cont'd.)

GRAPHIC LINK:Section 10-2075(b) SCHEDULE OF ZONING DISTRICT YARD SETBACKS (Cont'd.)

b. In the case of the*street protective yard* required in the Thoroughfare, Airport, and Special Highway Overlay Districts-1, 2, 3 and 4, the setback *shall* be measured from the existing or proposed *street* rights-of-way as set forth in subsection (c)(3) below. Where necessity requires the location of a public utility easement adjacent to a *major access corridor* which prohibits locating the required plantings of the *street protective yard* immediately adjacent to the corridor right-of-way within the Special Highway Overlay District-1 or 2, the required *street protective yard shall* be provided adjacent to the utility easement.

Editor's note: Ord. No. 1993-279-TC-6, §3, TC-21-93, adopted November 3, 1993, set out provisions intended to repeal §10-2075(c)(2)b. However, at the editor's discretion, these provisions have been deemed to repeal §10-2075(c)(1)b. as there is no §10-2075(c)(2)b.

Zoning district*yard areas may* be the *front yard area* , *side yard area* , or *rear yard area* , defined by application of either the *front, rear, side yard* or *corner lot side yard* setbacks, or aggregates of these yard setbacks. For illustrations of the location of *front* , *rear and side yards* , see the *following* Illustrations of Yard Areas. There *shall* be one (1) *front yard area* which is determined at the time of *site plan* or *plot plan* approval or *building* permit issuance.

(Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1993-279-TC-6, §3, TC-21-93, 11-3-93; Ord. No. 2000-914-TC-200, §2, TC-12-00, 12-5-00)

(2) Supplementary ***yard areas*** **and setback measurement.**

For the methods of calculating other required yard setbacks and*yard areas* set forth in subsection (b)(2) above, see the applicable Code section.

(3) Yard setbacks and public ***streets*** .

Except as modified by subsections a. and b. below, all yard setbacks as required in this chapter, including*street yards, shall* be calculated from the adjoining public *street* right-of-way.

a. Yard setbacks from the proposed*street* rights-of-way, other than secondary arterials and *principal arterial* gateways shown on the Comprehensive Plan.

When a proposed new*street* right-of-way has been established, or an adjoining stubbed *street* is to be extended, the yard setbacks *shall* be calculated from the proposed, new public *street* right-of-way which has been established, and the proposed right-of-way for the extended stubbed *street.* Yard setbacks referenced in conditional use zoning ordinances, unless the measurement method is otherwise described in the zoning ordinance, *shall* be measured from the proposed, new public *street* right-of-way.

b. Yard setbacks from proposed rights-of-way of secondary arterial and*principal arterial* gateways shown on the Comprehensive Plan.

When a proposed new secondary arterial and*principal arterial* gateway right-of-way has been established or an adjoining arterial stubbed *street* is to be extended, the yard setbacks, including the yard setbacks referenced in conditional use zoning cases, unless the measurement method is otherwise described in the zoning ordinance, are determined as follows. The yard setbacks *shall* be calculated from the proposed new secondary arterial and *principal arterial* gateway *street* right-of-way which has been established, and the proposed right-of-way for the extended stubbed *street,* if:

1. The new right-of-way is no more than one hundred ten (110) feet in width; or

2. The right-of-way width is in excess of one hundred ten (110) feet, the arterial is on the City Capital Improvement Program or the State Transportation Improvement Program, and a design cross section has been approved by*City Council* specifying the right-of-way width.

In all other instances of proposed*principal arterial* gateways or secondary arterials, special arterial *yard areas* are established. A special arterial *yard area* is the *yard area* located between the back edge of a one hundred ten-foot right-of-way width and the remaining portion of the proposed right-of-way as shown on the Comprehensive Plan. The front yard setback *shall* be calculated from a one hundred ten-foot right-of-way width of the secondary arterial and *principal arterial* gateway, provided that no *building* , structure or use *shall* be permitted in a special arterial *yard area* unless permitted by §10-2075(e)

(Ord. No. 1993-263-TC-65, §3, TC-19-93, 9-21-93; Ord. No. 1999-616-TC-181, §§43, 44, TC-3-99, 8-3-99)

(4) Overlap of ***yard areas*** .

When more than one (1) yard setback applies, the greatest setback dimension*shall* be used. However, if a *building* , structure or use is located in the Downtown Residential Housing, Historic, Neighborhood Conservation, Pedestrian Business, Special Highway District-3, or Special Highway District-4 Overlay District the yard setbacks required by the Overlay District *shall* control over the underlying district yard setbacks, even if the overlay district setbacks are less.

All yard setbacks required by this chapter can overlap one another, except that*special yard* setbacks in *multi-family dwelling* developments, §10-2107(b)(2), and additional yard setbacks required under Special Conditions of the Schedule of Zoning District Height Standards, §10-2076(a), *shall* be added to the required zoning district yard setbacks.

(Ord. No. 1993-133-TC-46, §19, TC-11-92, 2-2-93)

(5) ***Rear yard*** **abutting an alley.**

In computing the depth of a rear yard setback abutting an alley, the measurement*may* include one-half (1/2) the width of such alley.

(d) Exceptions and Reductions.

(1) ***Cluster unit development*** .

Detached*single-family dwellings* and *attached cluster housing* , and their *accessory uses* within *cluster unit developments* are excepted from the Schedule of Zoning District Yard Setbacks, other than overlay districts and *protective yards* , but in lieu thereof *shall* comply with the setbacks established in §10-2101(b). All other *principal buildings* and structures including clubhouses *shall* comply with the Schedule of

Zoning District Yard Setbacks, and if applicable, the standards in Article F.

(2) ***Townhouse development*** .

Dwellings and their *accessory uses* within a *townhouse development* are excepted from the Schedule of Zoning District Yard Setbacks other than overlay districts and *protective yards* , but in lieu thereof *shall* comply with *group housing development* standards, §10-2103. All other *principal buildings* and structures including clubhouses within a *townhouse development* *shall* comply with the **Schedule of Zoning District Yard Setbacks.**

(3) ***Historic landmark*** .

The minimum and maximum yard setbacks of the underlying zoning district are modified as provided by §10-2052(e)(4).

(Ord. No. 349-TC-217, §2, TC-264, 5-20-84; Ord. No. 1992-66-TC-399, §8, TC-15-92, 10-6-92; Ord. No. 2001-26-TC-208, §4, TC-5-01, 6-19-01)

GRAPHIC LINK:Diagrams: Illustrations of Yard Area Standards

(4) Setback reductions along ***thoroughfares*** **other than** ***street protective yards*** **in the Thoroughfare, Airport, and Special Highway Overlay Districts.**

Upon the approval by*City* *Council* of a Thoroughfare Plan or upon definite location of a *thoroughfare* of any type, any zoning district yard setback required by this Code measured from the new proposed *thoroughfare* right-of-way lines *may* be reduced as either part of *site plan* or subdivision approval approved by the Planning Commission or the *City* *Council* or a public acquisition of right-of-way. The body which allows the reduced setback *shall* find that the new proposed right-of-way lines deprive the *property* *owner* abutting the *thoroughfare* reasonable use of their *property* , and *may* impose conditions to assure that the purposes of the yard setback are otherwise achieved.

(Ord. No. 398-TC-341, §3, TC-8-89, 7-5-89; Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1999-616-TC-181, §45, TC-3-99, 8-3-99)

(5) Reductions of the required ***street protective yards*** **in the Thoroughfare, Airport, and Special Highway Overlay Districts.**

Street protective yards along thoroughfares in the Thoroughfare, Airport, and Special Highway Overlay Districts *may* be reduced in conjunction with other landscape yards under §10-2082.4.

(Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1999-616-TC-181, §46, TC-3-99, 8-3-99)

(6) Reductions of rear yard.

On a*lot* less than one hundred (100) feet deep, the depth of a rear district yard setback required *may* be reduced one (1) per cent for each one (1) foot such *lot* is less than one hundred (100) feet in depth; provided that such reduction in no case *shall* exceed one-half (1/2) the required depth and provided that no reduced *rear yard* *shall* be less in depth than one-third (1/3) the height of the *building* .

(7) Yard reductions authorized by the Board of Adjustment.

Reductions of various required yards are allowed if either a special use permitted is issued by the Board of Adjustment in accordance with §10-2144, yard reductions, or variances in accordance with §10-2143.

(8) Railroad freight and ***passenger transit station or stop.***

Zoning district yard setbacks required by this Code for structures or uses serving railroad freight and*passenger transit stations or stops* , as measured from the existing or proposed right-of-way line, *may* be reduced as part of a site plan approval approved by the Planning Commission or the *City Council* in accordance with §10-2132.2. The body which allows the reduced setback *may* impose conditions to assure that the purposes of the yard setback are otherwise achieved.

(Ord. No. 2004-682-TC-253, §1, TC-15-04, 8-3-04)

Editor's Note: Transit shelters and seating are permitted within required yard area setbacks, see §10-2075(e), Schedule of Permitted Land Uses within Types of Yard Areas.

(9) Setback reductions within Village Centers and Neighborhood Centers.

Except for required *natural protective yards* , overlay district setbacks and setbacks established by a conditional use district, upon the approval by *City Council* of a Village Center or Neighborhood Center designation within the *City's* Comprehensive Plan, any zoning district yard setback required by this Code *may* be reduced as either part of a *site plan* or subdivision when approved by the *City Council* before October 7, 2006, in accordance with §10-2132.2 following a recommendation by the Planning Commission. The *City Council* *shall* find that the reduced setbacks provides for orderly growth and creates a more compact, efficient urban form and conforms to the required key elements of the Comprehensive Plan's Urban Design Guidelines. The *site plan* or subdivision *shall* incorporate elements of the Urban Design Guidelines relevant to the site and its surroundings which *may* include, but not be limited to the following:

a. Transitions to surrounding neighborhoods,

b. Building placement and massing,

c. Site landscaping and urban open space,

d. Street level activity and pedestrian and bicycle amenities,

e. General street design principles and spatial definition, and

f. Elements of architectural compatibility and mixed use.

(Ord. No. 2004-699-TC-255, §1, TC-14-04, 9-7-04)

(10) Downtown Overlay District.

Zoning district yard setbacks required by this Code for structures or uses on properties located within the Downtown Overlay District*may* be reduced as part of a subdivision or site plan approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such reduction in setback is in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

(Ord. No. 2005-932-TC-275, §15, TC-6-05, 11-15-05)

(e) ***Buildings, Structures or Uses Permitted in Yard Areas*** .

Buildings , structures, or uses, or portions thereof which *may* be located within or project over any yard setback required by this chapter are shown on the *following* Schedule of Permitted Land Uses Within Types of Yard Areas, which is incorporated herein. *Buildings* , structures or uses that are allowed in *yard areas* *shall* be approved in accordance with Article H of this chapter. Projections of *buildings* and structures, such as bay windows or chimneys, are not permitted unless so indicated on this schedule. All *yard areas* *may* be used to satisfy the minimum *net lot area* , residential density, *floor area ratio* , and *building lot coverage* requirements of this chapter.

Cross reference: Special use permit approved by the Board of Adjustment yard encroachments, §10-2144.

Annotation: Extension A six-inch veneer facade is not an extension so as to reduce yard spaces. A-119-77 Downtown Housing Improvement Corporation, Board of Adjustment (Oct. 10, 1977).

(Ord. No. 1982-33-TC-171, §2, 12-7-82; Ord. No. 1983-81-TC- 178, §1, 2, 3-15-83; Ord. No. 1983-115-TC-182, §8, 5-17- 83; Ord. No. 1983-153-TC-190, §4, 7-19-83; Ord. No. 1984- 366-TC-218, §2, 6-19-84; Ord. No. 1984-438-TC-226, §4, 11-6-84; Ord. No. 1985-509-TC-230, §3, 3-5-85; Ord. No. 1985-600-TC-242, §5, 7-2-85; Ord. No. 1985-675-TC-254, §4, 11-19-85; Ord. No. 1985-679-TC-256, §4, 12-3-85; Ord. No. 1986-799-TC-267, §34, 6-3-86; Ord. No. 1986-880-TC-277, §10, 10-22-86; Ord. No. 1988-291-TC-327, §7, 12-13-88; Ord. No. 1989-310-TC-331, §4, 2-7-89; Ord. No. 1989-440-TC-345, §3, 10-3-89)

GRAPHIC LINK:Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS

GRAPHIC LINK:Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd.)

GRAPHIC LINK:Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd.)

GRAPHIC LINK:Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd.)

GRAPHIC LINK:Section 10-2075(e) SCHEDULE OF PERMITTED LAND USES WITHIN TYPES OF YARD AREAS (Cont'd.)

Sec. 10-2076. HEIGHT REGULATIONS AND EXCEPTIONS.

(a) Schedule of Zoning District Height Standards.

No*building* or structure *may* be constructed, extended, moved, altered or *occupied* in violation of the height limits as set forth in the Schedule of Zoning District Height Standards, which is incorporated herein, or special height limitations of a conditional use zoning district, if applicable. Subsection (c) below provides exceptions to the above referenced schedule and any applicable conditional use zoning district.

If a*building* or structure is in an overlay zoning district, in addition to the underlying general use or conditional use zoning district, the more stringent height limit *shall* control, except in a Historic, Pedestrian Business, or Neighborhood Conservation Overlay District, where the overlay zoning district regulations *shall* control.

With respect to "Special Conditions" and "General Height Limit" of the Special Residential-30 District in the Schedule of Zoning District Height Standards, later establishment of a*dwelling* , a *congregate care or congregate living structure* , or a *residential zoning district* boundary *shall* not render a previously lawfully existing *building* or structure nonconforming or illegal.

(Ord. No. 856-TC-274, §5, TC-11-86, 9-16-86)

(b) Methods of Calculation of ***Building*** **or Structure Height.**

Where a structure or the walls of a*building* do not abut a *street* right-of-way, then the height of *shall* be measured from the average natural ground elevation adjoining the *building* at the time

of request for *City plot plan* , *site plan* , building permit, or zoning permit approval, whichever is earlier, and not the ground elevation after construction.

GRAPHIC LINK:Diagram: Standard Calculation of Building Height on Sloped Grade

The average natural ground elevation *shall* be determined by the *following* formula:

AVE. = (H-L)/2 + L

AVE. = Average natural ground elevation

H = Highest ground elevation adjoining the structure or building walls

L = Lowest ground elevation adjoining the structure or building walls

Where a structure or the walls of a*building* abut a *street* right-of-way, then the height of a *building* is measured from the average curb level of the adjoining *street* , or if no curb exists, the average level of the center crown of the *street* .

GRAPHIC LINK:Diagram: Standard Calculation of Building Height Abutting Street Right-of-Way

In the case of pitched roofs, the height is measured to the average height level of the roof.

GRAPHIC LINK:Diagram: Standard Calculation of Height of Building with Pitched Roof

In the case of flat roofs, the height is measured to the highest point of the roof beams. Where no roof beams exist, or where there are structures wholly or partially above the roof which are not excepted by subsection (c) below from the height limits, the height*shall* be measured to the highest point of the *building* .

(Ord. No. 1997-137-TC-153, §73, TC-18-96, 6-17-97)

(c) Exceptions.

(1) Steeple.

Church steeples*may* be erected to a height not to exceed two hundred (200) feet, measured from the average natural ground elevation.

(2) Perimeter yards in ***cluster unit developments*** .

No*building* over twenty-five (25) feet in height *shall* be located on a *lot* with a perimeter *protective yard* in a *cluster unit development* , unless one (1) foot of width is added to each perimeter yard for every foot of *building* height over twenty-five (25) feet.

(3) Special regulated structures.

a. If the applicable standards of subsections b. through d. are met, the maximum permitted height of*buildings* on the Schedule of Zoning District Height Standards do not apply to any of the *following* structures:

1. Gas holders and grain, coal and fuel elevators.

2. Flagpoles, belltowers, monuments, stacks;

3. Utility poles, antennas and wires;

4. Radio and television towers and antennas as accessory to principal*dwelling* .

5. *Dish antennas* erected in accordance with §10-2072(b).

(Ord. No. 349-TC-217, §3, TC-264, 5-20-84; Ord. No. 1993-248-TC-64, §5, TC-18-93, 8-3-93; Ord. No.

2001-933-TC-201, §1, TC-7-00, 2-6-01)

6. On roofs: bulkheads, towers, cooling towers, elevator and stair enclosures, monitors, mechanical equipment, skylights, stage towers, water tanks, solar panels, belfries, chimneys, fire escapes, flues, parapet walls;

(Ord. No. 1994-518-TC-95, §1, TC-31-94, 12-13-94)

7. Uninhabited space on tops of roofs, including cupolas, spheres, pinnacles, and domes.

Cross references: Special use permit for telecommunication towers, §10-2145.

(Ord. No. 1997-137-TC-153, §74, TC-18-96, 6-17-97)

b. Residential, Conservation Management, Agricultural Productive Districts.

The structures listed in subsection a.*may* be built to a height of forty (40) feet above the height limits in the Schedule of Zoning District Height Standards, provided that:

1. The structure is located at least a distance equal to its height from any*lot* line of a *dwelling* , a *congregate care or congregate living structure* or the boundary line of a *residential zoning district* ; and

(Ord. No. 1996-972-TC-139, §1, TC-13-96, 10-1-96)

2. The structure is an*accessory use* to a use permitted in the zoning district.

3. A belltower,*clocktower, belfry, steeple or similar structure shall* be designed to be compatible with any *principal building or use* on the *lot* with regard to architectural features, "building material" and "color." Architectural features *shall* include the dominant architectural feature or combination of features of the *principal building,* including but not limited to: roof treatment, including style, building material, and color of roof; facade treatments, including fenestration pattern and orientation; and building form. The term "color" means the dominant color or pattern of colors of the *principal building.* The term "building materials" means the dominant material or combination of materials of the *principal building.*

(Ord. No. 1996-972-TC-139, §2, TC-13-96, 10-1-96)

(Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96)

c. Residential Business, Office and Institutional, Buffer Commercial, Shopping Center, and Neighborhood Business Districts.

The structures listed in subsection a.*may* be built to a height of fifty (50) feet above the height limits in the Schedule of Zoning District Height Standards, provided the structure is located at least a distance equal to its height from any *lot* line of a *dwelling* , a *congregate care* or *congregate living structure* or the boundary line of a *residential zoning district* .

d. Business Zone, Thoroughfare, and Industrial Districts.

The structures listed in subsection a.*may* be built to any height, provided the structure is located at least a distance equal to its height from any *lot* line of a *dwelling* , a *congregate care* or *congregate living structure* , or the boundary line of a *residential zoning district* .

(Ord. No. 153-TC-190, §6, TC-233, 7-29-83; Ord. No. 2001-933-TC-201, §2, TC-7-00, 2-6-01)

e. Later establishment of either a*dwelling* , a *congregate care* or *congregate living structure* , or *residential zoning district* boundary *shall* not render a previously lawfully existing *building* or structure nonconforming or illegal.

(4) ***Signs*** .

Notwithstanding the height limits set forth in the Schedule of Zoning District Height Standards, the height of*on-premise signs* *shall* comply with §10-2083.1(a); the height of *off-premise signs* *shall* comply with §10-2084.1(b).

(Ord. No. 210-TC-198, §18, TC-251, 10-23-83)

(5) Downtown Overlay District.

Height limits set forth in the Schedule of Zoning District Height Standards for structures on properties located within the Downtown Overlay District*may* be increased as part of a *site plan* approval approved by the Planning Commission or the *City Council* in accordance with §10-2132.2 after a finding that such increase in height is in accordance with the general plans for the physical development of the *City* as embodied in the Raleigh Downtown Urban Design Guidelines and the *site plan* meets the standards of §10-2132.2(d).

(Ord. No. 1999-616-TC-181, §50, TC-3-99, 8-3-99; Ord. No. 2005-932-TC-275, §17, TC-6-05, 11-15-05)

(6) Water towers and tanks not located on a roof.

Water storage tower and tanks not located on a roof*may* be erected to a height not to exceed two hundred twenty-five (225) feet, measured from the average natural ground elevation, provided that:

a. The structure is located a minimum distance of fifty (50) per cent of its height from the nearest property line of a*lot* containing a *dwelling, congregate care or congregate living structure* , as measured from the closest point of any portion of the storage tank, and

b. A minimum 40-foot*natural protective yard* is provided adjacent to any *lot* line of a *dwelling, congregate care or congregate living structure* or adjacent to the *lot* line of any vacant *lot* zoned a *residential zoning district.*

(Ord. No. 2001-933-TC-201, §3, TC-7-00, 2-6-01)

(7) ***Historic landmark.***

The height standards of the underlying zoning district are modified as provided by §10-2052(e)(4).

(Ord. No. 2001-26-TC-208, §7, TC-5-01, 6-19-01)

(*Code 1959* , §24-36, 24-37; Ord. No. 1979-18-TC-97, TC-2-79, 2-20- 79; Ord. No. 1979-982-TC-96, §44, 45, 1-2-79; Ord. No. 1981-668-TC-141, §1, 5-19-81; Ord. No. 1982-871-TC-158, §1, 3-23-82; Ord. No. 1983-75-TC-177, §4, 3-1-83; Ord. No. 1984-438-TC-226, §5, 11-6-84; Ord. No. 1985-600-TC-242, §4, 7-2-85; Ord. No. 1985-679-TC-256, §5, 12-3-85; Ord. No. 1985-699-TC-259, §4, 12-17-85; Ord. No. 1986-799-TC-267, §2, 3, 6-3-86)

Secs. 10-2077--10-2080. RESERVED._____

GRAPHIC LINK:Section 10-2076(a) SCHEDULE OF ZONING DISTRICT HEIGHT STANDARDS

GRAPHIC LINK:Section 10-2076(a) SCHEDULE OF ZONING DISTRICT HEIGHT STANDARDS

(Cont'd.)

GRAPHIC LINK:Section 10-2076(a) SCHEDULE OF ZONING DISTRICT HEIGHT STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2076(a) SCHEDULE OF ZONING DISTRICT HEIGHT STANDARDS (Cont'd.)

ARTICLE E. SUPPLEMENTARY REGULATIONS AND EXCEPTIONS OFF-STREET PARKING, LANDSCAPING, SIGNAGE, FENCES AND WALLS, AND OTHER REGULATIONS.

Sec. 10-2081. OFF-STREET PARKING STANDARDS AND EXCEPTIONS.

(a) Minimum Numbers - Off-Street Parking Required Before Occupancy or Use.

No land or*building* , or any part thereof, *shall* be *occupied* or *used* for any purpose hereinafter enumerated in this section, nor *shall* any building permit be issued by the Department of Inspections for the construction, alteration or conversion of any *building* or structure designed or proposed to be *occupied* or *used* for any such purpose hereinafter enumerated in this section, nor *shall* the Department of Inspections issue a certificate of compliance to permit any land or *building* or any part thereof to be *used for* any purpose hereinafter enumerated in this section, unless and until appropriate and legally sufficient off-street motor vehicle storage or parking space has been set apart and provided on each *lot* or tract of land in an amount equal at least to the minimum requirements prescribed and set forth in the Schedule of Off-Street Parking Standards, except as modified in subsection (c) below.

(1) Parking requirements for multiple uses.

The required parking spaces for separate uses*may* be combined in one (1) *lot* , but the required space assigned to one (1) use *may* not be assigned to another use during the same hours of operation.

Where more than one (1) use is included within any one (1)*building* or on any *lot* , the parking requirements *shall* be the sum total of the requirements of the various uses set forth in the Schedule of Off-Street Parking Standards, except as permitted under *shopping centers* and temporary events approved in accordance with §10-2072(b).

(Ord. No. 1993-296-TC-68, §6, TC-23-93, 12-7-93)

(2) Parking requirements for additions to existing structures and uses.

a. More parking spaces*shall* be required for an addition to a *building* , structure or use which increases in any of the units of measure (such as number of *dwelling units* , *floor area gross* , seating capacity, or number of employees) used to determine how much parking is required. Use the Schedule of Off-Street Parking Standards to find the minimum number of required spaces for the addition.

b. When a lawful*building* not meeting the requirements for off-street parking shown in the Schedule of Off-Street Parking Standards is increased in *floor area gross* by fifty (50) per cent or less, or a lawful use not meeting the requirements is increased by fifty (50) per cent or less, the addition *shall* meet the requirements of the Schedule of Off-Street Parking Schedules. The existing *building* or use is not required to add parking to meet the Schedule of Off-Street

Parking Schedules.

If the*floor area gross* or use is increased more than fifty (50) per cent, both the existing *building* or use and any addition *shall* meet the requirements of the Schedule of Off-Street Parking Standards.

Cross reference: Expansion of*vehicular surface areas* to serve a *nonconforming use* , §10-2146.3(a)(3).

(Ord. No. 1999-616-TC-181, §54, TC-3-99, 8-3-99)

(b) Design Standards.

All off-street parking that is required by the Schedule of Off-Street Parking Standards provided for passenger vehicles, including commercial parking lots*shall* be surfaced, marked, sized, arranged, and oriented in accordance with this section, and landscaped in accordance with §10-2082 et seq. All off-street parking not required *shall* be surfaced, marked, sized, and oriented to provide for safe pedestrian and vehicular circulation.

(1) Parking surfaces.

a. Requirements.

Off-street parking spaces required to be constructed to support developments that occur after application of this subsection*shall* be constructed of permanent, nonerodible surface treatment limited to masonry, concrete or asphalt.

Editor's note: This regulation first became applicable on July 16, 1987.

(Ord. No. 5-TC-293, TC-11-87; Ord. No. 946-TC-164, §3, TC-213, 7-22-82)

b. Exceptions.

1. Parking facilities for outdoor athletic facilities or outdoor theaters with three thousand (3,000) or more permanent seats or design capacity*may* use grass as the nonerodible surface.

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

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GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

GRAPHIC LINK:Section 10-2081(a) SCHEDULE OF OFF-STREET PARKING STANDARDS (Cont'd.)

2. Alternative surfaces which allow greater water infiltration in floodplain areas, reservoir watershed protection areas, or within protected ground areas where tree preservation and no grading are to occur as set forth in §10-2082.5(f)*may* be approved by the Inspections Department.

3. Temporary events approved in accordance with §10-2072(b).

4. Parking for*single-family* detached and *duplex dwellings* not including *manufactured homes* in *manufactured home parks.*

5. In historic overlay districts and for*historic landmarks* , parking *shall* be provided in accordance with §10-2052(e)(4).

6. Parking facilities for cemetery uses*may* use gravel or grass as the nonerodible surface.

(Ord. No. 316-TC-332, TC-28-88, 2-26-89; Ord. No. 1993-296-TC-68, §7, TC-23-93, 12-7-93; Ord. No. 1995-592-TC-105, §1, TC-7-95, 4-4-95; Ord. No. 1996-851-TC-128, §14, TC-23-95, 4-2-96; Ord. No. 1996-991-TC-141, §4, TC-14-96, 10-16-96; Ord. No. 2000-734-TC-189, §§1, 2, TC-2-00, 2-15-00; Ord. No. 2001-26-TC-208, §8, TC-5-01, 6-19-01; Ord. No. 2007-178-TC-300, §5, TC-19-06, 3-6-07)

(2) Arrangement, size, and orientation of parking spaces.

All off-street parking*shall* be arranged so that vehicle ingress and egress to parking areas is by forward motion of the vehicle, except for drives serving *single-family dwelling* detached units and *manufactured home spaces* and *lots* , and any *multi-unit supportive housing residence* and *supportive housing residence* which is required to provide no more than two (2) off-street parking spaces, and cemeteries.

a. Parking bays.

A parking bay is a row of stalls arranged nonparallel to the*street* with direct access to a *street* .

Detached*single-family dwellings* , *manufactured homes* , detached single *townhouses* , *attached cluster housing* , *duplexes* and two (2) attached *townhouses* *may* gain direct access to residential *streets* utilizing parking bays. Triplexes and triplex *townhouses* *may* gain direct access to residential *streets* , utilizing parking bays, except for through collector *streets* which are not culs-de-sac. No other parking bays *shall* be allowed access onto public *streets* , including *thoroughfares* .

Cross reference: Parking bays on private*streets* for *group housing* §10-2103, and *multi-family dwelling* developments §10-2107, and parking lots as a permitted use in the Schedule of Permitted Land Uses in Zoning Districts §10-2071.

b. Arrangement and size of parking spaces.

Required parking spaces and lots approved after application of this section*shall* be arranged and sized in accordance with the Street, Sidewalk, and Driveway Access Handbook, on file in the *City* Clerk's office.

Editor's note: This regulation first became applicable January 1, 1992. (Ord. No. (1991) 879-TC-380)

(Ord. No. 624-TC-137, §1, TC-K-81, 4-7-81; Ord. No. 1994-365- TC-71, §18, TC-22-93, 4-5-94; Ord. No. 1994-455-TC-87, §1, TC-22-94, 8-2-94; Ord. No. 1995-760-TC-122, §18, TC-20B-95, 11-21-95; Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00; Ord. No. 2007-178-TC-300, §5, TC-19-06, 3-6-07)

Editor's note: Section 18 of Ord. No. 1995-760-TC-122, TC-20B-95, adopted Nov. 21, 1995, set out provisions repealing the*following* parking schedules: **Schedule of Regular Space Parking Area Design** and **Schedule of Compact Space Parking Area Design** .

(3) Maintenance, markings, and use of parking spaces.

Required parking spaces*shall* be properly maintained and *shall* not be converted to other uses.

No portion, including airspace overhang, of any*street right-of-way,* public sidewalk, private walkway less than five (5) feet in width, *street protective yard* , or *transitional protective yard* *shall* be considered as fulfilling or partially fulfilling the off-street parking requirements.

a. Marking regular parking spaces.

Each regular parking space*shall* be clearly delineated by painted lines striped at least fifteen (15) feet long and four (4) inches wide. Alternate means of delineation *may* be approved by the Inspections Department.

b. Marking compact parking spaces.

All compact parking spaces*shall* be clearly delineated by placing two (2) twelve-foot-long, four-inch-wide visibly painted strips six (6) inches apart on the contrasting parking surface between each compact parking space. Each compact parking space *shall* be labeled with a six-inch visibly painted letter "C" on the contrasting parking surface.

Alternate means of delineation*may* be approved by the Inspections Department.

(Ord. No. 624-TC-137, TC-K-81, 4-7-81)

(4) Landscape requirements.

The applicable landscape regulations of §10-2082et seq. *shall* be met for any off-street parking. Off-street parking and driveway areas *shall* not constitute more than forty (40) per cent of the *front yard area* of any detached *single-family dwelling* except in planned residential developments constructed in accordance with Article F or *Master Plans.* No *multi-family dwelling* development *shall* violate §10-2107(b)(2)b.

(Ord. No. 799-TC-267, §31, TC-21-85, 1-1-87; Ord. No. 97-TC-180, §§1-4, TC-230, 4-19-83; Ord. No. 1994-446- TC-83, §2, TC-14-94, 7-19-94)

(5) Loading and unloading areas.

All commercial and industrial structures*shall* provide adequate *loading areas* and unloading areas, which when in use *shall* not interfere with the normal flow of traffic within the required off-street parking areas. Vehicles using the *loading area* *shall* not be parked on, or extend into, any *street* right-of-way, *street protective yard* or *transitional protective yard* when loading or unloading.

(Ord. No. 799-TC-267, §33, TC-21-85, 1-1-87; Ord. No. 1992-111-TC-42, §36, TC-19-92, 12-8-92)

(c) Exceptions and Modifications.

(1) Church parking lots.

Any*lots used* for the erection of a church *building* purchased by a church for that

purpose and the purchase thereof as evidenced by a deed to the church or to the trustee or other proper *officers* thereof (in their representative capacity) filed for registration in the office of the register of deeds of Wake *County* on or prior to the fifteenth day of August, 1950, are specifically exempted from the off-street parking requirements as set forth in the Schedule of Off-Street Parking Schedules.

(Ord. No. 624-TC-137, §1, TC-K-81, 4-7-81)

(2) Compact car substitution.

Up to thirty (30) per cent of the parking spaces as required in the Schedule of Off-Street Parking Schedules for the*following* uses *may* be compact spaces provided the required parking is located in parking decks or parking garages containing one-hundred fifty (150) spaces or more:

a. All office, studio or agency uses in the Schedule of Off-Street Parking Schedules.

b. Industries, wholesale establishments, warehouses, and other businesses not catering to retail or customer trade.

(Ord. No. 624-TC-137, §1, TC-K-81, 4-7-81; Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(3) Off-site parking.

a. General.

Outside the Downtown and Pedestrian Business Overlay Districts if parking cannot be provided on the same*lot* as the *principal building* or *dwelling* in conformity with these provisions, it *may* be provided in any *nonresidential zoning district* , other than Conservation Buffer, Agricultural Productive, or Residential Business on a *lot* within four hundred (400) feet of any entrance of the *principal use* for customer, patron, or resident parking, and within one thousand (1,000) feet of any entrance of the *principal use* for employee parking. Within the Downtown and Pedestrian Business Overlay Districts the distances *shall* be eight hundred (800) feet for customer, patron, or resident parking, and twelve hundred (1,200) feet for employee parking. Within a Buffer Commercial District, the parking must be located inside a parking deck if it is the *principal use* . When a Streetscape and Parking Plan for a Pedestrian Business Overlay District has been adopted, the distance shall be one thousand two hundred (1,200) feet for all customer, patron, resident, and employee parking when locating within parking areas so designated by the Overlay District's adopted Streetscape and Parking Plan.

The applicant*shall* submit with his application for a building permit for the *principal use* , a description of all off-site parcels used to meet off-street parking requirements, together with a certificate of ownership of these parcels or attested copy of the leasing agreement or cross parking easement or declaration.

The applicant*shall* also agree *in writing* that he, or his successors or assigns, *shall* provide the required off-street parking on these parcels or their equivalent, so long as the *principal use* *shall* continue, and *shall* agree that the *principal use* *shall* be discontinued, should the required off-street parking no longer be provided on these off-site parcels or their equivalent.

Violations of these provisions*shall* constitute an unauthorized illegal occupancy of the *principal use* .

(Ord. No. 415-TC-343, §5, TC-1-89, 8-1-89; Ord. No.75-TC-301, §4, TC-18-87, 11-4-87; Ord. No. 856-TC-274, §4, TC-11-86, 9-16-86; Ord. No. 2000-740-TC-190, TC-1-99, §9, 2-18-00; Ord. No. 2005-932-TC-275, §19, TC-6-05, 11-15-05)

b. Downtown residential housing developments.

Parking facilities located off-site and in the Residential Business District are allowed for developments approved within the Downtown Overlay District, §10-2051, for*dwellings, congregate care* , or *congregate living structures* .

The applicant*shall* provide adequate legal assurances that the parking facilities will be utilized solely by residents of specified *dwelling units* and that *lot* maintenance responsibilities are clearly assigned.

(Ord. No. 2005-932-TC-275, §19, TC-6-05, 11-15-05)

c. *Residential institutional* uses in *residential zoning districts* .

In*residential zoning districts* , if parking cannot be provided on the same *lot* as the *principal building* of a *residential institution* , it *may* be provided on another *lot* provided that a special use permit is obtained in accordance with §10-2145.

(Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

(4) Parking reduction for conversion or alteration of a ***building*** .

The Board of Adjustment in accordance with §10-2144 can grant a reduction in the Schedule of Off-Street Parking Schedules for pedestrian trade.

(Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

(5) Schools - high schools, vocational schools, and institutions of higher education.

The number and distance standards for off-street parking required for high schools, vocational schools, and institutions of higher education*may* be changed upon a finding by the *City Council* that such change will not negatively impact provision of parking sufficient to meet demand based on the *following* :

a. Ratio of on-campus to off-campus population.

b. Evidence of current parking utilization.

c. Location of current parking resources in relationship to the uses served.

d. Use characteristics of major assembly areas.

e. Degree of on-campus commercial and research activity.

f. Provision of alternative transportation services, including, but not limited to shuttle services, full bus service, bikeways, and tramways.

g. Institutional policies relating to parking.

h. Use characteristics of support facilities for students and administrators.

(Ord. No. 75-TC-301, §§2-5, TC-18-87, 11-4-87; Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

(6) Zoning districts.

a. Office and Institution-2 District.

In the Office and Institution-2 District the off-street parking requirements are as set forth in the Schedule of Off-Street Parking Schedules, except that the*Council* or the Planning Commission *may* change the requirements in the preliminary *site plan* approval.

(Ord. No. 1997-137-TC-153, §76, TC-18-96, 6-17-97)

b. Pedestrian Business Overlay District.

In the Pedestrian Business Overlay District, the minimum number of off-street parking spaces required for commercial and recreational uses in the Schedule of Off-Street Parking Schedules*shall* be based upon the ratios and coordinating strategies recommended by the adopted Streetscape and Parking Plan for the subject area of the Overlay District, see §10-2055(e)(1). Off-street parking standards for all other uses *shall* be the same as required in the Schedule of Off-Street Parking Schedules.

(Ord. No. 2005-932-TC-275, §20, TC-6-05, 11-15-05)

Cross references: For limitations on parking between*buildings* and a *thoroughfare* , see Pedestrian Business Overlay District, §10-2055(e)(2); parking in Pedestrian Business Overlay District, §10-2081(c)(4)a.

c. Downtown Overlay District.

In the Downtown Overlay District, the off-street parking requirements are as set forth in §10-2051(e)(1).

(Ord. No. 2005-932-TC-275, §21, TC-6-05, 11-15-05)

(Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

(7) Parking reduction for recycling of corrugated cardboard.

The number of off-street parking spaces required by the Schedule of Off-Street Parking Standards*may* be reduced by the *following* ratio: the square footage of space required for container(s) devoted exclusively to the collection of corrugated cardboard for recycling, plus the space required for screening of any such container(s) divided by one hundred fifty (150), but no fraction thereof, provided that no reduction in the number of spaces required by the Schedule of Off-Street Parking Standards of more than ten (10) per cent *shall* occur without the prior approval of the *City Council* , which *shall* first determine if further reductions will cause on-street parking congestion.

(Ord. No. 1992-88-TC-401, §§17--19, TC-4-92, 11-4-92; Ord. No. 1993-160-TC-53, §1, TC-8-93, 4-6-93; Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

(d) Submittal and Permitting Procedures.

A drawing*shall* be furnished to the Inspections Department with each building permit request. Such drawing *shall* show:

(1) The location and arrangement of spaces and driveways.

(2) Structures and uses in the public right-of-way.

(3) Information which is required to determine compliance with §10-2082et seq.

(4) Method of designating parking spaces and traffic flow.

(5) Where applicable, information required in §10.2132.2(d)(1)m. and (d)(6).

(Ord. No. 1995-697-TC-118, § 2, TC-21-95, 8-1-95; Ord. No. 2000-754-TC-192, TC-14-99, 3-21-00; Ord. No. 2005-932-TC-275, §18, TC-6-05, 11-15-05)

However, in the event no other permit is requested, no*vehicular surface area* , except for a detached *single-family dwelling* on its own *lot* , *shall* be created without first obtaining a zoning permit from the Department of Inspections. The *city* administration *shall* review the plan. They *may* disapprove it if it fails to provide for safe movement of vehicles and pedestrians on or near the subject *property* or if any provision of §10-2081 et seq. and §10-2082 et seq. has not been met. Where a project is developed utilizing multiple permits, the landscaping and planting portions of the permit *may* be separate but *shall* remain subject to

the provisions of the next paragraph.

The final inspection for certificate of compliance for any use of land,*building* , or both *shall* be withheld by the Department of Inspections until all areas designated for off- *street* parking are lawfully improved and where applicable required landscaping is either installed or deferred in accordance with §10-2082.3(b).

(Ord. No. 799-TC-267, §32, TC-21-85, 1-1-87)

(Ord. No. 1977-522-TC-60, §1, 5-3-77; Ord. No.1977-538-TC-67, §1, 5-17-77; Ord. No. 1977-622-TC-68, §1, 9-20-77; Ord. No. 1978-778-TC-82, §1, 5-2-78; Ord. No. 1978-779-TC-83, §3, 5-2- 78; Ord. No. 1978-869-TC-85, §§13-15, 8-15-78; Ord. No. 1978-942-TC-89, §1, 11-21-78; Ord. No. 1979-79-TC-104, 5-1-79; Ord. No. 1979-279-TC-113, §5, 12-18-79; Ord. No. 1981-624-TC-137, §§2--4, 4-7-81; Ord. No. 1981-784-TC-154, §1, 11-3-81; Ord. No. 1982-955-TC-166, §3, 8-3-82; Ord. No. 1982-49-TC-174, §7, 12- 21-82; Ord. No. 1983-97-TC-180, §§1--4, 4-19-83; Ord. No. 1983- 115-TC-182, §§5--7, 5-17-83)

Sec. 10-2082. REQUIRED LANDSCAPING REGULATIONS; INTENT AND PURPOSES.

The*City Council* of the *City* of Raleigh finds that Raleigh is blessed with a diverse and abundant cover of trees and vegetation and that such cover is of general aesthetic value to the *City* and that the ecological diversity and richness of the *City* makes it a desirable place for residents, *owner* s, and visitors alike; and that the appearance of Raleigh from the public ways contributes ecologically and aesthetically to the growth and economic prosperity of the *City* ; and also, that Raleigh is known at "The *City* of Oaks" and the flag of the *City* and the *City* seal with its oak trees are symbols of Raleigh's pride in its natural heritage; and also that the growth and development attracted to the *City* of Raleigh, because of its natural beauty, oftentimes requires the removal of trees and other plant material, thereby contributing to the depletion of a most valuable natural resource, therefore it is necessary to protect, preserve and restore this valuable asset. The *City Council* declares the purposes and intent of this ordinance to be as follows:

(a) To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare and heat abatement; and

(b) To encourage the preservation of existing trees and vegetation; and

(c) To assist in providing adequate light and air and in preventing overcrowding of land; and

(d) To provide visual buffering and enhance the beautification of the*City* ; and

(e) To safeguard and enhance*property* values and to protect public and private investment; and

(f) To preserve, protect and restore the unique identity and environment of the*City* of Raleigh and preserve the economic base attracted to the *City* of Raleigh by such factors; and

(g) To conserve energy, and to protect the public health, safety and general welfare; and

(h) To provide habitat for living things that might not otherwise occur to be found in urban and suburban environs.

(Ord. No. 799-TC-267, TC-21-85 §1, 6-3-86)

Sec. 10-2082.1. APPLICATION OF LANDSCAPING REQUIREMENTS.

(a) Application to Public and Private Property.

Except as otherwise exempted by subsection (b) below, the landscaping requirements of this

chapter*shall* apply to all land public and private located within the *City* of Raleigh zoning jurisdiction. Unless provided otherwise by this chapter, none of the uses authorized by this chapter *shall* be permitted until such landscaping requirements are installed.

(b) Exempt Property.

None of these requirements*shall* apply to:

(1) Improvements or repairs to interior and*exterior features* of existing structures or *buildings* which do not result in expansions nor changes in the type of occupancy as set forth in the North Carolina State Building Code.

(2) Temporary event approved in accordance with §10-2072(b).

(Ord. No. 1993-296-TC-68, §8, TC-23-93, 12-7-93; Ord. No. 2002-297-TC-226, § 1, 10-1-02)

Cross references: Existing*buildings* and uses, §10-2082.10; existing *vehicular surface areas* , §10-2082.7.

(c) Landscape Ordinance Categories.

The*following* categories are required to be landscaped:

(1) *Street protective yards* , §10-2082.5;

(2) *Vehicular surface areas* , §10-2082.6 and §10-2082.7;

(3) *Display areas* , §10-2082.8;

(4) *Loading areas* , §10-2082.8;

(5) *Utility service areas* , §10-2082.8;

(6) *Transitional yards* , §10-2082.9;

(7) Incentives for tree preservation, §10-2082.11;

(8) Resource Management Zoning Districts, §10-2082.12.

(Ord. No. 1986-799-TC-267, §1, TC-21-85, 6-3-86; Ord. No. 1996-851-TC-128, §15, TC-23-95, 4-2-96)

Sec. 10-2082.2. DEFINITIONS.

Basal area . The total cross sectional area, stated in square feet per acre, of trees in a wooded area measured at four and one-half (4 1/2) feet above ground level.

Champion tree . Any tree listed as the champion or co-champion of its species, either on the "National Big Tree" list as compiled by the American Forestry Association or on the "Champion Big Trees of North Carolina" list as compiled by the North Carolina Division of Forest Resources, or on the "Capital Trees Program" list as complied by Wake County Keep America Beautiful.

Closed fence or ***wall*** . A *solid fence* or wall which has no openings or contains shiplap, or tongue in groove or similar overlapping design if made of wood.

Cross reference: Closed wooden fences used as a required screening device, §10-2082.3(f).

Critical root zone . The area uniformly encompassed by a circle with a radius equal to one and one-quarter (1.25) foot per per inch of *DBH* tree trunk of the preserved *tree* measured at four and one-half (4.5) feet above the ground (measured to the nearest inch), with the trunk of the tree at the center of the circle.

DBH . Diameter at Breast Height (DBH) of a tree in the field is the diameter of the stem of a single-stem tree measured at four and one-half (4.5) feet (breast height) above grade level, or

the total diameter of all stems of a multi-stemmed tree measured at four and one-half (4.5) feet above grade level.

Display area . A *display area* is an outdoor open air area where merchandise is stored throughout the day and the night and this same stored merchandise is sold or leased.

Earthen berms . A berm utilized to meet landscape standards in §10-2082 et seq.

Encroachment . Any disturbance in the natural grade, construction of *impervious surfaces* , trenching or excavation, storage of equipment, materials or earth and the temporary or permanent parking or circulation of vehicles or equipment.

Excessively trimmed. The pruning, cutting, or otherwise damaging the natural form of a tree when it meets one (1) or more of the *following:*

(1) Removes more than twenty-five (25) per cent of the crown system of a tree within a continuous five-*year* period.

(2) Removes, cuts, or covers more than twenty-five (25) per cent of the root system of a tree within a continuous five-*year* period.

(3) Fails to conform to the pruning cuts methods set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

(4) Is made for a purpose other than "hazard pruning," or "utility pruning," or "maintenance pruning" as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

(5) Is crown reduction, heading, vista pruning, or pollarding as set forth in the current edition of "Tree, Shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute.

Loading areas . An area which contains trash collection areas or dumpmaster type refuse containers, outdoor loading and unloading spaces, docks, outdoor shipping and receiving areas, outdoor bulk storage of materials or parts thereof, and outdoor repair areas of any service stations, safety equipment inspection stations, or dealers.

Service area . An area which serves an establishment or *building* including without limitation mechanical systems areas, utility meters, pay windows, drive-in windows, and outdoor self-service areas.

Shade tree . An evergreen or deciduous tree whose mature height of its species can be expected to exceed thirty-five (35) feet and which has an expected crown spread of thirty (30) feet or more determined in accordance with the latest edition of "American Standards of Nursery Stock", set forth by the American Association of Nurserymen.

Street yard . A landscaped *protective yard* area parallel to the recorded or proposed public *street* right-of-way. This area *shall* contain plantings of trees and other live vegetation.

Tree disturbing activity . Any activity that results in one or more of the *following* :

(1) The movement of earth, compaction of earth, chemical or physical alteration of earth, or a change in the existing soil cover (both vegetative and non vegetative) and/or the existing soil topography in the*critical root zone* of a tree, including but not limited to: chemical application; clearing, grading, filling, and excavation; stabilization of structures; and road or walkway construction

(2) Chemical or physical alteration of a tree in any way that diminishes its health and vigor, including but not limited to removal, cutting, root pruning, branch pruning, topping, bark scraping, and application of chemical or biological agents.

(3) The placement within the*critical root zone* of any permanent or temporary encroachment, including but not limited to: application of *impervious surfaces* ; storage of equipment, materials, or earth; parking or circulation of vehicles or equipment.

Understory tree . An evergreen or deciduous tree whose mature height can be expected to range between fifteen (15) feet to thirty-five (35) feet and which has an expected crown spread range between fifteen (15) feet to twenty-five (25) feet as determined by the latest edition of "American Standards of Nursery Stock" as set forth by the American Association of Nurserymen.

Undisturbed area . An area free of any *tree disturbing activity* except the planting of landscaping required by §10-2082 et seq. and plantings required by conditional use zoning requirements.

Urban forestry . *Urban forestry* is the management, including planting of trees and other plants for their contribution to the physiological, sociological, aesthetic, environmental and economic well-being of urban society. *Urban forestry* is distinguished from *forestry general* in which tree are grown primarily for wood and fiber. *Urban forestry* encompasses all of the *following* elements:

1. The maintenance of a permanent forest with continuous stocking of at least a basal area of sixty (60) square feet per acre comprised of trees three (3) inches or greater*DBH* .

2. Use of low soil impact equipment for care and maintenance of the urban forest. Low soil impact equipment does not include log skidders, mechanical harvesters, forwarders, mechanical tree planters, excavators, soil mounders, dozers, and similar tracked or wheeled vehicles.

3. Protection of the urban forest from the movement of earth, compaction of earth and the detrimental chemical or physical alteration of earth.

4. *Urban Forestry* does not include sale of trees for forest products, nor the establishment of permanent or temporary roads, skids, trails, or logging decks.

Transitional yard . A landscaped *protective yard* adjacent to *lot* lines, but not *right-of-way* lines, which screens the adjacent *lot* from different land uses.

Utility service area . An area which contains any utility box, booster box, switching station, transformer, pedestal, or similar above-grade device used to serve any underground utilities.

Vehicular display area . A *display area* for any motor vehicle, trailer, or semi-trailer required to be registered with the North Carolina Department of Motor Vehicles under the laws of *this state* as defined in N.C.G.S. §20-286(10).

Vehicular surface area . An area where motor vehicles are either stored or driven, including private driveways and private *streets* built in accordance with §10-3074 of this code, parking lots, vehicular display lots, rental lots, and depots, but it does not include parking *buildings* or areas which are *used* exclusively as *loading areas* and *service areas* .

(Ord. No. 1999-616-TC-181, §55, TC-3-99, 8-3-99; Ord. No. 2002-149-TC-212, §1, TC-12-01, 1-15-02; Ord. No. 2005-762-TC-264, §1, TC-7-04, 1-4-05)

Sec. 10-2082.3. LANDSCAPING PROCEDURES AND GENERAL REQUIREMENTS.

(a) Plan Submittal Information Required.

When a*site plan* is required by this Code to be approved on land where the landscape requirements of this chapter are applicable, the *site plan* *shall* contain the information listed

in subsection §10-2132.2. When an application is made for a permit on any land where the landscaping requirements of this chapter are applicable, such permit application *shall* be accompanied by a landscape plan. The landscape plan *shall* contain the information listed in paragraphs (1) through (4) below, or any additional information as determined by the Department of Inspections, Planning Department or *City Council* to enable them to determine whether the permit application or plan should be issued or approved.

(1) All existing or proposed land uses adjoining or adjacent to the site and within two hundred (200) feet of the site, excluding*properties* across a public *street* , and an indication of the residential density of development of these adjoining tracts;

the highest classification of use, as set forth in §10-2012, allowed in the zoning district adjacent to or adjoining the site when these*properties* are vacant; the location and dimensions of planting areas, *street protective yards* , *thoroughfare yards* , *vehicular surface areas* , and *transitional protective yards* ; and screening areas for loading, *display areas or utility service areas* ;

(2) The number, location, species, height and size in circumference four and one-half (4 1/2) feet above grade of existing natural trees between the*principal building* and public *street right-of-way* which are to be maintained or preserved for credit as per §10-2082.5(f);

(3) Existing and proposed landscaping, including landscaping and screening that is required by this Code; the location, species, size in circumference four and one-half (4 1/2) feet above grade, and height of new trees in planting areas to comply with this Code; the number, spacing, size and species of planting material, an indication of the size of walls,*earthen berms* and fences; provisions for watering, soil stabilization, plant protection, and maintenance access.

(4) The location and description of any barriers to be erected to protect any vegetation from damage both during and after construction.

(Ord. No. 499-TC-349, §§2-6, TC-15-89, 3-7-90)

(b) Deferral of Landscape Installation.

If at the time of a request for a Certificate of Compliance, the required landscaping is not in place and it can be determined by the*City* that because of the unavailability of plant material or that requiring completion of the landscaping at the time of such request would jeopardize the health of plant materials or weather conditions prohibit the completion of planting, the developer/ *owner* *shall* make the *following* arrangements to secure a Certificate of Compliance:

(1) The developer/*owner* *shall* produce a contract, binding for one (1) *year* from the date approved by the *City* , for the completion of the landscape work. Such contract *shall* specify that the work *shall* be completed before or during the *year* immediately *following* the date of application for a Certificate of Compliance. The *City* *shall* not be a party nor a third party beneficiary to said contract.

(2) The developer/*owner* *shall* also agree *in writing* that he, or his successors or assigns, *shall* provide the required planting within the one- *year* period specified in paragraph (1) above, as a condition for obtaining a Certificate of Compliance for the *principal use* so long as the *principal use* *shall* continue. The developer/ *owner* *shall* also agree that the *principal use* *shall* be discontinued if the required planting is not provided as specified in paragraph (1) above. Violations of these provisions *shall* constitute an unauthorized illegal occupancy of the *principal use* .

(c) View Obstruction-Site Distances.

Landscaping*shall* not obstruct the views of motorists using any *street* , private driveway, parking aisles or the approach to any *street* intersection so as to constitute a traffic hazard or a

condition dangerous to the public safety upon any such *street* , driveway, parking aisle, or *street* intersection; or violate the guidelines set forth by §10-2086.

Cross reference: Responsibility of*owner* to trim vegetation and trees adjacent to a public *street* or public place, §9-8007, §12-6002(15).

(Ord. No. 1992-111-TC-42, §37, TC-19-92, 12-8-92)

(d) Maintenance of Landscaping.

(1) Adjacent to parking areas.

Whenever any planting areas required by this chapter are adjacent to parking or vehicular circulation areas, the planting areas*shall* be protected from vehicular intrusion or damage from excessive vehicular lubricants or fuels.

(2) Soil erosion.

All landscape planting areas*shall* be stabilized from soil erosion immediately upon planting and *shall* be maintained for the duration of the use.

(3) Damage from disease or weather.

The*owner* is responsible for maintaining all required plant material in good health. Any dead, *unhealthy* or missing plants must be replaced with locally adapted vegetation which conforms with the initial planting standards of this Code. But in the event that plant material is severely damaged due to an unusual weather occurrence or other act of nature, the *owner* *shall* have two (2) *years* to replant.

(4) Prohibited pruning.

All plant materials required by §10-2082et seq. *shall* be allowed to reach their mature size and *shall* be maintained at their mature size. Except for trimming and pruning done in strict accordance with the terms, conditions, and provisions of a permit issued by the *City Forestry* Specialist, Urban Forester and/or in strict accordance with the line clearance policies and standards governing such activities established pursuant to Part 9, chapter 8, plants required by §10-2082 et seq. or by a conditional use zoning district regulation *shall* not be cut or *excessively trimmed* or otherwise damaged so that their natural form is impaired. A violation of this subsection *shall* subject the violator to a civil penalty of a minimum of one thousand dollars ($1,000.00) for the first tree plus one hundred dollars ($100.00) per caliper inch of any other tree unlawfully pruned damaged or *excessively trimmed.* Said civil penalty *shall* be processed as set forth in §10-2152 (5). In addition to this civil penalty, if more than fifty (50) per cent of the crown of a tree is removed within a continuous five- *year* period, or more than 40 per cent (40%) of the *critical root zone* of the tree is subjected to *tree disturbing activity* , or if more than one-third (1/3) of the circumference of the tree is exposed by pruning cuts, the *owner* of *real property,* where a violation has occurred, *shall* replace each such unlawfully pruned, damaged, *excessively trimmed,* or removed tree with a tree or trees of equal diameter. The maximum size of any replacement tree *shall* be nine and three-eighth (9.375) inches in circumference (three (3) inches in diameter) measured at one-half (1/2) feet above grade. Any replacement tree *shall* be planted in a planting area of least three hundred fifty (350) square feet in area with minimum dimensions of seven (7) feet. If the *property* whereon the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees can not be planted on adjoining public *street* rights-of-way, then in lieu of such replacement trees, a fee equal to one hundred dollars ($100.00) per caliper inch of replacement trees *shall* be paid to the *City* . The *City Forestry* Specialist *may* require crown restoration and crown reduction in accordance with the current edition of "Tree, shrub, and Other Woody Plant Maintenance--Standard Practices" of the American National Standards Institute for any unlawfully pruned damaged or *excessively trimmed* tree. All such corrective

pruning *shall* be done under the supervision of a certified arborist.

Cross reference: Trees and vegetation generally, §9-8001et seq.

(Ord. No. 1996-922-TC-136, §1, TC-10-96, 6-18-96; Ord. No. 2002-149-TC-212, §§2, 3, TC-12-01, 1-15-02; Ord. No. 2005-762-TC-264, §9, TC-7-04, 1-4-05)

(e) Replacement by Condemnor.

Whenever any condemnor, as defined in*G.S.* 40A-3, acquires *property* which complies with the requirements of §10-2082, it *shall* be the responsibility of the condemnor to replace, in accordance with the provisions of this Code, to the greatest extent possible, those complying elements which were removed unless a less stringent standard is required.

(Ord. No. 1986-799-TC-267, TC-21-85, §1, 6-3-86)

(f) Closed Wood Fences Used as a Screening Device.

Closed wood fences used as a screening device to satisfy any of the requirements of §10-2082et seq. *shall* be two (2) inches or greater in nominal size thickness and must contain a preservative treatment with a minimum retention of four-tenths (.4) pounds per cubic foot above ground and in-ground six-tenths (.6) pounds per cubic foot, or contain equivalent natural preservative characteristics.

Sec. 10-2082.4. LANDSCAPING ALTERNATE METHODS OF COMPLIANCE.

(a) Conditions for Alternate Methods of Compliance.

Although certain material, or tree conservation, or a particular method of construction is specifically prescribed by this section, §10-2082et seq. , this Code is not intended, especially whenever a stream, natural rock formation or other physiographic conditions exists, to prevent the use of a material, or tree conservation, or method of construction, different from the material, or tree conservation, or method of construction specifically prescribed by this section; provided, any such alternate material, or tree conservation, or method of construction is first approved *in writing* or in plan, and its use is authorized by the body or department authorized to approve the original plan or permit.

The body or department*may* approve *in writing* or in plan any such alternate material, or tree conservation, or method of construction; provided, it is found that the proposed alternate material, or tree conservation, or method of construction is for the purpose intended, at least the equivalent of that specifically prescribed by this Code in quality, effectiveness, durability, hardiness, and performance. The body or department *may* require that sufficient evidence or proof be submitted to substantiate any claim that *may* be made regarding its use.

(Ord. No. 499-TC-349, §7, TC-15-89, 3-7-90; Ord. No. 2005-762-TC-264, §10, TC-7-04, 1-4-05)

(b) Thirty (30) per cent ***Lot*** **Coverage Limit to Landscaping.**

In instances where the ground area required for landscaping by this Code including*protective street yards* required in the Thoroughfare District, Airport Overlay District and Special Highway Overlay Districts (SHOD) and tree conservation areas exceeds thirty (30) per cent of the area of the *lot* and the *property owner* has reduced the width of the *transitional protective yards* as authorized in §10-2045(d)(2) and §10-2082.9(g), then the size of landscaping areas required *may* be modified as deemed appropriate pro rata to each requirement to achieve this thirty (30) per cent limitation. But in no case *shall* the minimum *protective street yards* and *major access corridor yards* for the Special Highway Overlay Districts, Airport Overlay District, and Thoroughfare District be reduced below twenty (20) feet, and in no case *shall* the required tree conservation areas be reduced by more than one-half. Notwithstanding the foregoing, at the

time of designation of tree conservation areas if *transitional protective yards* on the perimeter of the tract are indicated and such areas are not designed as an overlapping area for both the *transitional protective yard* and the tree conservation area, no other perimeter tree conservation area established pursuant to §10-2082.14(b)(2)(c) and (d) nor their alternate tree conservation areas of *undisturbed areas shall* be considered when calculating the per cent of land coverage devoted to required landscaping.

(Ord. No. 1993-133-TC-46, §§16, 21, TC-11-92, 2-2-93; Ord. No. 2005-762-TC-264, §11, TC-7-04, 1-4-05)

(c) Code Provisions.

The provisions of this section are supplemental to any statutory and Code authority to issue variances or special use permits.

(Ord. No. 1986-799-TC-267, TC-21-85, §1, 63-86; Ord. No. 1988- 196-TC-314, §1, TC-8-88, 6-21-88)

Sec. 10-2082.5. STREET PROTECTIVE YARD LANDSCAPE REGULATIONS.

(a) Intent.

It is the intent of this section to establish a landscape planting area parallel to the recorded public*street* right-of-way. This area *shall* contain plantings of trees and other live vegetation to provide a more pleasing view from the ways of travel, to provide a continuity of vegetation throughout the *City* , to reduce the amount of *impervious surface* and reduce stormwater runoff, to filter air, provide shade and otherwise improve the microclimate and to preserve a remnant of Raleigh's natural vegetative cover. Such landscaping should allow identification of *buildings* and uses. When a slope easement is existing or required to be provided as part of the proposed development, the land area located within the slope easement *may* be utilized to fulfill the *street protective yard* width and planting requirements of this section. If any future public improvements of a *street* removes or causes any of the vegetation within the slope easement to die or to become *unhealthy,* it *shall* be the *property owner's* responsibility to replace vegetation to meet the minimum quantity, size and spacing requirements of §10-2082 et seq. within one hundred eighty (180) days of completion of the public *street* improvement.

(Ord. No. 2000-804-TC-195, TC-11-99, §1, 5-16-00)

(b) Zero (0) Setback Zoning Districts.

In zoning districts where zero (0) district yard setbacks are allowed for structures adjoining public*street* rights-of-way, the *street protective yard* and its plantings are to be located on private *property* as in any other district. However, the *street protective yard* planting *may* be located within the public *rights-of-way* after obtaining the concurrence of the proper authorities.

Cross reference: Trees and vegetation on public*property* , Part 9, chapter 8.

State law reference: Permits required for work in state roads,*G.S.* §136-93.

(c) ***Street Protective Yard*** **Design Standards.**

Street protective yards *shall* be landscaped and be properly maintained by the *owner* and *shall* have live vegetation, groundcover, grass, trees, shrubs, and *may* , unless otherwise prohibited, contain screening for loading, *utility service* , and *display areas* , and plantings for *vehicular surface areas* . The *street protective yard* *shall* meet all the *following* :

(1) ***Impervious surfaces*** .

No more than fifteen (15) per cent of this required*protective yard* *shall* be covered with an *impervious surface* which *may* be *used for* uses permitted by the Schedule of

Permitted Land Uses Within Types of Yard Areas, §10-2075(e). No *vehicular surface* , storage, *utility service* , *display, loading or service areas* *shall* be permitted in this yard.

(2) Tree quantity and spacing.

Each*street protective yard* *shall* contain at least one (1) natural tree for every fifty (50) linear feet of *street protective yard* or fraction thereof, as measured from the corners of the *property* and *shall* be located so that at least one (1) natural tree is within every seventy-five (75) linear feet of *street protective yard* or fraction thereof. Along *street protective yards* for *display areas* , the spacing of trees *shall* be one (1) natural tree every one hundred fifty (150) linear feet of the *street protective yard* or fraction thereof. Trees *shall* be planted at least ten (10) feet from any tree on the public right-of-way.

(3) Tree size at installation.

Within all*street protective yards* located in any *Resource Management District* , each natural *shade tree,* either existing or planted, utilized to comply with the landscaping requirements of this Code *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half-inch caliper), measured at one-half (1/2) foot above grade. In all other zoning districts, *shade trees,* either existing or planted, required in *street protective yards shall* be at least eight (8) feet in height and for each fifty (50) linear feet of *street protective yard shall* total eighteen and three-quarter (18 3/4) inches in circumference (six (6) inches in caliper), measured at one-half (1/2) foot above grade; provided that, no *shade tree* less than six and one-quarter (6 1/4) inches in circumference (two (2) inches in caliper) *shall* qualify for meeting the eighteen and three-quarter (18 3/4) inches circumference (six (6) inches in caliper) sum. For any detached *single-family dwelling* on its own *lot* and abutting a residential street, a minor residential street, or a residential collector street, all as defined in §10-3003, the total caliper inches of *shade trees* , planted or existing, required in *street protective yards* shall be two inches in caliper (6.25 inches in circumference), measured at one-half foot above grade, per each fifty (50) linear feet of *street protective yard* . The other size requirements for *shade trees* set forth in this section shall be applicable to all *single-family dwellings* .

(4) Tree size at maturity.

All required trees in the*street protective yard* and *thoroughfare protective yard* in any Thoroughfare District, Airport Overlay District, and Special Highway Overlay District must be a locally adapted species with an expected mature height of thirty-five (35) feet or greater and an expected mature crown spread of at least thirty (30) feet or greater unless subject to an overhead power line in which case the mature height *may* be less.

(5) Minimum quantity.

No*street protective yard* nor *thoroughfare protective yard* in any Thoroughfare District, Airport Overlay District, or Highway Overlay District *shall* contain less than one (1) natural tree. In no case *shall* credits for preserved tree eliminate the *shade tree* spacing requirements of subsection (c)(2) above.

(6) Existing trees.

Any existing stand of vegetation which meets the applicable standards of subsection (f) below will satisfy the planting requirements so long as it is protected in accordance with the provisions of this Code.

(7) Tree type.

Trees must be species adapted to roadside conditions. Along major thoroughfares, fifty (50) per cent of the trees required to be planted by this Code must conform with Raleigh's adopted Master Street Tree Planting Plan; including all subsequent

amendments thereto. Copies of this plan are on file with the*City* Clerk's office, the Parks and Recreation Department and the Planning Department.

Cross reference: Responsibility of*owner* to trim vegetation and trees adjacent to a public *street* or public places, §9-8007, §11-2007.

(Ord. No. 1992-111-TC-42, §38, TC-19-92, 12-8-92; Ord. No. 1996-851-TC-128, §§16, 17, TC-23-95, 4-2-96; Ord. No. 1997-60-TC-145, §1, TC-17-96, 2-18-97; Ord. No. 2002-149-TC-212, §4, TC-12-01, 1-15-02; Ord. No. 2002-297-TC-226, § 2, TC-20-02, 10-1-02)

(d) ***Street Protective Yard*** **Width Requirements.**

Any use of land, including*vehicular surface areas* and parking structures, established after application of this section, *shall* provide a *street protective yard* along any existing or proposed public *street rights-of-way* adjacent to or adjoining the *property* except those portions of the *lot used for* driveway construction in accordance with §10-7001(f) which are exempted from all *street protective yard* requirements. The *street protective yard shall* be required as follows:

(1) ***Street protective yards*** **for existing** ***lots*** .

a. For existing developed*lots* or *lots* with unexpired building permits issued prior to the time this section becomes applicable* to the *property* the required *street protective yard shall* be at least five (5) feet wide as measured perpendicular to the recorded public *street right-of-way* abutting the *property* .

b. For existing undeveloped*lots* platted prior to application of this section* to the *property* the required *street protective yard shall* be at least five (5) feet and no more than twenty-five (25) feet wide as measured perpendicular to the public *street right-of-way* abutting the *property* . The minimum area of the *street protective yard* , in square feet, *shall* be equal to the length of the *property* along the right-of-way, in linear feet, times ten (10). Widths in excess of twenty-five (25) feet in width *shall* not be calculated in determining the minimum area.

(2) ***Street protective yards*** **for new or recombined** ***lots*** .

For all new*lots* developed or otherwise platted and recorded after application of this section* to the *property* , the required *street protective yard shall* be at least seven and one-half (7 1/2) feet and no more than twenty-five (25) feet wide as measured perpendicular to the recorded public *street right-of-way* abutting the *property* . The minimum area of the *street protective yard* , in square feet, *shall* be equal to the length of the *property* along the right-of-way, in linear feet, times fifteen (15). Widths in excess of twenty-five (25) feet *shall* not be calculated in determining the minimum area.

Cross reference: Alternative method of compliance, §10-2082.4(a).

*Editor's note: This section was first applied on January 1, 1987 (Ord. No. 1986-799-TC-267, 6-3-86).

(3) ***Street protective yards*** **for the sides of lots adjoining an arterial.**

Notwithstanding the requirements in subsections (1) and (2) above, the required*street protective yards* abutting a special arterial *street may* be reduced to no less than five (5) feet wide as measured perpendicular to the recorded public *street right-of-way* abutting the *property* if the *following* are met:

a. The arterial is on the*City* Capital Improvement Program or the State Transportation Improvement Program, and a design cross section for the proposed widening or extension of an arterial has been approved by *City Council* which shows a landscaped median, or the existing recorded *right-of-way* exceeds a width of one hundred ten (110) feet; and

b. The arterial is a secondary arterial or a*principal arterial* gateway as shown on the Comprehensive Plan.

In all other cases, the*street protective yard shall* be measured perpendicular from the *right-of-way* line representing a one hundred ten-foot width for the arterial, and the *street protective yard shall* comply with subsection (1) or (2) above.

(4) ***Street protective yards*** **for properties which either undergo a change of use or acquired by a condemnor.**

For*properties* which are either acquired by a condemnor, as defined in *G.S.* 40A-3 or which have a change in the type of use which results in a change in the type of Building Code occupancy as set forth in the **North Carolina State Building Code, the applicable required minimum *street protective yard* width as determined from subsections (1) and (2) above, *shall* be provided in the same manner as set forth in §10-2082.10(c) except that the multiplier of five (5) contained in §10-2082.10(c)(1) *shall* be increased to equal the width of the applicable required minimum *street protective yard* .**

(5) ***Street protective yards*** **for expansions.**

For*properties* which have expansions or additions made after application of this section, the required minimum *street protective yard* widths *shall* be provided as set forth in the first paragraph of §10-2082.10(c)(1) or §10-2082.5, whichever is applicable.

Cross reference:*Thoroughfare protective yards* in Thoroughfare District (§10-2045), Airport Overlay District (§10-2050), and Special Highway Overlay Districts (§§10-2058--10-2061).

(6) Slope easements.

When a slope easement is existing or required to be provided as part of the proposed development, the land area located within the slope easement*may* be utilized to fulfill the *street protective yard* width and planting requirements of this section. If any future public improvements of a *street* removes or causes any of the vegetation within the slope easement to die or to become *unhealthy,* it *shall* be the *property owner's* responsibility to replace vegetation to meet the minimum quantity, size and spacing requirements of §10-2082 et seq. within one hundred eighty (180) days of completion of the public *street* improvement.

(Ord. No. 2000-804-TC-195, TC-11-99, §2, 5-16-00)

(Ord. No. 499-TC-349, §§8-10, TC-15-89, 3-7-90; Ord. No. 1992-111-TC-42, §39, TC-19-92, 12-8-92; Ord. No. 1993-133-TC-46, §22, TC-11-92, 2-2-93; Ord. No. 1993-263-TC-65, §5, TC-19-93, 9-21-93; Ord. No. 2002-149-TC-212, §5, TC-12-01, 1-15-02)

(e) Tree preservation as Alternate Means of Compliance.

In lieu of the average ten (10) and fifteen (15) foot wide*street protective yard* area required by subsection (d) above, a minimum *street protective yard* equal to five (5) feet in width measured perpendicular to the recorded public *street right-of-way* abutting the *property may* be substituted as an alternate; provided that, all of the conditions of §10-2082.11(a) are first met.

(Ord. No. 499-TC-349, §11, TC-15-89, 3-7-90; Ord. No. 1996-851-TC-128, §18, TC-23-95, 4-2-96)

(f) Tree Preservation as a Credit Towards Tree Planting Requirements.

The planting or preservation of live natural trees fifteen and five-eighths (15 5/8) in circumference (five (5) inch caliper) or greater, measured at four and one-half (4 1/2) feet above grade between the front line of the*principal building* and the public *street right-of-way* of live natural trees can be credited towards the tree planting requirements of this section or §10-2082.6(c)(4). In no case *shall* credits for preserved trees eliminate the *shade tree* spacing

requirements of §10-2082.5(c)(2) and §10-2082.6(c)(5) except as modified by §10-2082.11.

(1) Method of calculation and minimum size.

The credit toward the required number of trees*shall* be a number equal to of one-sixth (1/6) the sum in inches of the circumference(s) of each preserved tree but no fraction thereof as measured at a height of four and one-half (4 1/2) feet above grade level. Each preserved tree *shall* be at least six and one-quarter (6 1/4) inches in circumference.

(2) Protection.

Each preserved tree*shall* be uniformly encircled by a protected ground area the size of which *shall* beequal to the *critical root zone* of the tree. Trees in parking lots which are already located inside planting areas with a minimum dimension of seven (7) feet *may* be also used. During construction, the protected ground area *shall* be clearly marked in the field. Credit authorized by this subsection (f) *shall* not be allowed if there is any *tree disturbing activity* .

GRAPHIC LINK:Diagram: Standard Area of No Encroachment Around Trees

(3) Diseased trees.

No credit will be allowed for any tree if the tree is*unhealthy* or dead. The death of or replacement of any preserved tree which was *used for* credit requires the *owner* to plant new trees equal to the number of credited trees; such plantings *shall* meet the applicable requirements of this Code.

(4) Minimum tree requirements.

In no case*shall* credits for preserved trees eliminate the requirement of (c)(5) above; no *street protective* nor *thoroughfare* yard *shall* contain less than one (1) natural tree.

(Ord. No. 799-TC-267, TC-21-85, §1, 6-3-86 Ord. No. 499-TC-349, TC-15-89, §§8-12, 3-7-90; Ord. No. 1996-851-TC-128, §19, TC-23-95, 4-2-96; Ord. No. 2003-373-TC-231, §23, TC-23-02, 2-4-03; Ord. No. 2005-762-TC-264, §6, TC-7-04, 1-4-05)

Sec. 10-2082.6. VEHICULAR SURFACE AREA LANDSCAPE REGULATIONS.

(a) Intent, Purposes, and Application.

(1) Intent.

It is the intent of this section to modify and reduce the deleterious visual, environmental and aesthetic effects of existing and proposed*vehicular surface areas* . The landscape requirements herein have been developed to:

a. filter and reduce the glare of headlight and reflected sunlight from parked automobiles onto the public*street rights-of-way* and;

b. separate the public from the ill effects of fumes and dust and;

c. visually modify the appearance of parking areas and*vehicular surface areas* , to encourage the construction of such necessary areas in a manner that more closely follows the existing natural contours of the land and;

d. distribute planting areas around and within the parking area and;

e. modify the rate of stormwater runoff and increase the capability of groundwater recharge in urbanizing areas and;

f. provide shade, noise attenuation, filtering the air of particulate and gaseous

pollutants and other beneficial environmental effects to the microclimate and;

g. prevent the overcrowding of land and;

h. break the visual blight created by large expanses of*vehicular surface areas* .

(Ord. No. 499-TC-349, §13, TC-15-89, 3-7-90)

(2) Application.

These requirements are for all*vehicular surface areas* , required or otherwise, regardless of the zoning district where they are located.

This section, 10-2082.6et seq. , *shall* apply to any *vehicular surface area* or portions thereof built after the application of this section. §10-2082.10(b) *shall* apply to those portions of any preexisting *vehicular surface area* when there are additions or expansions, which singularly or collectively exceed twenty-five (25) per cent of the land area or *building floor area gross* existing at the time this Code becomes applicable to the *property* .

Any existing*vehicular surface area* that contains off- *street* parking accessory to a new *building shall* meet the standards of this section.

Editor's note: This section was first applied on January 1, 1987.

(Ord. No. 1986-799-TC-267, 6-3-86; Ord. No. 1999-616-TC-181, §56, TC-3-99, 8-3-99)

(b) ***Street*** **Yard Vehicular Surface Plantings.**

All new*vehicular surface areas* and portions of expanded *vehicular surface areas* that are established within fifty (50) feet of any *street right-of-way* are required to have a visually modifying screen or barrier of plants, *closed fences* , walls, *earthen berms* , or any combination thereof that meet all of the *following* :

(1) Density.

The natural plants,*closed fences* , walls, *earthen berms* , or combination thereof, must occupy in Special Highway Overlay Districts one hundred (100) per cent and in all other districts at least seventy-five (75) per cent of a vertical rectangular plane equal to the peripheral length of the vehicular area, in feet, times an average height of three (3) feet six (6) inches as measured from the surface edge of the vehicular area. Such rectangular plane *shall* be exclusive of driveways and sight lines *used for* easy and safe automobile access and egress. No additional consideration towards meeting the seventy-five (75) per cent average requirement *shall* be given for any material greater than eighty-four (84) inches in height.

(Ord. No. 1993-133-TC-46, §23, TC-11-92, 2-2-93)

(2) Arrangement.

No more than six (6) continuous feet of the vertical plane as measured and viewed perpendicular from the*street may* be void of any natural plants, *earthen berms* , *closed fences* or walls, or combinations thereof.

(3) Fences and **walls.**

Fences and walls which are used *shall* be of the same or compatible, in terms of the texture and quality, material and color as the *principal building* .

Additional planting materials*shall* be provided so that no more than two-thirds (2/3) of the surface area of the fence or wall is visible from the *street* within three (3) *years* of erection of the structure. Forty (40) per cent of this plant material *may* be deciduous.

Cross reference: Fences and walls regulations §10-2086.

(4) Berms.

Any berms installed*shall* have a minimum height of one and one-half (1 1/2) feet and a minimum crown width of two (2) feet and a side slope of no greater than two-to-one (2:1), and *shall* be planted and covered with live vegetation.

(5) Shrubs.

All natural shrubs installed to satisfy the requirements of this subsection*shall* be a locally adapted species expected to reach a minimum height of thirty (30) inches and a minimum spread of thirty (30) inches within three (3) *years* of planting. All shrubs *shall* be a minimum eighteen (18) inches tall when planted.

Live vegetation planted on berms*may* have a lesser mature height provided that the combined height of the berm and the plantings after three (3) *years* are at least thirty (30) inches high. Forty (40) per cent of all shrubs *may* be deciduous.

(Ord. No. 499-TC-349, §§14, 15, TC-15-89, 3-7-90)

(c) Interior Plantings.

(1) Planting areas.

In addition to all other landscape requirements, all areas, temporary or permanent (not parking structures),*shall* provide and maintain landscaped planting areas within the interior of, or adjacent to, the *vehicular surface area* or both. Unless otherwise provided in §10-2082.11(b), each planting area *shall* contain a minimum of three hundred fifty (350) square feet in area with minimum dimensions of seven (7) feet.

(2) Size of new ***shade trees*** .

Except for*vehicular display areas* each planting area *shall* contain at least one (1) naturally locally adapted *shade tree* at least eight (8) feet in height and a minimum of six and one-quarter (6.25) inches in circumference (two (2) inches in diameter) measured one-half (1/2) foot above grade for newly planted trees and measured at four and one-half (1/2) feet above grade for existing trees.

(3) Mature tree size.

Shade tree as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed thirty-five (35) feet and which has an expected crown spread of thirty (30) feet or more or is considered a *shade tree* in accordance with the latest edition of "American Standards of Nursery Stock", set forth by the American Association of Nurserymen.

(4) Tree planting requirements.

Trees*shall* be required at the minimum rate of one (1) natural *shade tree* for every two thousand (2,000) square feet of total vehicular surface. All *vehicular surface areas* located within the same block which serve one (1) or more businesses or uses of land or share unified ingress and egress *shall* be considered as a single *vehicular surface area* for the purpose of computing the required rate of trees, notwithstanding ownership.

(5) Location of ***shade trees*** **and landscaped planting areas.**

Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays, inside seven (7) foot wide or greater medians, or between rows of cars or as part of continuous*street* or *transitional protective yards* . So long as the minimum standards of this section are met, the number, size and shape of landscaped planting area *shall* be at the discretion of the *owner* . Unless otherwise provided in §10-2082.11(b), no vehicular parking space *shall* be separated from a

shade tree by an intervening *building* or be located farther than fifty (50) feet from the tree trunk of a *shade tree* in a planting area with one (1) tree or seventy-five (75) feet from the trunk of a *shade tree* in a planting area with two (2) or more *shade trees* , with a maximum spacing between the trees of fifty (50) feet, existing or planted. Any landscaped planting area *shall* contain a continuous growing area for each tree therein. Landscaped planting areas *shall* be distributed in a manner which fulfills the purposes of §10-2082.6(a)(1).

Landscape planting areas in*vehicular display areas* are not required to contain trees; but trees that would have been required in these *vehicular surface areas shall* be located elsewhere on the site if not planted within *vehicular display areas* .

Measurements*shall* be made from the edge of the landscaped planting areas, and no stored vehicle *shall* be farther than fifty (50) feet from the edge of any landscaped planting area.

(6) Parking space reduction.

The number of off-*street* parking spaces required by §10-2081 *may* be reduced by the *following* ratio: The square footage of required landscaped planting area divided by one hundred fifty (150) but no fraction thereof, provided that no reduction in the number of off- *street* parking spaces authorized by this section in excess of ten (10) per cent *shall* occur without the prior approval of the *City Council* which *shall* first determine if further reductions will cause on- *street* parking congestion.

(7) Shrubs in ***vehicular surface areas*** .

Unless otherwise provided in §10-2082.11(b), shrubs*shall* be required at a rate of one (1) shrub per five hundred (500) total feet of *vehicular surface area* . Any *vehicular surface area* , temporary or permanent, *shall* be provided with landscape areas containing shrubs. Shrubs *shall* attain a minimum size of thirty (30) inches high within three (3) *years* of planting. All shrubs *shall* be a minimum of eighteen (18) inches tall when planted. No more than forty (40) per cent of the required shrubs *may* be deciduous.

(8) Berms in ***vehicular surface areas*** .

Earthen berms may be provided or the ground sloped. Any *earthen berms* used to comply with this requirement *shall* have a minimum height of one and one-half (1 1/2) feet and a minimum crown width of two (2) feet and a total minimum width of seven (7) feet and *shall* be planted with a locally adapted species of shrubs which conform to subsection (7) above. However, shrubs planted on berms *may* have a lesser height provided that the combined height of the berm and plantings after three (3) *years* is at least (30) inches high.

(9) Planted medians for ***vehicular surface areas*** **greater than 75,000 square feet in size.**

After the application of this regulation,* all new and expanded*vehicular surface areas* except for *vehicular display areas,* greater than seventy-five thousand (75,000) square feet in size which serve one (1) or more businesses or uses of land or share unified ingress and egress, notwithstanding ownership, *shall* meet all of the *following:*

a. contain planted medians at least every two hundred and sixty (260) feet. The minimum median width*shall* average twenty (20) feet in width, but no dimension *shall* be less than seven (7) feet in size. The length of the planted median *shall* be continuous except for access ways approved by the *City.* Medians *shall* be located parallel to the required parking bays.

b. plants*shade trees* within each required median at a maximum spacing of fifty (50) feet on center and *shall* provide each tree with a planting area of at least

three hundred and fifty (350) square feet.

c. limit the amount of*impervious surface* areas within the median to a maximum of twenty-five (25) per cent.

*Editor's Note: This subsection was first applied on August 8, 1999 (Ord. No. 1999-617-TC-182 TC-10-99)

(Ord. No. 799-TC-267, TC-21-85, §1, 6-3-86 Ord. No. 499-TC-349, §§16-20, TC-15-89, 3-7-90; Ord. No. 1996-851-TC-128, §§20--22, TC-23-95, 4-2-96; Ord. No. 1999-617-TC-182, §1, TC-10-99, 8-3-99; Ord. No. 2003-373-TC-231, §24, TC-23-02, 2-4-03)

Sec. 10-2082.7. PREEXISTING VEHICULAR SURFACE AREAS LANDSCAPE REGULATIONS.

(a) Intent and Purpose.

The*City* of Raleigh recognizes the planting and growing of trees can improve the air quality of the community, ameliorate the microclimates of urban and urbanizing the *City* , reinforce the civic pride Raleigh takes in being known as "The *City* of Oaks," and to some extent, improve noise attenuation. To this end, the *City* of Raleigh has established and funded an urban tree planting program.

In funding this program and in requiring new development to retain or replace trees and other natural vegetation, Raleigh has established standards of growth and development which will maintain and improve the quality of life that makes the*City* attractive and desirable. Moreover, the *City* of Raleigh recognizes that patterns of growth, development and urbanization of the past have resulted in the loss of Raleigh's natural tree cover to the detriment of the microclimate, air quality and the appearance and perception of the *City* . The *City* also recognizes that to fail to abate these past conditions jeopardizes not only the physical revitalization of the *City* , but will not provide the environmental benefits associated with living trees equally to all regions of the *City* and will provide preexisting developments an unfair competitive advantage over newer developments.

It is also recognized that designing preexisting developments to meet new regulations is more difficult and expensive than applying these standards to predeveloped*properties* . To this end, greater flexibility is provided herein for preexisting developments. The practical effect of subsection (d) below, is to bring these preexisting areas into conformity with the regulations governing the ratio of required living trees and parking spaces which was adopted June, 1979, and which existed prior to the passage of this Code section.

(b) Limit on Expenditures.

No expenditure made for removing existing asphalt, constructing planting areas, and adding dirt and plant materials which is required to comply with subsection 10-2082.7(d) below*shall* be required in excess of two (2) per cent of the total assessed *real property* tax value of the *property* on which these improvements are being made or two (2) per cent of the insurance value of the structure for which off- *street* parking is being provided when there is no assessed *real property* value of the *property* on which these improvements are to be made.

(c) Expansion of Preexisting ***Vehicular Surface Areas*** .

Any preexisting*vehicular surface area* which expands in excess of the twenty-five (25) per cent limits specified in §10-2082.10(b) *shall* provide the landscaping required in §10-2082.10(b), (c), and (d).

Editor's note: This section was first applied on January 1, 1987 (Ord. No. 1986-799-TC-267, 6-3-86).

Cross references: Off-*street* parking requirements, §10-2081(a)(3); expansions of *vehicular surface*

areas to serve a zoning *nonconforming use* , §10-2146.3(a)(3).

(d) Landscaping Requirements.

No later than five (5)*years* *following* the application of this section all *vehicular surface areas* *shall* be brought into compliance with all of the *following* provisions:

(1) Planting area requirements.

Existing*vehicular surface areas* *shall* provide and maintain landscaped planting areas within the interior of adjacent to the *vehicular surface areas* or both.

Each landscaped planting area *shall* contain a minimum of one hundred fifty (150) square feet in area with minimum dimensions of seven (7) feet and, except for *vehicular display areas* , *shall* contain at least one (1) locally adapted *shade tree* in conformance with the requirements of this Code. However, existing plant areas of one hundred twelve (112) square feet and existing trees which formerly met the requirements of this chapter *may* still be used to meet these newer requirements; provided that, if these existing trees die or become *unhealthy* they *shall* be replaced by *shade trees* .

(2) ***Shade trees*** **in planting areas.**

The*shade tree* , existing or planted, *shall* be at least eight (8) feet in height and six and one-quarter (6.25) inches in circumference (two (2) inches in diameter) measured at one-half (1/2) foot above grade for new planted trees and measured at four and one-half (4 1/2) feet above grade for existing trees.

(3) Tree planting rates.

Shade trees *shall* be provided at the minimum rate of one (1) *shade tree* for every four thousand (4,000) square feet of the total *vehicular surface area* . All *vehicular surface areas* located within the same block which serve one (1) or more businesses or uses of land or share unified ingress and egress *shall* be considered as a single *vehicular surface area* for the purpose of computing the required rate of trees, notwithstanding ownership.

(4) Location of ***shade tree*** **and planting areas.**

Landscaped planting areas*shall* be located at the *owner's* discretion, provided that no parking space be more than one hundred (100) feet from the trunk of a natural *shade tree* , with no intervening *building* . Existing trees located within the rights-of-way, but outside medians, *may* be used to meet the distribution requirements of this subsection only. For *vehicular display areas* which are not required to have trees, measurements *shall* be made from the edge of the landscaped planting areas and no stored vehicle *shall* be farther than one hundred (100) feet from the edge of any landscaped planting area.

(5) Parking space reduction.

The number of required parking spaces required by §10-2081*may* be reduced by the *following* ratio: The square footage of required landscaped planting areas divided by one hundred fifty (150), but no fraction thereof; provided that no reduction in the number of off- *street* parking spaces authorized by this subsection in excess of ten (10) per cent *shall* occur without the prior approval of the *City* *Council* which *shall* first determine if further reductions will cause on- *street* parking congestion.

(Ord. No. 1986-799-TC-267, §1, TC-21-85, 6-3-86; Ord. No. 499- TC-349, §§19, 51, TC-15-89, 3-7-90)

Sec. 10-2082.8. LOADING AREA, DISPLAY AREA, AND UTILITY SERVICE AREA

LANDSCAPE REGULATIONS.

(a) Screening From a Public Right-of-Way.

All *loading areas* and *display areas* with a minimum dimension of fifteen (15) feet or more, and *utility service areas* not screened by an intervening *building* , established after application of this section* and all expansions of preexisting areas which are required by §10-2082.10(b) *shall* be screened from view from all public *street rights-of-way* and adjacent *properties* for their entire length except for necessary access. A detached *single-family dwelling* on its own *lot shall* be exempt from all provisions of subsection 10-2082.8.

*Editor's note: The regulations of this provision first became applicable to public*street rights-of-way* on January 1, 1987 (Ord. No. [1988] 799-TC-267, 6-3-86) and became applicable to adjacent *properties* on June 1, 2002.

(Ord. No. 1986-799-TC-267, 6-3-86; Ord. No. 2002-203-TC-218, §2, TC-5-02, 5-7-02; Ord. No. 2002-297-TC-226, § 3, TC-20-02, 10-1-02)

(1) ***Loading areas*** .

Screening for*loading areas* *may* be accomplished by a *closed fence* or wall which is at least six (6) feet high and is the same or compatible, in terms of texture and quality, with the material and color of the *principal building* . Additional planting materials *shall* be provided so that no more than two-thirds (2/3) of the surface area of the *closed fence* or wall is visible from the *street* within three (3) *years* of erection of the structure. The screening *may* also be accomplished with a natural evergreen plant material which can be expected to reach six (6) feet or greater within three (3) *years* of planting. Any plant materials used to fulfill these requirements *shall* be a minimum of three (3) feet in height when planted, and there *shall* be no gap greater than four (4) feet between plant materials.

(2) ***Display areas*** .

Screening for*display areas* *may* be accomplished by natural plants, *closed fences* , walls, *earthen berms* , or any combination thereof to meet the requirements of this section so long as all the *following* are met.

a. Screening area.

The natural plants,*closed fences* , walls, *earthen berms* or combination thereof, must occupy seventy-five (75) per cent of a vertical rectangular plane equal to the peripheral length of the *display area* , in feet, times and average height of two (2) feet six (6) inches as measured from the surface edge of the *display area* . Such rectangular plane *shall* be exclusive of driveways and sight lines *used for* safe automobile access and egress. No additional consideration towards meeting the seventy-five (75) per cent average requirement *shall* be given for any material greater than sixty-six (66) inches in height.

b. Continuity of screen.

No more than six (6) continuous feet of the vertical plane as measured and viewed perpendicular from the*street* *may* be void of any natural plants, berms, *closed fences* or walls or combinations thereof.

c. Fences and walls.

Fences and walls which are used*shall* be of the same or compatible, in terms of texture and quality, material, and color as the *principal building* . Additional planting materials *shall* be provided so that no more than two thirds (2/3) of the surface areas of the fence or wall is visible from the *street* within three (3) *years* of erection of the structure. Forty (40) per cent of this plant material *may*

be deciduous.

d. *Earth berms* .

Any berms installed*shall* have a minimum height of one and one-half (1 1/2) feet and a minimum crown width of two (2) feet and a side slope of no greater than two to one (2:1), and it *shall* be planted and covered with live vegetation.

e. Shrubs.

All natural shrubs installed to satisfy the requirements of subsection (2) above*shall* be a locally adapted species expected to reach a minimum height of twenty-four (24) inches and a minimum spread of twenty-four (24) inches within three (3) *years* of planting. All shrubs *shall* be a minimum eighteen (18) inches tall when planted. Live vegetation planted on berms *may* have a lesser mature height provided that the combined height of the berm and the plantings after three (3) *years* are at least twenty-four (24) inches high. Forty (40) per cent of all shrubs *may* be deciduous.

(3) ***Utility service areas*** .

Utility service areas which are located outside of the public *right-of-way* and exceed forty-two (42) inches in height and forty-two (42) inches in any other dimension *shall* be screened from the public right-of-way. Foundation pads, six (6) inches or less in height, will not be included in the measurement of the dimensions. Screening *shall* not be required for *utility service areas* located further than fifty (50) feet from the public right-of-way. *Utility service areas* that are required to be screened *shall* be located an adequate distance from the public *right-of-way* to allow for the required screening to be planted off of the public right-of-way.

Screening for*utility service areas* *may* be accomplished by locally adapted plantings, evergreen or deciduous, which are a minimum of eighteen (18) inches tall when planted. Landscaping materials are expected to reach a mature height and width equal to, or greater than, the utility structures which are required to be screened. Screening *shall* be accomplished in such a manner as to allow safe operation and access to the *utility service area.* The utility company, unless legally accepted by others, *shall* be responsible for the required screening of *utility service areas* located on the *lots* of *single-family* detached *dwellings* . The *property* *owner* , unless legally accepted by the utility company, *shall* be responsible for the required screening of *utility service areas* located on the *lots* of all other developments.

(Ord. No. 799-TC-267, TC-21-85, §1, 6-3-86; Ord. No. 1993-149-TC-48, §2, TC-19-92, 3-16-93; Ord. No. 1996-851-TC-128, §23, TC-23-95, 4-2-96)

(b) Screening of ***Loading Areas*** **From** ***Residential Zoning Districts*** .

Loading areas located closer than twenty (20) feet to a *property* line of land located in a *residential zoning district* *shall* be screened from view from the *property* zoned residential with an *earthen berm* , *closed fence* or solid wall which is at least six (6) feet high. Such fence or wall *shall* , in terms of appearance, texture and quality, be made of the same or compatible material and color as the *principal building* . Additional plant material *shall* be provided so that no more than two-thirds (2/3) of the surface area of the *closed fence* or wall is visible from the *property* zoned residential within three (3) *years* of erection of the structure.

(Ord. No. 799-TC-267, TC-21-85, §1, 6-3-86; Ord. No. 499-TC-349, §§16, 21-23, TC-15-89, 3-7-90)

(c) Screening of ***Loading Areas*** **from** ***Nonresidential Zoning Districts*** .

If no*transitional protective yard* is installed adjoining vacant property zoned a *nonresidential district,* *loading areas* located closer than one hundred (100) feet to the property line of the vacant land *shall* be screened from view from the vacant property zoned nonresidential in the

same manner as required by §10-2082.8(a)(1) above.

(Ord. No. 1994-520-TC-96, §1, TC-12-94, 12-13-94)

Sec. 10-2082.9. TRANSITIONAL PROTECTIVE YARD LANDSCAPE REGULATIONS.

(a) Intent.

This section require*s transitional protective yards* to be provided and maintained when certain land uses are adjacent to or directly across from each other in order to protect uses from the traffic, noise, glare, trash, activity, vibration, odor, visual disorder, and other harmful or noxious effects likely to be emitted by or associated with a more intensive use. *Transitional protective yard* regulations are also required to prevent adverse community appearance, to protect the character of the area and to conserve the values of *buildings* and land and to provide adequate light and air. *Transitional protective yards* of different depths and widths are required depending upon the combination of uses and the adverse effects which the uses have.

(b) Application.

(1) Development requiring transition yards.

No new use of land, nor any change in the type of occupancy as set forth in the North Carolina State Building Code, nor any expansion or addition of an existing land use which singularly or collectively exceeds twenty-five (25) per cent of the floor area or land surface area of the existing use at the time this section becomes applicable to the*property shall* occur, within the maximum protective widths set forth in subsection (e), without first providing a landscaped *transitional protective yard* which complies with the requirements of this Code on the developing *property* or on a contiguous planting easement on the adjacent or adjoining *property* which is to be screened.

(2) Detached ***single-family dwellings*** .

Detached*single-family dwelling(s) shall* not be required to provide any *transitional protective yard* .

(3) ***Transition yards*** **next to vacant property.**

When the adjoining or adjacent property is "vacant" and zoned Conservation Management or any*residential district,* the required *transitional protective yard shall* be provided subject to the provisions of §10-2082.9(g)(3); when the adjoining or adjacent property is "vacant" and otherwise zoned, fifty (50) per cent of the required *transitional protective yard shall* be provided unless trees are preserved in accordance with §10-2082.11(a).

All*transitional protective yards shall* be based on the highest classification of use allowed on the adjacent or adjoining *property* as set forth in §10-2012. The term "vacant" as used herein means that at the time of application for development there is no *building* or structure, or *vehicular surface area* within two hundred (200) feet from any common *property* line of the developing *property* and the adjoining or adjacent property.

Cross reference; Planned Development District, §10-2057(f)(4)i.

(4) Transition yards and public parks.

All public parks, including greenways within parks,*shall* be treated as if they were developed at Rural Residential District density and buffered accordingly in compliance with §10-2082.9 of this Code, unless located within two hundred (200) feet of the boundary of the park, or planned to be located within such distance under an adopted Park Master Plan, is a use specified in §10-2082.9(e) as a low, medium or high impact

use, in which case that existing or planned use *shall* be used to determine the appropriate *transitional protective yard* . The *transitional protective yard* of greenway easements outside public parks *shall* be treated the same as the impact use of the *principal use* located on (the underlying servient estate of) the *lot* .

(5) Reduction of transition yards next to developed ***property*** .

When the adjoining or adjacent*lot* is not "vacant" and zoned any *nonresidential district,* other than Conservation Management, no less than fifty (50) per cent of the required *transitional protective yard* and plantings *shall* be provided if trees are preserved in accordance with §10-2082.11(a).

(Ord. No. 499-TC-349, §24, TC-15-89, 3-7-90; Ord. No. 1994-520-TC-96, §2, TC-12-94, 12-13-94; Ord. No. 1996-851-TC-128, §§3, 24, 25, TC-23-95, 4-2-96; Ord. No. 2005-762-TC-264, §12, TC-7-04, 1-4-05)

(c) Placement of ***Transition Yards*** .

(1) Measurement.

Transitional protective yard setbacks are measured beginning from the *property* line of the *property* to be screened to the nearest *vehicular surface areas* , *buildings* , *loading, display* , storage, and *service areas* .

(2) Exclusion from other yards.

No*transitional protective yard* *shall* be required in *street protective yards* or *thoroughfare* yards, or *major access corridor yards* required by any Special Highway Overlay District in §§10-2082.5, 10-2045(d)(2), 10-2058(d)(2), 10-2059(d)(2), 10-2060(d)(2), or 10-2061(d)(2) respectively.

(3) Overlap with other yards.

Transitional protective yards *may* overlay other *yard areas* and yard setbacks but *yard areas* used as *transitional protective yards* must comply with the requirements of this section. Nothing contained in this section *shall* reduce minimum requirements of any other *yard areas* or yard setbacks required by this Code.

(4) Multiple uses.

Whenever two (2) or more*transition protective yard* setbacks are simultaneously applicable, as for example a *building* which contains office and commercial uses, then the more stringent regulations is controlling. But if two (2) or more different uses are present on one (1) *lot* , only those uses which are more than ten (10) per cent of the *gross floor area* of the *building* or land area *shall* be considered.

Cross reference: Perimeter*protective yards* in *cluster unit developments* , §10-2101(b)(6)d.

(Ord. No. 499-TC-349, §25, TC-15-89, 3-7-90; Ord. No. 1993-133-TC-46, §24, TC-11-92, 2-2-93)

(d) Planting Materials.

(1) Trees.

a. Size.

All trees which are planted to meet the minimum requirements of this section*shall* be a minimum of eight (8) feet in height and six and one-quarter (6.25) inches in circumference (two (2) inches in diameter) measured one-half foot above ground level when planted and *shall* have an expected mature height of thirty-five (35) feet or greater unless subject to an overhead power line, in which case the mature height *may* be less.

b. Evergreen.

One-half (1/2) of the required trees*shall* be locally adapted natural evergreen species. Two (2) locally adapted natural evergreen trees, a minimum of four and one-half (4 1/2) feet in height which when planted, *may* be substituted for each required evergreen tree. The height to trunk caliper or spread relationship for any new tree or shrub *shall* meet the current "American Standards for Nursery Stock" as set forth by the American Association of Nurserymen.

c. Distribution.

Trees*shall* be distributed throughout the yards, so that there are no horizontal gaps between trees greater than thirty (30) feet as measured along the *property* line and no required tree is closer than ten (10) feet to any other required tree.

(2) Shrubs.

Evergreen shrubs planted to meet the minimum standards of this section*shall* be a minimum of one and one-half (1 1/2) feet in height when planted and *shall* be expected to reach a height of six (6) feet or greater within five (5) *years* of planting. Shrubs planted on berms *may* have a lesser mature height provided that the combined height of the berm and plantings after five (5) *years* is at least six (6) feet. Evergreen shrubs *shall* be planted in such a way to form a continuous row, with no shrub being greater than ten (10) feet from another as measured from the *property* line. Shrubs *shall* be planted in staggered rows.

(3) Planting schedule.

In the required *transitional protective yard* , natural shrubs and trees *shall* be planted in the amounts required by subsection (e) below. All required plantings *shall* be no further than fifty (50) feet from the *property* line which is to be screened. Whenever a *transitional yard* width is reduced in size in accordance with subsection (g), the required planting rate for that transition yard is proportionally reduced.

(4) Alternate means of compliance for ***transition yard*** **planting.**

The height and quantity of required planting materials and fencing in areas immediately contiguous to *street protective yards* and *thoroughfare protective yards* required by §§10-2082.5, 10-2045(d), 10-2058(d), 10-2059(d), 10-2060(d)(2) and 10-2061(d)(2) respectively, *may* be modified as an alternate method authorized by §10-2082.4 when such screening will not serve any useful purpose due to the location of uses, vehicles, *buildings* , structures, storage, *loading, display* or *service areas* or when such screening will obstruct traffic visibility.

(5) Plantings in easements.

No vegetative screening or fencing required by this section*shall* be planted inside utility and drainage easements, excluding overhead easements, without the consent of the *City* and the easement holder. If plantings or fences inside utility and drainage easement areas are allowed, then these plantings and fences *shall* be maintained in accordance with §10-2082.3(d).

(Ord. No. 499-TC-349, §§26, 28, 29, 53, TC-15-89, 3-7-90; Ord. No. 1993-133-TC-46, §25, TC-11-92, 2-2-93)

(e) Transitional ***Protective Yards*** .

No residential densities equal to or greater than seven (7)*dwelling units* , or *equivalent dwelling units* per net acre and uses listed in subsections (1) through (3) below *shall* be permitted except in accordance with the yard widths and required plantings set forth on the Schedule of Transitional Protective Yards (immediately *following* this section) which is incorporated into this section by reference.

(Ord. No. 499-TC-349, §§30, 31, TC-15-89, 3-7-90; Ord. No. 1998-370-TC-167, §17, TC-3-98, 7-7-98)

(1) High impact uses.

High impact uses are particular uses of land which considered as a whole because of their peculiar or operational and physical characteristics are expected to have strong effect on adjoining or adjacent*properties* . High impact uses include:

a. Industrial and manufacturing uses including the processing of materials,*bulk products* , fabricating, manufacturing, mixing, printing, assembly, cutting or repairing of articles, and products for handling or the distribution of materials, articles, or products.

b. Mini warehouse storage facilities, warehousing and distribution centers, or storing indoors or outdoors as a primary use, wholesaling, outdoor storage of contractors equipment, coal or lumber yard, and scrapyard.

c. Storage in bulk quantities above or below ground of flammable and combustible liquids, hazardous substances as provided in N.C.G.S. 143-215.77A, Article 18 of Chapter 95 and hazardous chemicals as provided in N.C.G.S. 95-174 but not storage at gasoline service stations in quantities for retail sales to the general public nor storage for consumption on the premise.

d. Transportation facilities, terminals, depots, storage of trains, trucks, buses and other vehicles. Airfields, landing strips, heliports, railroad freight and passenger stations.

e. Utility power, treatment, or gas plants, incinerators, storage terminals, water towers and tanks not located on a roof, and*accessory uses* and parking.

f. The temporary or permanent outdoor storage of vehicles, including wrecked, dismantled or partially dismantled vehicles,*manufactured homes* , boats, aircraft, farm machinery, taxis, automobiles, buses, trucks and motorcycles as the *primary use* (such as parking garages, dealers, parking rental lots, and park 'n' ride *lots*); or vehicles in excess of eight (8) used in the operation of a business or service (such as motor pool and fleet vehicles). Except, outdoor storage of vehicles associated with *dwellings* , or *congregate care* or *congregate living structures* of less than fifteen (15) units per acre density located on an adjoining *lot* or a *lot* separated from the residential use by a public *street shall* provide a ten-foot-wide *transitional protective yard* , and any adjoining high and medium impact use set forth in subsections (e)(1) and (e)(2) established thereafter *shall* provide its own ten foot wide *transitional protective yard* upon its development.

g. The raising of, the processing of, or the slaughtering of animals and insects, but not pasture lands.

h. *Landfills* , indoor or outdoor reclamation facility, storage of *recyclable materials* , and unlicensed, uninspected, wrecked, crushed, dismantled or partially dismantled vehicles.

i. Quarry and mining operations.

j. Outdoor stadiums race tracks, theatres and coliseums or*civic centers* of two hundred and fifty (250) or more seats, and outdoor (drive-in) movie theatres.

k. Penal and correctional institutions.

l. *Recreational outdoor use - commercial* , (excluding golf courses), including membership and non-membership facilities, but not including *recreational use related to residential development* , or *recreational use restricted to membership - not for profit* in a *residential zoning district* .

Cross references:*Recreational use related to residentialdevelopment* , §10-2072; *recreational use restricted to membership - not for profit* , §10-2144.

m. Public utilities substations.

n. *Shopping centers* , *shopping areas* , and *automotive service and repair facilities* .

o. Outdoor storage for the operation of any of the uses listed in this subsection (e)(1).

p. Outdoor rifle ranges.

q. Uses with any drive-in service incorporating electronic audio communication which are located adjacent to any*residential district* , or a *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or both.

r. Any*accessory use* serving the uses listed in this subsection (e)(1), including parking, or the permanent or temporary storage of vehicles associated with the use (whether located on the same *lot* , an adjoining *lot,* or a *lot* separated from the use by a public *street*), the loading, unloading or storage of merchandise or material, *service areas* or docks, or the storage or collection of refuse.

(Ord. No. 278-TC-326, §8, TC-18-88, 11-20-88; Ord. No. 499-TC-349, §32, TC-15-89, 3-7-90; Ord. No. 1994-520-TC-96, §3, TC-12-94, 12-13-94; Ord. No. 1997-137-TC-153, §§77, 78, TC-18-96, 6-17-97; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00; Ord. No. 2001-933-TC-201, §4, TC-7-00, 2-6-01; Ord. No. 2002-203-TC-218, §3, TC-5-02, 5-7-02)

(2) Medium impact uses.

Medium impact uses are particular uses of land which when considered as a whole because of their peculiar operational and physical characteristics are expected to have a moderate effect on adjoining or adjacent*properties* . Medium impact uses include:

a. *Retail sales* and services, commercial uses, sales and service of equipment, *eating establishments* , *food stores* , excluding uses approved pursuant to a special use permit and also excluding uses otherwise listed as a low or high impact use.

b. *Hotels* , *motels* , campgrounds, excluding *guest houses* , *rooming houses* , room rentals in *dwellings* , and bed and breakfast establishments.

c. Colleges, universities, technical and*specialty schools* , vocational schools, instructional facilities, libraries, galleries, museums.

d. *Hospitals* and asylums.

e. Outdoor stadiums, theaters, race tracks, coliseums or*civic centers* of less than two hundred-fifty (250) seats; indoor movie theaters.

f. Any non-*dwelling* use which is first allowed in *office and institution zoning districts* or allowed in zoning districts of a lower classification as determined by §10-2012, and neither listed as a low or high impact use nor approved as a special use exception.

g. Kennels and catteries in industrial zoning districts.

h. Plant nurseries.

i. Uses with any drive-in service, automated teller machines, or both not incorporating electronic audio communication or if incorporating electronic audio

communication not otherwise listed as a high impact use.

j. All*accessory uses* serving the uses listed in this subsection (e)(2), including parking, or the permanent or temporary storage of vehicles associated with the use (whether located on the same *lot* , an adjoining *lot,* or a *lot* separated from the use by a public *street*), the loading or unloading or storage of merchandise or material, *service areas* or docks, or the storage or collection of refuse.

(Ord. No. 499-TC-349, §33, TC-15-89, 3-7-90; Ord. No. 1994-520-TC-96, §3, TC-12-94, 12-13-94; Ord. No. 1996-931-TC-138, §7, TC-27-95, 7-2-96; Ord. No. 1997-137-TC-153, §79, TC-18-96, 6-17-97; Ord. No. 2002-203-TC-218, §§4, 5, TC-5-02, 5-7-02)

(3) Low impact uses.

Low impact uses are particular uses of land which when considered as a whole because of their peculiar or operational and physical characteristics are expected to have a limited effect on adjoining or adjacent*properties* . Low impact uses include:

a. Offices, studios, agencies, and laboratories, without any drive-in services or automated teller machines.

b. *Civic clubs* , sorority or fraternity house.

c. Funeral homes.

d. Cemeteries, grave sites.

e. Telegraph, cablevision, radio, and television broadcasting and transmission facilities.

f. Fire stations and facilities housing emergency service vehicles, police precinct, training facility.

g. Churches, synagogues, convents, monasteries,*emergency shelters* , public and private schools, secondary and elementary schools but not stadiums.

h. Golf course, other than driving ranges and miniature golf.

i. *Day care* and *special care facilities* in *nonresidential zoning districts* .

j. Dance, recording, and music studios.

k. All*accessory uses* serving the uses listed in this subsection (e)(3), including parking, or the permanent or temporary storage of vehicles associated with the use (whether located on the same *lot* , an adjoining *lot,* or a *lot* separated from the use by a public *street*), the loading or unloading or storage of merchandise or material, *service areas* or docks, or the storage or collection of refuse.

(Ord. No. 952-TC-288, §5, TC-8-87, 4-21-87; Ord. No. 499-TC-349, §34, TC-15-89, 3-7-90; Ord. No. 1992-87-TC-400, §6, TC-6-92, 11-4-92; Ord. No. 1994-520-TC-96, §3, TC-12-94, 12-13-94; Ord. No. 2004-647-TC-248, §9, TC-4-04, 6-1-04)

(f) Existing Vegetation.

(1) Credit for existing vegetation.

Existing vegetation which meets or exceeds the quantity, spacing, and height standards,*may* be used to satisfy the requirements of subsection (d), provided that there be no encroachments into the protected ground area as defined in §10-2082.5(f) and that the provisions of §10-2082.5(f)(2) and (3) are met.

(2) Reduction of shrubs.

The amount of required shrubs in a*transitional protective yard* *may* be reduced by fifty (50) per cent, if in that yard existing trees meeting the quantity requirements of §10-2082.9(e) and the spacing and specifications of §10-2082.9(d) and being twenty-five (25) feet or taller in height are preserved and protected from encroachments in accordance with §10-2082.5(f).

(3) Supplemental shrub plantings.

Supplemental natural evergreen shrub plantings*may* be required, if it can be reasonably inferred that after five (5) *years* , the existing vegetation will not continually provide a *year* -round foliage screen between *properties* from the natural grade to six (6) feet above grade. Where such supplemental shrub plantings are required, the plantings *shall* have a minimum height of one and one-half (1 1/2) feet when installed with an expected height of six (6) feet or greater within five (5) *years* after planting, and *shall* be planted so that there are no horizontal gaps greater than ten (10) feet between shrubs as measured along the *property* lines. Where the existing vegetation on site does not meet the spacing, quantity, and size of plant, then the *owner* *shall* be required to plant only those trees and shrubs necessary to meet the requirements.

These plants must meet the specifications set forth in subsection (d) above.

(Ord. No. 499-TC-349, §35, TC-15-89, 3-7-90; Ord. No. 2003-373-TC-231, §25, TC-23-02, 2-4-03)

(g) Fences, Walls and ***Earthen Berms*** .

(1) Installation of *closed fence* or *wall* .

A*closed fence* or wall *may* be used to meet the requirements of this section, 10-2082.9, only if:

a. Justified for noise abatement purposes in accordance with Part 12, chapter 5 of this Code; or

b. The ground area required for*transitional protective yards* , other than for high impact uses that adjoin *property* that is either developed with one (1) or more *dwellings* , *congregate care* , or *congregate living structures* or zoned Conservation Management, or any *residential district* exceeds twenty (20) per cent of the *lot* area; or

c. A high impact use adjoins*property* that is either developed with one (1) or more *dwellings* , *congregate care or congregate living structures* or zoned Conservation Management, or any *residential district* ; or

d. Used as an alternate method, utilizing a*closed fence* or wall is first approved in accordance with §10-2082.4.

e. The ground area required for all landscaping by this Code exceeds thirty (30) per cent of the land area.

(Ord. No. 499-TC-349, §36, TC-15-89, 3-7-90; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 2005-762-TC-264, §13, TC-7-04, 1-4-05)

(2) Height and planting requirements.

All*closed fences* and walls *shall* be at least six (6) feet tall. *Closed fences* and walls *shall* , in terms of appearance, texture and quality, be made of the same or compatible material and color as the *principal building* . Trees *shall* be planted at a rate of one (1) per every twenty (20) linear feet of fence or wall, and they *shall* be located between the fence and adjoining *property* line. One (1) row of evergreen shrubs spaced five (5) feet on center with an expected height of six (6) feet or greater within five (5) *years* of the erection of the *closed fence* or solid wall *shall* be planted in addition to the trees.

These shrubs *shall* be planted so that no more than two-thirds (2/3) of the height of the fence is visible from the adjoining *property* at the end of the five (5) *year* period. A *written* statement explaining how maintenance of these plantings will be achieved *shall* be submitted to the *City* prior to installation of the closed wooden fence or wall.

(Ord. No. 499-TC-349, §§37, 38, TC-15-89, 3-7-90)

(3) Width of ***transitional protective yards*** **with** ***closed fences*** **and walls.**

If a*closed fence* or wall is erected pursuant to subsection (g)(1) above, the width of the *transitional protective yard may* be reduced by one-half (1/2) unless any of the *following* occur:

a. The*closed fence* or wall is erected pursuant to §10-2082.9(g)(1)b., and that *transitional protective yard* screens any of the *following* : a low or medium impact use, as specified in subsection (c), *property* zoned Conservation Buffer, or a *residential district* developed with one (1) or more *dwellings* , *congregate care or congregate living structures* . In such instances, the width of the *transitional protective yard may* be reduced in size so that the ground area of the *transitional protective yard* does not exceed twenty (20) per cent of the *lot* area, provided such *transitional protective yard shall* be not less than ten (10) feet in width;

b. The*closed fence* or wall is erected pursuant to §10-2082.9(g)(1)c.; in such instances, the width of *transitional protective yard may* be reduced by ten (10) feet and no more;

c. The*closed fence* or wall is erected pursuant to §10-2082.9(g)(1)d. in such instances, the width of the *transitional yard may* be reduced to dimensions set forth in the approved alternate method of compliance.

d. The*closed fence* or *wall* is erected pursuant to §10-2082.9(g)(1)e. and the *transitional protective yard* screens any of the *following* : a low or medium impact use, as specified in subsection (c), *property* zoned Conservation Management or a *residential district* developed with one (1) or more *dwellings congregate care* or *congregate living structures* . In such instances the width of the *transitional protective yard may* be reduced in size so that the ground area required for all landscaping by this Code does not exceed thirty (30) per cent of the area, provided such *transitional protective yards shall* not be less than ten (10) feet in width.

(Ord. No. 499-TC-349, §39, TC-15-89, 3-7-90; Ord. No. 2005-762-TC-264, §14, TC-7-04, 1-4-05)

(4) Grade elevation changes six (6) feet or greater.

Whenever a*closed fence* or wall is authorized to be constructed, in lieu of such construction, a natural or man-made grade separation at least six (6) feet in elevation *may* be substituted; provided that the side slopes of such grade are not greater than three to one (3:1), the developing *property* is located at an elevation lower than the *properties* to be screened, and the change in grade achieves a similar screening effect as the wall or fence. Landscaping and yard width reductions for such grade substitutions *shall* comply with subsections (d) and (g)(2) and (3) above.

(Ord. No. 499-TC-349, §40, TC-15-89, 3-7-90)

(5) ***Earthen berms*** .

a. Yard width reductions with*earth berms* . If an *earthen berm* with the characteristics required in subsection b. below is installed in a *transitional protective yard* , the width of the *transitional protective yard may* be reduced by:

Twenty (20) per cent for*earthen berms* two (2) feet but less than three (3) feet high, as measured perpendicular to the center of the crown;

Twenty-five (25) per cent for*earthen berms* three (3) feet but less than four (4) feet high, as measured perpendicular to the center of the crown.

Thirty (30) per cent for*earthen berms* four (4) feet or higher, as measured perpendicular to the center of the crown.

b. *Earthen berm* characteristics. Any *earthen berm* installed in a *transitional protective yard* which reduces the width of the *transitional yard* *shall* have all of the *following* characteristics:

1. A minimum height of two (2) feet measured perpendicular to the center of the crown,

2. A rounded crown suitable for planting,

3. A stabilized side slope of no greater than two to one (2:1). A steeper side slope*may* be used in exceptional cases when all of the *following* are met:

(i) This steeper slope is sufficiently stabilized; and

(ii) The screening objectives of §10-2082.9 are better achieved; and

(iii) Physical constraints of the site prevent the use of a flatter slope.

4. Planted in accordance with subsection 10- 2082.9(d).

(Ord. No. 499-TC-349, §41, TC-15-89, 3-7-90)

(h) Maximum Reduction of ***Transitional Protective Yard*** **Width.**

Notwithstanding each of the various Code provisions that allow a reduction in the width of*transitional protective yards* , no *transitional protective yard* width *shall* be reduced by more than sixty (60) per cent of the minimum *protective yard* widths set forth in the Schedule of Transitional Protective Yards of subsection (e).

(Ord. No. 799-TC-267, §1, TC-21-85, 6-3-86; Ord. No. 952-TC-288, §5, 4-21-87; Ord. No. 278-TC-326, §8, TC-18-88, 11-15-88)

GRAPHIC LINK:Section 10-2082.9 SCHEDULE OF TRANSITIONAL PROTECTIVE YARDS

Sec. 10-2082.10. LANDSCAPING REQUIREMENTS FOR EXPANSIONS OR CHANGE OF USE FOR EXISTING FACILITIES.

(a) Landscaping for existing facilities.

The*street protective yard* landscape, *loading area* , *utility service area* and *display area* screening, and *transitional protective yard* regulations, *shall* not apply to *vehicular surface areas* , *buildings* , or their *accessory uses* existing at the time this section becomes applicable to the *property* except as provided in subsection (b), (c) and (d) below.

Editor's note: This section was first applied on January 1, 1987. (Ord. No. 1986-799-TC-267, 6-3-86)

(b) General Requirements for New and Expanded Facilities.

Any new*loading, utility service* , and *display areas* or the expanded portions thereof *shall* be

screened to meet the standards of §10-2082.8. The expanded portions of any *vehicular surface area* *shall* be landscaped to meet the *street protective yard* and interior plantings of §10-2082.6. The remaining preexisting portions of *vehicular surface areas* , *buildings* or their *accessory uses* *shall* be brought into compliance with the *street protective yard* landscaping, *loading area* , *display area* , and *transitional protective yard* regulations when there are improvements, additions, expansions to these preexisting facilities which singularly or collectively comprise more than twenty-five (25) per cent of their *gross floor area* and/or land surface area existing at the time this section becomes applicable to the *property* .

Any new and existing*loading area* , *utility service* , or *display area* located on the *property* *shall* meet the regulations of §10-2082.8 et seq.

(c) Change of Use and Expansion - General Requirements for ***Street Protective Yards*** , ***Vehicular Surface Areas*** **and** ***Transitional Yards*** .

Whenever any change in the type of use results in a change in the type of building code occupancy, as set forth in the North Carolina State Building Code occurs, the requirements of (1) through (2)b.5. below*shall* be met.

Any additions or expansions, which singularly or collectively exceed twenty-five (25) per cent of the*gross floor area* and/or surface area existing at that time this section becomes applicable *shall* meet the requirements of this Code for both the existing and additional facility in the *following* manner:

(1) Street protective yard **regulations.**

The*street protective yard* landscape regulations of §10-2082.6 *shall* be met for the entire *property* , except those portions of the *lot* *used for* driveways constructed in accordance with §10-7001 are exempted from all *street protective yard* requirements, however, this *street protective yard* *may* be arranged in any manner chosen by the *owner* so long as all of the *following* are met:

a. The total square feet area of the*street protective yard* equals five (5) times the length in feet of the *property* adjoining the public rights-of-way.

b. The minimum dimension of any*street protective yard* used to satisfy this requirement is two (2) feet as measured perpendicular to the recorded public *street* right-of-way.

c. The*street protective yard* is contiguous with the rights-of-way.

d. No portion of the*street protective yard* used to meet these requirements is more than twenty-five (25) feet from the recorded public *street right-of-way* as measured perpendicular to the right-of-way.

Cross reference:*Street protective yards* , §10-2082.5(d)(3).

(Ord. No. 1995-760-TC-122, §19, TC-20B-95, 11-21-95)

(2) Vehicular surface area regulations.

a. *Street* yard screen.

The*street* yard *vehicular surface area* landscape regulations of §10-2082.6(b) *shall* be provided for the additional or expanded portions of *vehicular surface areas* . The *street* yard *vehicular surface area* landscape regulations of §10-2082.6(b) for the preexisting *vehicular surface area* *shall* be installed in the *street protective yards* required in subsection (1) above.

b. Interior planting.

One hundred (100) per cent of the interior planting regulations of §10-2082.6(c)et seq. , *shall* be provided for the additional or expanded *vehicular surface*

areas . Fifty (50) per cent or more of the interior parking landscape regulations *shall* be met for the preexisting *vehicular surface areas* as set forth in all of the *following* provisions:

1. Size of planting areas.

Preexisting *vehicular surface areas* *shall* provide and maintain landscaped planting areas within the interior and adjacent to the *vehicular surface areas* . Each landscaped planting area depending on the per cent of expansion of the *vehicular surface area* *shall* contain a minimum of one hundred fifty (150) square feet in area with minimum dimensions of seven (7) feet, and *shall* , except for *vehicular display areas* , contain at least one (1) locally adapted *shade tree* in conformance with the requirements of subsection 2. below. However, existing plant areas of one hundred twelve (112) square feet and existing trees which formerly met the requirements of this chapter, *may* still be used to meet these newer requirements, provided that if these existing trees die or become *unhealthy* they *shall* be replaced by *shade trees* .

2. *Shade tree* size.

Shade tree as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed thirty-five (35) feet and which has an expected crown spread of thirty (30) feet or more or is considered a *shade tree* in accordance with the latest edition of "American Standards of Nursery Stock", set forth by the American Association of Nurserymen. The *shade tree* , existing or planted, *shall* be at least eight (8) feet in height and six and one quarter (6.25) inches in circumference (two (2) inches in diameter) measured at one-half (1/2) foot above grade for new planted trees and measured at four and one-half (4 1/2) feet above grade for existing trees.

3. Location of*shade trees* and planting areas.

Landscaped planting areas depending on the per cent of expansion of the*vehicular surface area* *shall* be located at the *owner's* discretion provided that no vehicular parking space be more than one hundred (100) feet from the trunk of a natural *shade tree* , with no intervening *building* . Existing trees located within the right-of-way, but outside medians, *may* be used to meet the distribution requirements of this subsection. For *vehicular display areas* which are not required to have trees, measurements *shall* be made from the edge of the landscaped planting area, and no displayed vehicle *shall* be farther than one hundred (100) feet from the edge of any landscaped planting area.

4. Parking space reduction.

The number of parking spaces required by §10-2081*may* be reduced by the *following* ratio: The square footage of required landscaped planting areas divided by one hundred fifty (150), but no fraction thereof, provided that no reduction in the number of off- *street* parking spaces authorized by this section in excess of ten (10) per cent *shall* occur without the prior approval of the *City* *Council* which *shall* first determine if further reductions will cause on- *street* parking congestion.

5. Planting requirements.

Trees for change of use and depending on the per cent of expansion of the*vehicular surface area* *shall* be provided at the minimum rate of one

(1) *shade tree* for every four thousand (4,000) square feet of total *vehicular surface area* .

6. Planting requirements for expansions of twenty-five (25) per cent - fifty (50) per cent.

For each additional per cent of expansion greater than twenty-five (25) per cent, an additional two (2) per cent of the interior vehicular surface planting requirements set forth above*shall* be added to the fifty (50) per cent initially required until one hundred (100) per cent of the vehicular surface landscape requirements are met in accordance with the Schedule of Expanded Vehicular Surface Area Landscaping Requirements [*following* this section] which is incorporated into this section by reference.

GRAPHIC LINK:Section 10-2082.10 SCHEDULE OF EXPANDED VEHICULAR SURFACE AREA LANDSCAPE REQUIREMENTS

GRAPHIC LINK:WORKSHEET (For the computation of amount of landscaping required)

This worksheet is to be used to compute the amount of landscaping and width required for both*transitional yards* and Special Highway Overlay District *protective yards* whenever any expansion of *floor area gross,* surface area, *vehicular surface area* or any combination thereof on a site totals between twenty-five (25) and fifty (50) per cent. Cumulative expansions less than twenty-five (25) per cent are not required to provide increased yard widths or landscaping. Cumulative expansions of fifty (50) per cent or more must be accompanied with the full yard width and landscaping required for *transitional yards* and Special Highway Overlay District *protective yards.*

TABLE INSET:

The per cent of expansion. Include any other expansions made on the site after application of the regulation; total *floor area gross,* surface area, and *vehicular surface area.*	(1)	
Twenty-five (25) per cent expansion.	(2)	25
Subtract (2) from (1)	(3)	
Applicable factor of expansion for additional planting and yard width required by the *City* Code. See §§10-2058(e)(2)c.3; 10-2059(e)(2)c.3; 10-2060(e)(2)c.3; 10-2061(e)(2)c.3; and 10-2082.10(c)(3) for the appropriate factor.	(4)	
Multiply (3) and (4).	(5)	
Applicable initial yard width and per cent of landscaping required by the *City* Code for expansions of twenty-five (25) per cent. See §§10-2058(e)(2)c.3; 10-2059(e)(2)c.3; 10-2060(e)(2)c.3; 10-2061(e)(2)c.3; and 10-2082.10(c)(3) for the appropriate requirements.	(6)	
Add (5) and (6).	(7)	

For example, a site located in a Special Highway Overlay District-4 and adjoining *amajor access corridor* will have a proposed expansion that will increase *building* size and *vehicular surfaces* by ten (10) per cent respectively. An expansion to the *parking lot* two (2) *years* ago increased the *vehicular surface area* by fifteen (15) per cent. How wide should the *transitional yard* be, and how much landscaping is required in this yard by the *City* Code? How wide should the yard width of the *major*

access corridor be, and how much landscaping is required in this yard by the *City* Code?

Transitional Yard

TABLE INSET:

Sum of all expansions on the site.	y	(1) 35 (2) 25 (3) 10
The factor of expansion required by §10-2082.10(c)(3) is 2.		(4) 2 (5) 20
The initial *transition yard* and plantings required by §10-2082.10(c)(3) for expansions of twenty-five (25) per cent is fifty (50).	+	(6) 50 (7) 70

Major Access Corridor

TABLE INSET:

	Yard Width			Planting Material
	(1) 35	Sum of expansions.		(1) 35
y	(2) 25		y	(2) 25
	(3) 10			(3) 10
	(4) 0.6	Factor of expansion required by §10-2061(e)(2) c.3.		(4) 2.4
	(5) 6			(5) 24
+	(6) 10	Twenty-five (25) per cent initial requirement, §10-2061(e)(2)c.3.	+	(6) 40
	(7) 16			(7) 64

Seventy (70) per cent of the required*transitional yard* and seventy (70) per cent of its required plantings must be provided. The required *major access corridor yard* must be sixteen (16) feet wide and contain sixty-four (64) per cent of the required plantings.

(Ord. No. 1993-133-TC-46, §§26, 27, TC-11-92, 2-2-93)

7. Planting rate for expansions over fifty (50) per cent.

Preexisting*vehicular surface areas* *shall* contain the same landscaping as new vehicular surfaces whenever any expansion, singularly or collectively, of a preexisting facility exceeds fifty (50) per cent of the surface area.

Cross reference: Expansion of*vehicular surface areas* to serve a zoning *nonconforming use* , §10-2146.3(a)(3).

(3) ***Transitional protective yards*** .

a. Requirements for expansions of twenty-five (25) per cent or more.

Fifty (50) per cent of the*transitional protective yard* regulations *shall* be met initially if the expansion singularly or collectively exceeds twenty-five (25) per cent. This reduction *shall* apply to the dimensional width of the *transitional yard* and the quantities of the required trees and materials. However, for each additional per cent of expansion greater than the twenty-five (25) per cent, an additional two (2) per cent of the *transitional yard* width required for new construction *shall* be added to the fifty (50) per cent initially required until one hundred (100) per cent of the required *transitional protective yard* is met for both the existing and additional structure of *vehicular surface area* . In the allocation of the required *transitional protective yard* , priority should be given to screening *dwellings* .

GRAPHIC LINK:SIGNAGE FLOW CHART

(d) Requirements for Change of Use.

Whenever any change in the type of land use results in a change in the type of**Building Code** occupancy, as set forth in the North Carolina State Building Code, a *transitional protective yard* *may* be required. A *transitional protective yard* is required if the new land use is of greater impact then the previous use, as determined by §10-2082.9(e). The *transitional protective yard* required *shall* conform to §10-2082.9. But if such change of land use is of the same or lesser impact than the previous use, no *transitional protective yard* is required.

(Ord. No. 799-TC-267, §1, TC-21-85, 6-3-86; Ord. No. 499-TC-349, §19, 42-46, TC-15-89, 3-7-90)

Sec. 10-2082.11. INCENTIVES FOR TREE PRESERVATION.

(a) Trees Preserved.

The incentives allowed in subsection (b), below, are permitted for any development with a*principal building or use* when all of the *following* are met:

(1) Each existing tree which is to be preserved is fifteen and five-eighths (15 5/8) inches in circumference (five (5) inch caliper) or greater, measured in four and one-half (4 1/2) feet above grade.

(2) The number of live trees to be preserved equals or exceeds:

a. Twelve and one-half (12 1/2) per cent but is less than twenty-five (25) per cent of all trees required by section 10-2082et seq. and any other applicable zoning district requirement; or

b. Twenty-five (25) per cent or more of all trees required by section 10-2082et seq. and any other applicable zoning district requirement.

The percentage of preserved trees*shall* be calculated prior to any tree credit.

Cross reference: Tree preservation in Metro-Park Protection Overlay District when impervious surfaces exceed thirty (30) per cent, §10-2053(e)(4).

(3) All trees to be preserved must be located between the front line of the principal building and the public*street* right-of-way.

(4) Each tree which is to be preserved*shall* be uniformly encircled by a protected ground area the size of which *shall* be the greater of either a seven-foot radius measured outward from the tree, or a radius of six (6) inches for each inch of circumference of the tree measured at four and one-half (4 1/2) feet above grade level.

Trees in parking lots which are already located inside planting areas with a minimum dimension of seven (7) feet *may* also be used. During construction, the protected ground area *shall* be delineated by a protective fence in the field. No incentive authorized by subsection (b) below *shall* be allowed if there is any encroachment within the protected ground area.

(5) The total land area, as measured in square feet, of all protected ground areas surrounding preserved trees set forth in subparagraph (a)(4) above equals or exceeds the land area, as measured in square feet, of all reductions made to*street protective yards* and *transitional protective yards* pursuant to subparagraphs (b)(1), (b)(4), and (b)(5) below.

(6) Each tree which is to be preserved is not*unhealthy.*

(7) No tree clearing has occurred on the site in violation of this chapter.

(8) The tree(s) are not required to be preserved by any*resource management district* , a conditional use zoning district requirement, or any other provision of Part 10 of this Code.

(Ord. No. 2003-373-TC-231, §26, TC-23-02, 2-4-03

(b) Incentives Allowed.

When twenty-five (25) per cent or more of all trees required by §10-2082et seq. and any other applicable zoning district requirements are preserved in accordance with subsection (a) above, and notwithstanding any other provision of §10-2082 et seq. , one hundred (100) percent of each and every one (1) of the *following* incentives are allowed. When at least twelve and one-half (12 1/2) per cent but less than twenty-five (25) per cent of all trees required by §10-2082 et seq. , and any other applicable zoning district requirement are preserved in accordance with subsection (a) above, and notwithstanding any other provision of §10-2082 et seq. , each and every one (1) of the *following* incentives are allowed on a pro rata basis beginning with one-half (1/2) of each incentive for tree preservation of twelve and one-half (12 1/2) per cent.

(1) The width of all required*protective street yards* required by §10-2082.5(d) *shall* be at least five (5) feet in width measured perpendicular to the recorded public *street right-of-way* abutting the *property.*

(2) The distance a vehicular parking space*shall* be separated from a *shade tree* as required by §10-2082.6(c)(5) *shall* be no more than seventy-five (75) feet from the trunk of a *shade tree* in a planting area with one (1) tree or one hundred (100) feet from the trunk of a *shade tree* in a planting area with two (2) or more *shade trees* , with a maximum spacing between the trees of seventy-five (75) feet.

(3) All shrubs required by §10-2082.6(c)(7)*may* be omitted at the discretion of the *owner* .

(4) The width and plantings of the*transitional protective yard* adjoining or adjacent to any *lot* which is not "vacant" and zoned any *nonresidential district* , other than Conservation Management *shall* be reduced up to one-half (1/2). The term "vacant" *shall* have the same meaning as set forth in §10-2082.9(b)(3).

(5) The width and plantings of the*transitional protective yard* adjoining or adjacent to any *lot* which is both "vacant" and zoned any *nonresidential district* , other than Conservation Management, *may* be lawfully omitted at the discretion of the *owner* . The term "vacant" *shall* have the same meaning as set forth in §10-2082.9(b)(3).

(6) The size of each interior planting area required for*vehicular surface areas* by §10-2082.6(c)(1) *shall* be reduced by up to fifty (50) square feet.

(Ord. No. 1999-616-TC-181, §57, TC-3-99, 8-3-99)

(c) Replacement of Preserved Trees.

Whenever a tree preserved in accordance with subsection (a) above dies or is removed for any cause it*shall* be replaced within one (1) *month* thereafter, unless otherwise prohibited by seasonal conditions. The cumulative circumference of all replacement trees, as measured one-half (1/2) foot above grade, *shall* total fifteen and five-eighths (15 5/8) inches in circumference (five (5) inch caliper) for each dead and removed tree. No replacement tree *shall* be less than 7.8125 inches in circumference (two-and-one-half (2 1/2) inch caliper) measured six (6) inches above the ground. All replacement trees *shall* be *shade trees.*

Cross reference: Tree preservation credit for*street* yard and vehicular plantings, §10-2082.5(f).

(Ord. No. 1996-851-TC-128, §26, TC-23-95, 4-2-96)

Sec. 10-2082.12. ADDITIONAL LANDSCAPING REQUIREMENTS IN RESOURCE MANAGEMENT ZONING DISTRICTS.

Within all*Resource Management Zoning Districts* the *following* additional landscape standards are required:

(a) Minimum Size at Installation of ***Shade Trees*** **for** ***Street Protective Yards*** .

Within all*street protective yards* located in any *Resource Management District* , each natural *shade tree* , either existing or planted, utilized to comply with the landscaping requirements of this Code *shall* be at least fourteen (14) feet in height and 10.9375 inches in circumference (three-and-one-half (3 1/2) inch caliper) measured at one-half (1/2) foot above grade.

(b) Tree Conservation along ***Street Frontages.***

Except as otherwise authorized by a permit as set forth in subsection (c) below, or except in those portions of the*street protective yard* located further than fifty (50) feet from the right-of-way, no *tree disturbing activity* *shall* occur in any *street protective yard* which is both zoned *Resource Management District* and which either adjoins a *thoroughfare* or which is greater than fifteen (15) feet in width as measured perpendicular to the public right-of-way. In the Thoroughfare District, Special Highway Overlay District-1, Special Overlay District-3, or any other *Resource Management District* which requires a fifty (50) foot *street protective yard,* the tree conservation area *may* be modified as part of a *site plan* approved in accordance with §10-2132.2; the uniform fifty (50) foot wide tree conservation area *may* be modified to a fifty (50) feet minimum average *protective yard* ; provided that, this tree conservation area *shall* be at least thirty-five (35) feet wide and no more than seventy-five (75) wide as measured perpendicular to the recorded adjoining *thoroughfare right-of-way* abutting the *property.*

When any improvement to an adjacent*thoroughfare* by a developer or its agents requires the disturbance of any *street protective yard* which is greater than fifteen (15) feet in width and zoned *Resource Management District* and the disturbance exceeds the thirty (30) per cent of grading or tree removal permitted in subsection (c) below, the *property owner shall* either:

(1) Preserve a natural area outside of the normally required *street protective yard,* between the *principal building* and the public *street* right-of-way, for that portion of disturbance greater than the allowable thirty (30) per cent, or,

(2) Up to fifty (50) per cent of the*street protective yard* area *may* be disturbed, however, replacement of trees for that portion of disturbance which exceeds the allowable thirty (30) per cent shall be replaced at the same rate as required in §10-2082.12(d)(2) below.

When preserving a natural area outside of the required*street protective yard* in accordance with option (1) above, the preserved trees within this natural area *may* also be credited toward any

vehicular surface area planting requirements in accordance with §10-2082.6 and/or *transitional protective yard* planting requirements in accordance with §10-2082.9 which are located adjacent to the preserved natural area.

When a slope easement is existing or required to be provided as part of the proposed development, the land area located within the slope easement*may* be utilized to fulfill the *street protective yard* width and tree preservation requirements of this section. If any future public improvement of a *street* removes or causes any of the vegetation within the slope easement to die or to become *unhealthy,* it *shall* be the *property owner's* responsibility to replace vegetation at the same rate as required in §10-2082.12(d)(2) within one hundred eighty (180) days of completion of the public *street* improvement.

(Ord. No. 2000-804-TC-195, TC-11-99, §3, 5-16-00; Ord. No. 2005-762-TC-264, §15, TC-7-04, 1-4-05)

(c) Tree conservation permits.

No*person* within any *street protective yards* set forth in subsection (b) above *shall* grade, remove, clear, cut, in whole or in part, any tree without a tree permit. No tree conservation permit *shall* be issued if the cumulative grading and tree removal exceeds thirty (30) per cent of any *street protective yard* set forth in subsection (b).

(1) Permits will be issued for one (1) or more of the*following* :

a. A certified arborist, certified by the International Society of Arboriculture, or a forester registered by*the State of* North Carolina, or a landscaped architect licensed by *the State of* North Carolina first certifies *in writing* to the *City* that the tree is either unsafe or is *unhealthy* as set forth in §10-2001(1) through (5). Provided, no certification *shall* be required if it can be shown to the *City* that the tree died of natural causes and the dead tree is replaced in accordance with the substitution standards of subsection (d) below.

b. Tree removal and grading is being done to install a driveway in accordance with §10-7001(f); provided that the width of such driveways does not exceed thirty-six (36) feet. Within the driveway area cable, electric, gas, sewer, telephone and water utilities*may* be installed.

c. Tree removal and grading is being done to remove a visual obstruction from a sight triangle as set forth in the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways manual, and all subsequent amendments thereto.

d. Tree removal and grading is being done in accordance with governmental easements which prohibit trees.

e. Tree removal and grading is being done to install necessary storm drainage devices in naturally occurring drainage areas.

f. Tree removal and grading is being done to install in*single-family dwelling* areas an *earthen berm* meeting the characteristics established in §10-2061(e)(2)a.3.

g. The removal and grading is being done to install public improvements made pursuant to Part 10 Chapter 3, including*street* construction.

(2) *Following* the submittal of additional information as part of a *site plan* , *plot plan,* or subdivision plan, a tree conservation permit *may* be issued for areas of the *street protective yard* that fail to contain existing vegetation meeting the general requirements of the applicable zoning districts and §10-2082.5(c)(3); provided that:

a. Such areas contain a minimum dimension of fifty (50) linear feet as measured along the abutting*street* right-of-way; and

b. The applicant substantiates by aerial photographs, witnesses, or other means that vegetation of the *street protective yard* was not diminished in quantity *following* the application of this ordinance.

Editor's note: This provision first became applicable on April 7, 1996.

(3) Where existing vegetation meets the minimum*street protective yard* tree planting requirements for the applicable zoning district, a tree conservation permit *may* be issued for wooded area clean-up for *shade trees* fifteen and five-eighths (15 5/8) inches in circumference (five (5) inch caliper) or less and understory trees six and one-quarter (6 1/4) inches in circumference (two (2) inch caliper) or less. No permit for such tree removal will be issued unless and until a plan is submitted showing how the work will be undertaken without compacting soils and damaging preserved trees and maintaining minimum applicable requirements. Said plan *shall* show the nature and extent of all trimming.

(4) *Following* the submittal to the *City* of a *written* report explaining why any grading and tree removal not otherwise authorized by subsections (1) and (3) above is necessary, a tree conservation permit *may* be issued. No permit pursuant to this subsection *shall* be issued without a tree replacement plan that conforms to subsection (d) below.

(Ord. No. 2005-762-TC-264, §15, TC-7-04, 1-4-05)

(d) Replacement Trees.

Whenever a tree removal permit is issued in accordance with subsection (c)(4), the*property owner shall* install replacement trees in one (1) of two (2) ways:

(1) One (1) or more natural areas of equal size containing vegetation similar in size and quantity as that which is being removed is preserved outside the*street protective yard* , between the *principal building* and the public *street right-of-way* provided that the *street protective yard* conforms to the applicable landscaping requirements for that zoning district.

When preserving a natural area outside of the required*street protective yard,* the preserved trees within this natural area *may* also be credited toward any *vehicular surface area* planting requirements in accordance with §10-2082.6 and/or *transitional protective yard* planting requirements in accordance with §10-2082.9 located adjacent to the preserved natural area.

(2) For each one hundred (100) square feet of disturbed land area, nine (9) inches of tree circumference (three (3) inch caliper) is added back into the *street yard.*

During construction, the protected ground area adjacent to the trees to be preserved*shall* be delineated by a protective fence in the field.

(Ord. No. 2000-804-TC-195, TC-11-99, §4, 5-16-00)

(e) Maintenance of Landscaping.

Trees which are installed or preserved in accordance with this section*shall* be maintained in the same manner as set forth in §10-2082.3(d)(3). During construction, the protected ground area adjacent to the trees to be preserved *shall* be delineated by a protective fence in the field.

(f) Prohibitions.

The clearing or damaging of any tree from, in whole or in part, of any*property* or portion thereof within any *street protective yard* of a *Resource Management Zoning District* except in accordance with the provisions of this chapter *shall* be illegal, and it is declared a violation of this Code. A violation of this subsection or of subsection (e) *shall* subject the offender to a civil

penalty of one hundred dollars ($100.00) per every fifteen (15) linear feet of *tree cleared* or tree damaged land which *shall* be processed as set forth in §10-2152(5). In addition to this civil penalty, the land *owner* of any *property* within a *Resource Management District* on which tree clearing or tree damaging, in whole or in part, has occurred *shall* install within all *street protective yards* plantings equivalent to twice the number and size of plantings required in §10-2058(e)(2)a. Prior to any replanting, the *City Forestry* Specialist *shall* first approve a replacement planting and maintenance plan. These plantings *shall* be installed within the time limit specified by the Chief Zoning Inspector; in setting the time limit for compliance, the Chief Zoning Inspector *shall* take into consideration the quantity of work, planting season, and the consequences of delay.

State law reference: 1985 Session Laws, Chapter 556.

(Ord. No. 1996-851-TC-128, §26, TC-23-95, 4-2-96; Ord. No. 1999-616-TC-181, §58, TC-3-99, 8-3-99; Ord. No. 2005-762-TC-264, §15, TC-7-04, 1-4-05)

Sec. 10-2082.13. SCREENING REQUIREMENTS FOR PERMANENT STORMWATER RETENTION PONDS AND DETENTION BASINS.

(a) Purpose.

Due to their nature as service features, some stormwater control facilities can have a negative visual impact upon*properties* where they are located as well as upon adjacent *properties* and the adjacent public realm. As a result of these factors, the purpose of this section is to:

(1) Mitigate the negative visual impact from certain stormwater control facilities by requiring screening from on-site and off-site views;

(2) Recognize that a stormwater control facility may include elements which allow it to function as a site amenity;

(3) Explain the conditions under which a stormwater control facility could be considered as a site amenity, and therefore not require screening; and

(4) Offer incentives for development of stormwater control facilities as site amenities.

(b) Applicability.

The provisions of this section*shall* apply to all off-site and on-site permanent stormwater retention ponds and detention basins permitted, constructed, and/or modified to a cumulative extent greater than fifty (50) per cent of their original size after application of this ordinance.

Editor's Note: Section 10-2082.13 first became applicable on June 3, 2004 (Ord. No. 627-TC-246).

(c) Screening Requirements.

(1) All permanent on-site and off-site stormwater retention ponds and detention basins subject to the provisions of this section*shall* provide vegetative screening from on-site and off-site views consistent with the *following* requirements:

a. All vegetative screening*shall* be seventy-five (75) per cent locally-adapted evergreen species; and

b. All vegetative material*shall* be planted so as to attain a screen occupying at least seventy-five (75) per cent of a vertical plane around the perimeter of the facility to an average height of six (6) feet above grade within three (3) *years* of planting; and

c. Screening*shall* be required around the base of the dam structure (as applicable), but not on the dam structure, with those plant materials in immediate proximity to the dam characterized by shallow, non-invasive root systems; and

d. Screening*shall* not be required within required facility inlets or facility outlets, nor within a maintenance access path provided that such path does not exceed twelve (12) feet in width; in all other instances, within three (3) *years* of planting the maximum open horizontal space between vegetative screening materials *shall* not be more than two (2) feet in width; and

e. Vegetative material composing the screen*shall* be selected and installed so as to exhibit variety in texture, color, spread and height by using ornamental and/or deciduous *shade trees* in combination with evergreen materials; and

f. In some cases, vegetative material*may* be placed in clusters or groups to add additional visual interest as well as to achieve intermittent levels of vertical height; and

g. In areas where the required screening is immediately adjacent to other required*yard* or landscaping areas, the trees or shrubs required for screening the facility *may* be relocated to elsewhere within the facility perimeter of the facility provided that the screen requirements in subsection (1)b. above are met; and

h. In situations where the stormwater control facility utilizes a fence, all vegetative material associated with screening the facility*shall* be located outside the fence; and

i. In situations where a fence and gate are proposed, the fence and gate*shall* be colored black, forest green, dark brown or similar dark color so as to recede from view, unless the fence is constructed of masonry, wood, or similar natural material, in which case it *may* be left to weather naturally.

(2) Permanent stormwater retention ponds and detention basins and their related facilities, including associated amenity features*shall* not be placed within required tree protection areas nor landscaping areas, including but not limited to: *street protective yards* , *vehicular surface area* landscaping, *utility service area* landscaping, *loading/display area* landscaping, or *transitional protective yards* .

(3) Stormwater control facility vegetative screening material*shall* not be credited towards other required landscaping, including but not limited to: *street protective yards* , *vehicular surface area* landscaping, *utility service area* landscaping, *loading/display area* landscaping or *transitional protective yards* except as provided for within this section.

(4) Stormwater permanent retention ponds and detention basins which contain amenity features as set forth in subsection (d) below*shall* be exempted from these screening requirements.

(d) Amenity Approval Criteria.

Permanent stormwater retention ponds and detention basins*may* be supplemented with certain features which enable the facility to function as an amenity to the site or development in addition to its primary function as a stormwater device. In situations where such amenity features are provided consistent with these provisions, no screening of the stormwater control facility from on-site or off-site views *shall* be required. In the event a permanent stormwater retention pond or detention basin loses a feature by which the facility qualifies as an amenity, the feature *shall* be restored within 30 days, or the facility *shall* be subject to the screening provisions listed in the section above.

(1) Basic amenity features. To qualify as an amenity to the site or development where it is located, the following basic amenity features*shall* be provided within any stormwater control facility:

a. Integration of the permanent stormwater retention pond or detention basin into the design of the public areas within the site or development through the use of appropriate placement, common building materials, textures, features, or other treatments intended to lend architectural significance to the stormwater control facility. For the purposes of this section, "integration"*shall* mean at least two (2) of the following three (3) elements:

1. Proximate placement of the stormwater facility to the principal structure(s), or

2. Provision of pedestrian access to the facility through installation of a delineated walk or trail from the principal structure(s), or

3. Utilization of similar planting materials and*building* materials as used in the principal structure(s).

b. No fence*shall* be installed around the permanent stormwater retention pond or detention basin which acts to prevent pedestrian access to the facility from the site or development where it is located; in cases where a fence is needed to restrict access, such fence *shall* be screened in accordance with the screening provisions described in subsection (c).

c. Rock riprap or other "hard armoring"*shall* be limited to ten (10) per cent or less of the entire surface area of the stormwater control facility above the low pool line.

d. Permanent stormwater retention ponds and detention basins*shall* incorporate features designed to reduce mosquito populations through provision of non-chemical mosquito mitigation measures, including but not limited to: cyclical alteration of the pond level, installation of aeration/agitation features to disrupt larval growth, providing nesting boxes for mosquito-predacious birds or bats, or stocking ponds with mosquito-predacious fish (e.g. *Gambusia affinis holbrooki*).

(2) Supplemental amenity features. In addition to the basic requirements described in subsection (1) above, a permanent stormwater retention pond or detention basin must also provide supplemental features to be considered an amenity. The types of supplemental amenity features differ based upon the type of stormwater control facility.

a. Permanent retention (wet) ponds.

To be considered as an amenity feature, permanent retention ponds*shall* :

1. Retain water within a permanent pool, and

2. Maintain slopes of 4:1 or shallower to a distance of ten (10) feet below the median pool line (beyond which slopes may become steeper); alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of the wall is in accordance with §10-2082.13 (d)(1)a. above, and

3. Include horizontal curves or other sculptural elements within the shape of the facility so as to avoid a simple square or round shape.

4. Provide at least two (2) of the*following* four (4) features:

a. Inclusion of an active water feature (i.e., aerator/fountain/waterfall) within or adjacent to a permanent pool (s), or

b. Pedestrian access trails to and/or around the stormwater

control facility from the existing and/or proposed pedestrian network associated with the site or development. Such access*shall* not be required to meet the minimum specifications for sidewalks or multipurpose trails as described within the *City's* standard specifications and details, and may be constructed of any discernible, leveled, and stable surface material, including but not limited to: brick or masonry, gravel, mulch, wood chips, mowed grass or low groundcover, or

c. Provision of riparian plant materials throughout the stormwater control facility to prevent erosion and add visual interest, and additional perimeter plantings consisting of at minimum three (3) ornamental trees or two (2)*shade trees* totaling eight (8) inches in caliper at time of planting, and four (4) shrubs for every one hundred (100) linear feet equivalent to the pond's maximum pool circumference and located no more than seventy-five (75) feet from the pond's maximum pool line, or

d. Inclusion of other permanent, pedestrian-oriented features, including but not limited to: seating, dining tables, and mounted trash cans, in areas around or proximate to the stormwater control facility.

b. Detention (dry) basins.

To be considered as an amenity feature, detention ponds*shall* :

1. Not contain water on a permanent basis, and

2. Provide a one hundred (100) per cent vegetative cover capable of withstanding extended periods of inundation, except in spaces designed for specific recreational uses (e.g., baseball fields), and

3. Maintain slopes of 4:1 or shallower; alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of the wall is in accordance with §10-2082.13(d)(1)a. above, and

4. Provide at least two (2) of the *following* three (3) features:

a. Pedestrian access trails to the stormwater control facility from the existing and/or proposed pedestrian network associated with the site or development. Such access trails*shall* not be required to meet the minimum specifications for sidewalks or multipurpose trails as described within the *City's* standard specifications and details, and may be constructed of any discernible, leveled, and stable surface material, including but not limited to: brick or masonry, gravel, mulch, wood chips, mowed grass, or

b. Inclusion of other permanent, pedestrian-oriented features, including but not limited to: seating, dining tables, and mounted trash cans, in areas around or proximate to the stormwater control facility, or

c. Grading and slopes of 8:1 or shallower which will allow utilization of the facility as an area for recreation when not in use as a detention facility (except on the dam structure and as is necessary to tie the dam back to existing grades); alternatively, a retaining wall may be incorporated into a portion of the facility, provided the design of the wall is in accordance with §10-2082.13 (d)(1)a. above.

(e) Incentives.

When a permanent stormwater retention pond or detention basin provides amenity features in compliance with the minimum requirements of subsection (d), then the*following* provisions *may* also apply:

(1) The permanent stormwater retention pond and detention basin and their related facilities, including amenity features,*may* be placed within required landscaping areas, including but not limited to: *street protective yards* , *vehicular surface area* landscaping, *utility service area* landscaping, *loading/display area* landscaping, or *transitional protective yards* (except in tree conservation areas adjoining thoroughfares, within areas zoned for resource management, tree protection areas, and in *natural protective yards*).

(2) When a permanent stormwater retention pond or detention basin is located within a required landscaping area, the portion of land associated with or adjacent to the stormwater control facility*shall* only be required to meet eighty (80) per cent of the minimum planting requirements of the required landscaping area.

(Ord. No. 2004-627-TC-246, §1, TC-12-03, 5-4-04)

Sec. 10-2082.14. ESTABLISHMENT AND PROTECTION OF TREE CONSERVATION AREAS.

(a) Intent, Purpose and Application.

(1) Intent and Purpose.

The intent of this section is to conserve one of the community's most valuable natural resources, the trees and natural vegetation of Raleigh. This natural resource is of general aesthetic and ecological value and has been preserved to:

a. Ensure the beautification of Raleigh;

b. Modify the effect of stormwater, by reducing both the amount and the rate of runoff and increasing the capability of groundwater recharge in urban areas;

c. Conserve a remnant of Raleigh's natural vegetative cover;

d. Filter particulate and gaseous pollution from the air;

e. Attenuate glare and noise;

f. Prevent soil erosion and sedimentation;

g. Provide visual buffering of*streets* and developments;

h. Preserve the unique identity and environment of the*City* of Raleigh;

i. Provide areas to filter stormwater runoff and remove nitrogen and other pollutants from stormwater;

j. Provide a pleasing habitat for people and animals;

k. Promote an appropriate balance between the built environment and the natural environment;

l. Promote the preservation of existing natural areas rather than the removal and replanting of vegetation.

(2) Application.

After the application of this regulation*, the provisions of §10-2082.14*shall* apply to:

*Editor's Note: Section 10-2082.14 first became applicable on May 1, 2005 [Ord. No. 2005-762-TC-264 TC-7-04].

a. Subdivisions of any tract two (2) acres or greater in size.

b. *Site plans* for parcels two (2) acres or greater in size on lots either existing prior to the application of this regulation or lots configured by recombination after the application of this regulation.

(b) Tree Conservation Areas Required.

Prior to the approval of any subdivision plan or*site plan* two (2) acres or greater in size, the developer *shall* establish tree conservation areas. Tree conservation areas established on the parent tract *shall* apply to further subdivision of the parent tract, but not to subsequent recombinations.

(1) Primary Tree Conservation Areas.

Tree conservation areas*shall* be required and established in each of the *following* applicable areas of the tract:

a. *Resource Management Districts* tree protection areas and areas with conditional use zoning tree protection areas such as, and without limitation, *natural protective yards* and areas subject to *active tree preservation* .

b. Areas containing*champion trees* that are not *unhealthy* , including the *critical root zone* of such tree.

c. Zone 2 of Neuse River Riparian Buffers, as established in title 15A of the North Carolina Administrative Code subchapter 2B Section .0233 excluding governmental and utility easements that prohibit trees and any area devoted or to be devoted to crossings of the buffer.

d. Areas with a gradient of forty-five (45) per cent or greater which are adjacent to or within floodways.

(2) Secondary Tree Conservation Areas.

Whenever the total land area of all primary tree conservation areas required by section (1) above is less than fifteen (15) per cent of the area of any tract zoned Rural Residential or Residential -2 and is less than ten (10) per cent of the area of tracts zoned any other zoning district, except Conservation Management, then additional tree conservation areas*shall* be required and established until either at least fifteen (15) per cent of the land area of tracts zoned Rural Residential and Residential -2 are designated tree conservation areas or at least ten (10) per cent of the land area of all other zoned tracts. except Conservation Management, are designated tree conservation areas. Notwithstanding these percentage limitations, once all of the priority areas of subsection (2) have been considered in accordance with the provisions of §10-2082.14, the requirements of this Code section are fulfilled even if the required minimum amount of tree conservation area is not provided. Designated tree conservation areas on the tract, in addition to those primary tree conservation areas, *shall* be based on the *following* priorities; the priority of secondary tree conservation areas from highest priority to lowest priority is as follows:

a. An*undisturbed area* adjoining a major *thoroughfare* designated on the Comprehensive Plan varying in width between a minimum of zero (0) feet and a maximum of one hundred (100) feet; provided that, the total area of the *undisturbed* area is equal to an area measured fifty (50) feet perpendicular to the *frontage* of the *thoroughfare.*

b. An*undisturbed area* adjoining a minor *thoroughfare* designated on the Comprehensive Plan varying in width between a minimum of zero (0) feet and a maximum of one hundred (100) feet; provided that, the total area of the *undisturbed area* is equal to an area measured fifty (50) feet perpendicular to the *frontage* of the *thoroughfare* ;

c. A sixty-five (65) foot wide perimeter yard when the adjoining or adjacent*property* is not "vacant".

d. A thirty-two (32) foot wide perimeter yard when the adjoining or adjacent*property* is "vacant".

The term "vacant" as used herein means that at the time of application for development there is no*building* or structure or *vehicular surface area* within two hundred (200) feet from the common *property* line of the *property* being developed and the adjoining or adjacent *property* .

As an alternate means of compliance with priorities (2)c. or (2)d., tree conservation areas of*undisturbed areas* are allowed anywhere on the site. Provided, that the square footage of the substituted *areas* are equal in area to the square footage of priorities (2) c. and (2)d. respectively; as set forth in subsection (2), no alternate *undisturbed area shall* be less than four thousand (4,000) square feet of land area, and all dimensions *shall* be at least twenty (20) feet in all directions. No portion of Zone 1 of Neuse River Riparian Buffers as established in Title 15A of the North Carolina Administrative Code, Subchapter 2B Section .0233 *shall* be designated an alternate *undisturbed area* .

e. Any tree ten (10) inches or greater in*DBH* (thirty-one and one-quarter (31 1/4) inches or greater in circumference) that is located within sixty-five (65) feet along roadways and within sixty-five (65) feet of any *property* boundaries of *properties* that are not "vacant". The term "vacant" as used herein means that at the time of application for development there is no *building* or structure or *vehicular surface area* within two hundred (200) feet from the common *property* line of the *property* being developed and the adjoining or adjacent *property* .

f. Any tree ten (10) inches or greater in*DBH* (thirty-one and one-quarter (31 1/4) inches or greater in circumference) that is located within thirty-two (32) feet of any *property* boundaries of *properties* that are "vacant". The term "vacant" as used herein means that at the time of application of development there is no *building* or structure or *vehicular surface area* within two hundred (200) feet from the common *property* line of the *property* being developed and the adjoining or adjacent *property* .

For priorities (2)e. and (2)f. no tree*shall* be selected for tree conservation if it has one or more of the *following* characteristics:

1. It is located within a sight triangle as set forth by the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways Manual and all subsequent amendments thereto.

2. The tree is located within a slope easement or any easement that prohibits trees.

3. The tree is*unhealthy* according to one or more of the characteristics listed in §10-2002 subsections (1) through (5) for the defined term *unhealthy* .

(c) Existing Tree Cover Required.

Tree conservation areas proposed for priority areas (b)(2)a. through (b)(2)d., including any

allowed alternate tree conservation areas of *undisturbed area* s, *shall* contain a *basal area* of at least thirty (30) square feet per acre as determined in increments of fifty (50) feet in length. No tree situated outside of the tree conservation area *shall* count for computing *basal area.*

For those developments that fulfill any of their tree conservation area requirement in secondary tree conservation areas, subsection (b)(2) above, each developer*shall* submit to the *City* :

(1) Photo panoramic panels of the intended area to be conserved. The photo panel*shall* equal fifty (50) feet of the length of the priority area to be conserved;

(2) A tree cover report prepared by a certified arborist, North Carolina licensed landscape architect or North Carolina registered forester describing for each fifty (50) foot length of proposed*tree conservation area* the composition of tree species, typical characteristic of the tree stand, the smallest caliper tree, but not less than three (3) inches *DBH* (nine and three-eighth (9 3/8) inches circumference measured four and one-half (4 1/2) feet above the ground) the largest *DBH* and the typical *DBH* , typical spacing between trees, the *basal area* and an indication of the general health and vigor of the tree stand. The report and the photo panels *shall* be interrelated;

(3) The most recent aerial photograph of the subject tract.

An actual survey of trees and computation of*basal area may* be substituted in lieu of subsection (1) and (3) above.

(d) Delineation of Tree Conservation Areas.

The area of secondary tree conservation areas established pursuant to subsection (b)(2) above which consist of groups of trees is measured by finding the area minimum imaginary rectangles or squares of vertical and horizontal lines, which fully enclose all the protected trees excluding governmental and utility easements that prohibit trees and any area devoted or to be devoted to streets, driveways, walkways, storm drainage facilities, including without limitation, pipes, energy dissipaters and stormwater control measures which require the removal of vegetation. Such tree conservation areas*shall* also contain the dimensional requirements of (b)(2)a. through d. *City* of Raleigh greenways *may* at the option of the *owner* be included in the boundaries of tree conservation areas, provided that an area computed twenty-five (25) feet multiplied by the length of the greenway is excluded as tree conservation for trail construction. Tree conservation areas proposed for priority areas (2)a. through (2)d., including any allowed alternate internal *undisturbed areas shall* be at least twenty (20) feet in all directions excluding external boundaries.

The area of tree conservation areas for individual trees and for trees ten (10) inches or more in*DBH* that are situated within tree conservation areas in priorities (2)a., (2)b., allowed alternate *undisturbed areas* pursuant to (2)c. and d. and (2)e. and (2)f., *shall* in addition include the *critical root zone* measured from the base of trees. When a landscape easement is obtained from the adjoining land that prohibits all *tree disturbing* activity, off-site areas for protected *critical root zones may* be included as tree conservation areas provided that such *areas shall* not be double counted as tree conservation areas.

(e) Documentation of Tree Conservation Areas.

After the tree conservation areas have been determined in accordance with the foregoing requirements, and prior to any*tree disturbing activity,* a map with metes and bounds descriptions of all tree conservation areas *shall* be given to the *City Forestry* Specialist in the Inspections Department and protective fencing is in place in the field.

After the tree conservation areas have been determined in accordance with the foregoing requirements and prior to or concurrent to any subdividing of the*property* or issuance of *building* permit, which ever event first occurs, the landowners *shall* record with the local *County* Register of Deeds the *following* :

(1) A plat with metes and bounds descriptions of all tree conservation areas;

(2) An easement allowing all future lot owners of the*property* and their agents the right to enter recorded tree conservation areas of the *property* to perform any *active tree preservation* measure and to replant replacement trees;

(3) A owners' association declaration prepared in conformity to Raleigh*City Code* §10-3073 and Chapter 47F of the General Statutes for the maintenance and protection of the trees within recorded tree conservation areas;

(4) One or more deeds conveying all tree conservation areas in fee or in easement to the owners' association.

(f) Permitted ***Tree Disturbing Activities.***

No*tree disturbing activity shall* take place in designated tree conservation areas except in strict conformity with the *following* regulations:

(1) Within tree conservation areas of*Resource Management Districts* and areas with a gradient of forty-five (45) per cent or greater which are adjacent to or within floodways, *tree disturbing activities* are allowed provided a tree conservation permit is first obtained from the Inspections Department and the provisions of §10-2082.12(c) through (e) are met.

(2) Within Zone 2 of Neuse River Riparian Buffers permitted*tree disturbing activities* are allowed for: (a) Any work that is ancillary to activities allowed by the North Carolina Division of Water Quality in Zone 1. For example, the extension of a roadway perpendicular to zones 1 and 2 is allowed upon approval by the North Carolina Division of Water Quality; (b) Any sanitary sewer installation when an existing permanent structure or any part of an existing permanent structure that is to remain on the site is within the width of the proposed permanent and temporary construction sanitary sewereasement plus ten (10) feet; and (c) More than fifty (50) per cent of a reach of sanitary sewer main will be over twelve (12) feet deep.

(3) Within tree conservation areas for secondary tree conservation areas of subsection (b)(2)*tree disturbing activities* are allowed when all of the *following* are met:

a. Prior to commencing any*tree disturbing activity* a tree conservation permit *shall* be obtained from the Inspections Department. Tree conservation permits authorized under this section will be issued for one (1) or more of the *following* :

1. A certified arborist, certified by the International Society of Arboriculture, or a forester registered by *the State* of North Carolina, or a landscape architect licensed by *the State of* North Carolina first certifies *in writing* to the *City* that the tree is either unsafe or is *unhealthy* as set forth in §10-2002(1) through (5). Provided, no certification *shall* be required if it can be shown to the *City* that the tree died of natural causes and the dead tree is replaced in accordance with the substitution standards of subsection b.2. below.

2. Tree removal and grading is being done to remove a visual obstruction from a sight triangle as set forth in the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways Manual, and all subsequent amendments thereto.

3. The removal and grading is being done to install public improvements made pursuant to Part 10 Chapter 3, including but not limited to*street* construction.

4. Where existing vegetation meets the minimum applicable*street protective yard* tree planting requirements for the applicable zoning

district, or meets applicable *transitional protective yard* requirements, a tree conservation permit *may* be issued for wooded area clean-up for *shade trees* less than two (2) inches *DBH* (six and one-quarter (6 1/4) inches in circumference) and *understory trees* less than one (1) inch in *DBH* (three and one-eighth (3 1/8) inches in circumference). No permit for such tree removal will be issued unless and until a plan is submitted showing how the work will be undertaken without compacting soils and damaging preserved trees and maintaining minimum applicable requirements. Said plan *shall* show the nature and extent of all trimming.

No tree conservation permit required by subsection (f)(3)a*shall* be issued without a tree replacement plan that conforms to subsection b. and if applicable subsection c. below.

b. Whenever a tree conservation permit is issued in accordance with subsection (f)(3), the*property owner shall* install replacement trees for any tree situated within the limits of the *tree disturbing activities* in one of two ways:

1. One or more*undisturbed areas* of equal size containing vegetation similar in size and quantity as that which is being removed is preserved either outside the *street protective yard* , between the *principal building* and the roadway for priority areas §10-2082.14(b)(2)a. and b. or is preserved in alternate *undisturbed areas* meeting the requirements of subsections b. through d. herein for priority areas §10-2082.14b(2)c. and d.; or

2. For each one hundred (100) square feet of disturbed land area, two (2) inches of caliper (six and one-quarter (6 1/4) inches of tree circumference) is either planted between the*principal building* and the roadway for priority areas §10-2082.14(2) a. and b. and or is planted in alternate areas of the site for priority areas §10-2082.14(b)(2) c. and d.

All substituted natural areas and all newly planted areas of subsections 1. and 2. above*shall* be designated as tree conservation areas on plats with metes and bounds descriptions recorded with the local *County* Register of Deeds.

c. All portions of*critical root zones* of trees situated inside a designated tree conservation area which adjoin proposed *tree disturbing activities* requested pursuant to subsection (f)(3) within the same designated tree conservation area *shall* remain *undisturbed areas* for trees ten (10) inches or greater in *DBH* (thirty-one and one-quarter (31.25) inches in circumference or greater).

d. Prior to commencing any*tree disturbing activity,* the boundaries of such activities *shall* be delineated by a protective fence in the field and a tree conservation permit *shall* be obtained from the Inspections Department.

(g) Payments As An Alternate Means of Compliance.

After consideration of other alternate methods of compliance, §10-2082.4(a), the landowners*may* satisfy the requirements of §10-2082.14 with the payment of money to the *City* of Raleigh. Payments *shall* be equal to the tax value of lands, not structures, relieved from the compliance, as determined as a ratio from the overall per square foot tax value of the entire land area of the *property* similarly zoned.

All collected monies, including any income derived from such monies,*shall* be spent either for acquisition of lands where trees will be preserved or for tree planting. The *City Council shall* set forth specific eligible activities for tree preservation and tree plantings. All collected monies must be spent within the same open space fee zone of *City Code* Part 10 chapter 8 as from which the payment were collected.

(h) Penalties.

A violation of this §10-2082.14*shall* subject the violator to a civil penalty of a minimum of one thousand dollars ($1,000.00) for the first tree plus thirty-five cents ($0.35) of every foot of unlawful *tree disturbing activity* . Said civil penalty *shall* be processed as set forth in §10-2152 (5).

(i) Restoration.

In addition to the civil penalty of subsection (h), the*owner* of *real property* , where a violation has occurred, *shall* remove each such unlawfully disturbed tree and replace with a tree or trees of equal caliper as measured four and one-half (4 1/2) feet above grade. Prior to any replanting, the *City Forestry* Specialist *shall* first approve a replacement planting and maintenance plan. Replacement tree *shall* be two (2) inches in caliper [six and one-quarter (6.25) inches in circumference] measured at one-half (1/2) feet above grade, and no replacement tree *shall* be located in those portions of a tree conservation area with a *basal area* of over eighty (80) square feet per acre. All replacement trees *shall* be planted in a planting area of least three hundred fifty (350) square feet in area with minimum dimensions of seven (7) feet. If the tree conservation area whereon the violation has occurred fails to contain sufficient land area to replant the required replacement trees and replacement trees can not be planted on other portions of the *property* , then in lieu of such replacement trees, a replacement fee equal to one hundred dollars ($100.00) per caliper inch of replacement trees *shall* be paid to the *City* .

(Ord. No. 2005-762-TC-264, §16, TC-7-04, 1-4-05)

Note: This ordinance shall become effective on May 1, 2005. Any development plan submitted to the City prior to that date shall not be subject to this ordinance, but nothing herein shall prohibit the application of this ordinance to future tree disturbing activities or application of this ordinance to site plans and further subdivisions on the site. All planned unit developments approved prior to January 4, 2005, which contain tree conservation requirements that total at least ten (10) per cent of the entire planned unit development are exempted from this ordinance until May 1, 2009.

State law references: 2001 Sessions Laws Chapter 191 made applicable to the*City* of Raleigh by section 1 of 2003 Session Laws Chapter 128.

Sec. 10-2083. ON-PREMISE SIGNAGE.

Purpose.*Signs* are herein regulated in the interest of promoting traffic safety, safeguarding public health and comfort, facilitating police and fire protection, preventing adverse community appearance and the overcrowding of land, and protecting the character of the area in which they are located. The regulations are designed to permit maximum legibility and effectiveness of *signs* and to prevent their overconcentration, improper placement, and excessive height, bulk and area. In general, it is intended that *signs* of a general commercial nature be prohibited in areas where commercial activities are prohibited and that *signs* in less restrictive business and industrial areas be regulated to the extent necessary to protect the character of the area and to conserve *property* values. Further, that because aesthetic value of the total environment does affect economic values of the community, and the unrestricted proliferation of *signs* can and does detract from the economic value of the community, it is the intent of this chapter to provide limiting controls, where necessary, to preserve community scenic, economic, and aesthetic values.

(Ord. No. 1979-982-TC-96, §4, 1-2-79)

Sec. 10-2083.1. GENERAL REGULATIONS.

All*signs* provided for in this chapter *shall* be consistent with all definitions and *shall* comply with all

standards and regulations of this Code.

(a) Schedule of Basic Sign Design Elements.

Except for ordinary maintenance or repair or unless otherwise specifically provided in special areas of control subsection (b) below and in conditional zoning districts, no*ground sign* , *projecting sign* , *wall sign* , or part thereof, *may* be altered, constructed, changed, converted, enlarged, or moved unless in conformity with the *following* schedule.

TABLE INSET:

SCHEDULE OF BASIC SIGN DESIGN ELEMENTS		
Sign Type	***Area*** *(maximum)*	***Height*** *(maximum)*
Wall/Facia (Marquee)	footnote (4)	footnote (5)
Ground		
Low Profile (1)	70 sq. ft.	3 1/2 feet
Medium (2) or	100 sq. ft.	10 feet
	70 sq. ft.	15 feet
High (3)	100 sq. ft.	15 feet
Projecting (4)	40 sq. ft. (7)	footnote (6)

(1) No minimum total*street frontage* for the *premise* on which the *sign* is placed.

(2) Minimum total*street frontage* for the *premise* on which the *sign* is placed from all *streets* is at least one hundred (100) linear feet.

(3) Minimum total*street frontage* for the *premise* on which the *sign* is placed from all *streets* is at least two hundred (200) linear feet.

(4) Two (2) square feet per lineal foot of each*building* wall facing a public *street* or facing a private accessway if the lot has no *frontage* on a public *street,* other than in the Residential Business District. In the Residential Business District five-tenths (0.5) square feet per lineal foot of each *building* wall facing a public *street* , or facing a private accessway if the lot has no *frontage* on a public *street* , see §10-2032(e)(4).

(5) §10-2083.2,*wall signs* ; for Residential Business District, see §10-2032(e)(4)

(6) See §10-2083.2*projecting signs* , (2), (6), and (7)

(7) *Projecting signs* that swing due to wind action *may* not exceed sixteen (16) square feet of *sign* area.

(Ord. No. 1981-666-TC-139, §1, 5-1981; Ord. No. 1987-946-TC-286, §23, 4-7-87; Ord. No. 1993-207-TC-59, §3, TC-12-93, 6-1-93; Ord. No. 1994-515-TC-92, §1, TC-27-94, 12-13-94; Ord. No. 1996-901-TC-131, §4, TC-3-96, 5-21-96)

Annotation: Wall signage allowance. A public*street* includes an unimproved dedicated *street* right-of-way: A 228-80 Central Petroleum Corporation, Board of Adjustment (July 14, 1980).

(b) Special Area of Control.

It is recognized that the regulations provided in this chapter cannot sensitively handle all*sign* situations in an area as diverse as the *City* . Therefore, the *following* areas are designated as areas of special control:

Downtown Signage District; and

Historic Overlay Districts and*historic landmarks* ; and

Multi-establishments; and

Pedestrian Business Overlay Districts; and

Pedestrian mall areas, as defined in Part 9, chapter 7 of this Code; and

Planned Development Conditional Use Overlay Districts; and

Transit Oriented Development Overlay District.

All*signs* which are now or which *may* later be located in an area of special control *shall* comply with all general *sign* regulations and *shall* also comply with any applicable regulation contained in areas of special control. In the event any general regulation conflicts with any specific regulation of areas of special control, the latter *shall* govern and control.

(1) Downtown Signage District.

The Downtown Signage District boundary coincides with the boundary of the Downtown Overlay District.

Within the Downtown Signage District, maximum signage is calculated in accordance with §10-2083.1(h). All*signs* that comply with the requirements of §10-2083 et seq. are allowed. In addition, the *following signs* are allowed:

a. Portable pedestrian oriented sign.

In addition to other*sign* types permitted, each *premise may* display one (1) unlighted *on-premise portable sign* not to exceed six (6) square feet in *sign* area and five (5) feet in height. The sign *shall* be located within five (5) feet of the main pedestrian entrance of the *building* wall or edge of *lot* in the absence of a *building* and no extremity of the *sign* or support *shall* be further than three (3) feet from the *building* wall. Any *sign* located on public *right-of-way* or pedestrian mall *shall* comply with *City* encroachment agreements. There *shall* be a minimum of five (5) feet of clear pedestrian space on a sidewalk.

b. Crown signs.

In addition to other permitted*wall signs,* and notwithstanding the Schedule of Basic Design Elements, §10-2083.1(a), and the total maximum area of signage, §10-2083.1(h), *buildings* greater than two-hundred feet (200') tall *may* contain additional *wall signage,* provided that all of the following are met:

1. The amount of additional wall signages*shall* not exceed 4.70 square feet of signage per *building* side for each foot of *building* height over two hundred (200) feet tall up to a maximum of seven-hundred fifty (750) square feet.

2. No additional*wall sign shall* exceed seven-hundred fifty (750) square feet per *sign* .

3. Additional wall signages*shall* not be transferred from one building side to another.

4. Only one additional*wall sign shall* be located on any one side of the *building* .

5. The*sign* must be located at the top crown of the *building* , and it *shall* not extend below the top of the upper floor of the building.

6. The same*copy* must appear on all additional *wall signs.*

7. All*sign illumination shall* be *internal* .

8. All types of changeable copy signs are prohibited.

9. The additional signage*shall* contain no more than one line of copy, excluding symbols.

Cross reference:*Signs* in accordance with the Downtown Visibility Signage Program, as amended, approved by the *City Council* on November 8, 1995, and on file in the *City* Clerk's office are allowed in the Downtown Signage District.

Annotation:*Signs* erected in a Historic Overlay District *shall* comply with §10-2083.1(b)(2), Historic Overlay Districts. (Ord. No. 2003-373-TC-231, §28, TC-23-02, 2-4-03)

(2) Historic Overlay Districts and ***historic landmarks.***

Within Historic Overlay Districts and for*historic landmarks* , no *sign* *shall* be erected, altered, restored or moved within or into the Overlay District or *historic landmark* until after an application of a certificate of appropriateness as to the exterior architectural features has been approved by the Historic Districts Commission.

(3) Multi-establishments.

To achieve congruity,*unity of development* , and to avoid conflicts within any *premise* with more than one (1) *principal building* , no *sign* permit *shall* be issued to any development containing more than one (1) establishment until a set of *written* unified *sign* criteria is approved by the *City* . Developments with more than one (1) establishment include, but are not limited to, the following: *shopping center* , *shopping area* , *office center* , condominium, *townhouse, group housing* , mini warehouse storage and warehouse distribution facilities, and *multi-establishment campus.* No permit will be issued in violation of the adopted *sign* criteria. Such criteria *shall* be as follows:

a. Specified allowed type script which*shall* be observed;

b. Maximum and minimum letter height which*shall* be observed;

c. Specified allowed*sign* types, all other *signs* *shall* be prohibited;

d. *Sign* placement by specifying *sign* panel location or elevations;

e. Specified maximum of three (3) colors to be applied to the*sign* and its background which *shall* be observed. Colors *shall* include black and white. Notwithstanding the three (3) color limit, such criteria *may* allow the use of one (1) additional color of either black or white or a color that matches the *building* material color of the wall on which it is attached, or the dominant exterior *building* material such as, but not limited to, brick or marble. Federal and State registered trademarks or service marks *may* employ additional colors; provided, they do not exceed twelve and one-quarter (1/4) square feet and three and one-half (1/2) feet in any dimension. The *sign* includes its casings, supports, and backings. Only those *signs* which are erected or altered after the unified *sign* criteria is established *shall* be affected by the adopted unified *sign* criteria.

State law reference: Chapter 80 General Statutes [Note that no service mark or trademark will be issued unless the business is opened and rendering services.*G.S.* 80-1(g)ii]

(4) Pedestrian Business Overlay Districts.

Within a Pedestrian Business Overlay Districts, no *sign* *shall* be erected, altered, restored, or moved within the Overlay District unless said change is in accordance with the Streetscape Plan.

In addition, the following signs are allowed:

a. Portable pedestrian oriented sign.

In addition to other*sign* types permitted, each *premise may* display one (1) unlighted *on-premise portable sign* not to exceed six (6) square feet in *sign* area and five (5) feet in height. The sign *shall* be located within five (5) feet of the main pedestrian entrance of the *building* wall or edge of *lot* in the absence of a *building* and no extremity of the *sign* or support *shall* be further than three (3) feet from the *building* wall. Any *sign* located on public *right-of-way* or pedestrian mall *shall* comply with *City* encroachment agreements. There *shall* be a minimum of five (5) feet of clear pedestrian space on a sidewalk.

(5) Pedestrian mall area.

All the*following* regulations *shall* apply to *premises* within and adjoining pedestrian mall areas as defined in Part 9, chapter 7 of this Code:

a. No*sign* or combination of *signs* *shall* exceed a total of three (3) square feet per linear foot of *building* frontage adjoining a pedestrian mall area; and

b. The*following* regulations apply:

Each*premise* *may* display one (1) *projecting sign* not to exceed six (6) square feet of surface area. The *projecting sign* *shall* maintain a clear height of nine (9) feet above the ground, and the *sign* *shall* not project more than five (5) feet from the *building* wall or two-thirds (2/3) the width of the sidewalk, whichever is less, provided that no *sign* *may* project closer than eighteen (18) inches to the curb. Any *sign* located on public *right-of-way* or pedestrian mall *shall* comply with *City* encroachment agreements. Internally, illuminated and neon *projecting signs* are prohibited.

(6) Planned Development Conditional Use Overlay Districts.

Within Planned Development Conditional Use Overlay Districts, requirements of §10-2083.1 and §10-2083.2 for ground*signs* *may* be modified according to approved unified *sign* criteria developed as part of the *Master Plan.* Dimensions for other *sign* types *may* also be modified in accordance with subsection i. below if included within the unified *sign* criteria. No modification *shall* be allowed until all of the *following* are met:

a. The*Master Plan* *shall* contain a mixture of uses which includes residential, office and commercial land use categories as set forth in the Schedule of Permitted Land Uses in Zoning Districts of §10-2071.

b. The unified*sign* criteria *shall* apply to all *premises* and open space areas within the Overlay District.

c. In lieu of the maximum signage area for ground*signs* as determined from the Schedule of Basic Sign Design Elements set forth in §10-2083.1(a), the *Master Plan* *may* allow up to seventy-five (75) square feet of ground signage per two hundred (200) feet of public *street* frontage adjoining any nonresidential or mixed-use area identified on the *Master Plan.*

d. There is no minimum setback requirement for buildings and structures to have a*ground sign.*

e. No*ground sign* *shall* exceed fifteen (15) feet in height.

f. No*ground sign* *shall* exceed one hundred (100) square feet in *sign* area.

g. All*ground signs* *shall* comply with §10-2083.2, *ground high profile sign,* (3) through (8).

h. No*premise* *shall* exceed the maximum signage allowed for each *premise*

by §10-2083.1(h).

i. For*awning, marquee* , and canopy signs; *directory signs* ; *product and information signs* ; *projecting signs* ; *tract identification signs* ; wall signs; *windblown signs* , the height, *sign* size, the total *sign* area, *may* be modified, provided that:

1. The modification is specified in the*sign* criteria, and

2. No maximum*sign* area, size or height *may* be increased over one hundred (100) percent from maximums established in §10-2083.2 for that *sign* type, and

3. The amount of allowable signage*shall* be transferred from allowable ground signage as set forth in subsection c. above, and this transfer *shall* be the exclusive amount of allowable signage.

j. Signage located within one hundred (100) feet of the perimeter of a Planned Development Conditional Use Overlay District*shall* comply with all the provisions of §10-2083 and §10-2084 et seq. , with the exception that *on-premise ground low profile signs* and *on-premise ground medium profile signs* not exceeding ten (10) feet in height as set forth in the approved *Master Plan* or approved by the Planning Commission in the absence of a *sign* provision in the approved *Master Plan* , after reviewing a plan showing the location, height, size and appearance of the proposed *ground sign* (s), *may* be allowed for a *building* or structure located within thirty (30) feet from the edge of the adjacent *street right-of-way* to which the *ground sign* is oriented, provided the gross land area of the Planned Development Conditional Use Overlay District is five (5) acres or more in size and the approved *Master Plan* for the Planned Development Conditional Use District does not prohibit such *signs* .

k. Permits for*signs shall* only be issued to one (1) entity who is responsible for allocating signage to each *premise.* This entity *shall* keep an inventory of all existing signage and submit it to the *City* with each permit.

l. If any amendment is made to the unified*sign* criteria of the *Master Plan* , all existing *signs* that do not comply with the new *sign* criteria *shall* be removed within thirty (30) days of approval of such amendment.

m. Public*street signs* are allowed to have non-standard supports if a written agreement is submitted to and approved by the *City.* The agreement *shall* state that:

1. Damaged*signs shall* be replaced by the property owners association within five (5) days of being damaged or the *City* will replace them with standard *signs* and supports.

2. All replacement costs*shall* be borne by the property owners association.

3. The property owners association*shall* assume sole responsibility for any loss, injury or death or damage resulting from such use of non-standard supports and *shall* maintain insurance and agreement to indemnify the *City,* its officers, councilmen and employees.

(7) **Transit Oriented Development Overlay District.**

Within a Transit Oriented Development Overlay District, no sign*shall* be erected, altered, restored, or moved within the overlay district unless said change is in accordance with the applicable adopted transit station area plan.

(8) **Fayetteville Street.**

All the*following* regulations *shall* apply to *premises* adjoining the Fayetteville Street right-of-way, south of the Morgan Street right-of-way and north of the South Street right-of-way:

a. Maximum signage.

No*sign* or combination of *signs* *shall* exceed a total of three (3) square feet per linear foot of *building* frontage adjoining the Fayetteville Street right-of-way.

b. Portable pedestrian oriented sign.

In addition to other*sign* types permitted, each *premise* *may* display one (1) unlighted *on-premise portable sign* not to exceed six (6) square feet in *sign* area and five (5) feet in height. All portions of the *sign* and support *shall* either be located within three (3) feet of the *building* wall or edge of *lot* in the absence of a *building* or between nine (9) feet and twelve (12) feet of the *building* wall or edge of *lot* in the absence of a building. Any *sign* located on public right-of-way *shall* comply with *City* encroachment agreements.

(Ord. No. 1979-982-TC-96, §4, 1-2-79, 1986-856-TC-274, §6, 9-16-86; Ord. No. 1987-946-TC-286, §41, 4-7-87; Ord. No. 1993-185-TC-54A, §2, TC-9-93, 5-4-93; Ord. No. 1995-582-TC-102, §1, 3-21-95; Ord. No. 1996-901-TC-131, §6, TC-3-96, 5-21-96; Ord. No. 1996-930-TC-137, §§1--3, TC-7-96, 7-2-96; Ord. No. 1998-370-TC-167, §19, TC-3-98, 7-7-98; Ord. No. 1998-383-TC-168, §1, 8-4-98; Ord. No. 2001-26-TC-208, §9, TC-5-01, 6-19-01; Ord. No. 2003-373-TC-231, §27, TC-23-02, 2-4-03; Ord. No. 2004-596-TC-245, §§6, 7, TC-14-03, 4-6-04; Ord. No. 2004-700-TC-256, §1, TC-19-04, 9-7-04; Ord. No. 2005-882-TC-270, §1, TC-9-05, 8-2-05; Ord. No. 2005-932-TC-275, §§22, 23, TC-6-05, 11-15-05; Ord. No. 2006-33-TC-286, §1, TC-6-06, 6-6-06)

(c) Mandatory ***Signs*** .

(1) Private ***street signs*** .

The*following* private *street* *sign* regulations *shall* apply in all zoning districts:

a. *Sign* legend.

1. Name and block.

The approved*street* name, and block number must be shown on each *sign face* . The *street* name *shall* be shown in a clear, readable style of print. Cursive letters *shall* not be used. Block numbers *shall* be shown in Arabic numerals. At the point of intersection with public *streets* , private *street signs shall* immediately above the name and block contain the word private.

2. Abbreviations.

The*street* name *shall* not be abbreviated but standard abbreviations *may* be *used* for the prefix (north, south, etc.) and for the suffix portion of the legend (drive, court, etc.)

3. Minimum letter size.

Street names *shall* not be less than four-inch uppercase, three-inch lowercase. Block number or *building* references *shall* not be less than two (2) inches.

b. Visibility and reflectivity.

1. Legend and background color selection*shall* effect clear contrast and

visibility for both day and night identification so that the name is easily identifiable for up to one hundred seventy-five (175) feet from the *sign* .

2. All legends and/or backgrounds*shall* be reflectorized to insure visibility at night.

GRAPHIC LINK:Diagram: Private Street Signs Specifications

c. Location, number and placement.

1. Location.

At intersecting private*streets* , the *sign* *shall* be placed as near as possible to the intersection of a line parallel to and six (6) feet from each private *street* . The private *street* name marker assembly *shall* not be placed on the public right-of-way and *shall* not be closer than six (6) feet to the edge of pavement of the private *street* .

GRAPHIC LINK:Diagram: Private Street Sign placement

2. Number.

A*sign face* for intersecting private *street* , or private *street* and public *streets* , *shall* be required so that the respective *street* name and block number is displayed to the appropriate direction of travel.

3. Vertical position.

The bottom of the*sign* *shall* be a minimum of six (6) feet above the elevation of the adjacent *street* .

Cross reference: Private*street* *signs* required §10-3074(e)(4).

(2) Unit numbering identification ***sign*** **regulations.**

The*following* unit numbering regulations *shall* apply in all zoning districts:

a. Each unit constructed for residential, office, commercial, industrial or all other uses in the*City* or within its zoning or subdivision control jurisdiction and having a consecutive and unduplicated designation or identification, by means of numbers, letters, or of any combination thereof prior to the application of this regulation *may* retain its designation or identification.

b. Each unit which prior to the application of this regulation has a designation or identification which was duplicated by the designation of another such unit or was not consecutive with one (1) or more such units*shall* have its designation reviewed by the Engineering Department of the *City* who *shall* resolve the duplication or nonconsecutiveness. Appeal *shall* be made to the *City* Manager and then to the *City Council* .

c. Each unit planned, constructed or*occupied* on or after application of this regulation *shall* be assigned a new number, letter or combination, consecutive and unduplicated, designation. Assignment *shall* be by the Engineering Department of the *City* .

Editor's note: This regulation became first applicable on October 1, 1972. Ordinance No. (1972) 341-TC-1031.

d. All unit numbers *shall* be uniformly located on the side of the *building* facing the *street* and within eighteen (18) inches of the *building* entrance, or if not possible for architectural or *building* arrangement reasons prominently

displayed on the building wall, easily visible from a public *street* .

However, unit number*signs* for *single-family dwellings* and *manufactured homes* only *may* , in lieu of being located on the *building* wall, be located on the mail box or similar sized surfaces attached to mail boxes.

GRAPHIC LINK:Diagram: Placement of Street Numbers on Mail box and Building

Group housing developments which are comprised of units that do not abut and gain access on a public *street* must locate identification *signs* containing the name of the court, *street* , or way, and the unit numbers on each main entrance to the *building* .

GRAPHIC LINK:Diagram: Height and Placement of Lettering on Building Units

e. All unit number*signs* *shall* be a minimum of three (3) inches in size.

f. Any unit number identification over ten (10) inches in height*shall* comply with all applicable *sign* regulations of this Code.

(Ord. No. 1981-623-TC-136, §4, 4-7-81; Ord. No. 1980-422-TC-122- 7-15-80; Ord. No. 1996-991-TC-141, §5, TC-14-96, 10-16-96; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

(d) Area Computation of Copy and ***Signs*** .

(1) The area of copy or the*sign* area of a *wall sign* which consists of individual letters that are erected directly onto a wall exclusive of any *sign* surface, is measured by finding the area of the minimum imaginary rectangles or squares of vertical and horizontal lines, which fully enclose all *sign* words, *copy* , or message. All or a portion of at least one (1) side of each rectangle and square must be coterminous with the side of another rectangle or square. At least seventy-five (75) per cent of the *sign* area must be enclosed by one (1) rectangle or square. Rectangles and squares cannot be configured to indent within a letter.

GRAPHIC LINK:Diagram: Area of Sign Copy

(2) The*sign* area of a *sign* with three (3) or more sides (*multi-sided signs*) containing *copy* , message, decoration, or announcement visible from a *street* , highway, or expressway is equal to the sum of the areas of any two (2) adjacent sides.

GRAPHIC LINK:Diagram: Sign Area for Multi-Sided Signs

(3) The*sign* area, unless otherwise provided in subsections (1) and (2) above for *wall signs* which consist of individual letters erected directly onto a wall exclusive of any *sign* surface, and for *signs* with three (3) of more sides which are regulated by sections (1) and (2) respectively, is measured by finding the area of the minimum imaginary rectangles or squares of vertical and horizontal lines which fully enclose all extremities of the *sign,* exclusive of its supports. All or a portion of at least one (1) side of each rectangle or square must be coterminous with the side of another rectangle or square. At least seventy-five (75) per cent of the *sign* area must be enclosed by one (1) rectangle or square. Rectangles and squares cannot be configured to indent within a letter.

GRAPHIC LINK: Diagram: Area of Wall Sign

(Ord. No. 1979-982-TC-96-4-1-2-79; Ord. No. 1993-247-TC-63, §§1--4, TC-17-93, 8-3-93)

(e) Noncommercial Copy Permitted.

Any*sign* authorized in this chapter is allowed to contain noncommercial *copy* in lieu of any other *copy* .

(Ord. No. 1984-450-TC-228, §4, 12-4-84)

Annotation:*Major Media of the Southeast* v. *Raleigh,* 792 F. 2d 1269 at 1272-3 (4th Cir. 1986), Cert denied, 107 S. Ct. 1334, 94 L. Ed., 2d 185 (1987), Aff'g 621 F. Supp. 1446 (E.D.N.C. 1985). The term noncommercial *copy* is not vague, and this regulation does not treat commercial speech more favorably than noncommercial speech. Therefore, there is no violation of the First Amendment of the United States Constitution.

(f) Construction Standards.

(1) Compliance with Building Code.

All*signs* *shall* comply with the appropriate provisions of the North Carolina State and **City Building Codes** , the National Electric Code, and other provisions of the **Code of the City of Raleigh.**

(2) Clearance from high voltage power lines.

Signs *shall* be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no *sign* , except government traffic *signs* , *shall* be installed closer than ten (10) feet in any direction from any conductor or public utility guy wire.

(Ord. No. 1979-982-TC-96, §4, 1-2-79)

(g) Illumination of ***Signs*** .

Any conforming*sign* , unless otherwise specifically regulated, *may* be illuminated provided the *following* standards are met:

(1) No illuminated*sign* *shall* cast light to exceed four-tenths (.4) maintained footcandle illumination onto a *residential zoning district* .

(2) Any light from any illuminated*sign* or flood light used to illuminate a *sign* *shall* be shaded, shielded, or directed so that the light intensity or brightness *shall* not interfere with the safe vision of motorists, or bicyclists, as determined by the Director of Transportation of the *City* . Any light source used to illuminate a *sign* *shall* not be visible from a *residential zoning district* .

(3) All*internal illumination* *shall* not exceed ten (10) footcandles measured at a distance of ten (10) feet from the *sign* .

(4) All electrically illuminated*signs* *shall* have a disconnecting switch located in accordance with the provisions of the National Electric Code.

(5) For all illuminated*signs* , applications for both a sign permit and an electrical permit *shall* be submitted and approved by the *City* prior to the installation of any illuminated *sign* .

(6) In any Airport Overlay District, all illuminated*signs* *shall* be shielded in such a manner that no direct glare can be seen from above.

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1987-946-TC-286, §31, 4-7-87)

Cross references: Prohibited*signs* §10-2083.3(2) and (7); illuminated *signs* in pedestrian mall areas 10-2083.1(b)(4). See also specific Streetscape Plans adopted for Pedestrian Business Districts. (Ord. No. 2003-373-TC-231, §29, TC-23-02, 2-4-03)

(h) Maximum Signage.

The total maximum signage allowed for a*premise* with a single establishment located in a *nonresidential zoning district* , excluding Residential Business District or special areas of control, is two (2) square feet per linear foot on the side of the *building* facing along any *street* , except a controlled access *street* , from which the establishment has a direct grade level public entrance, up to a three hundred (300) square foot total maximum.

Any*premise* with more than one (1) establishment located in a zoning district, other than any *residential zoning district;* Residential Business District; and special areas of control, is allowed for each establishment, a total maximum signage of two (2) square feet per linear foot on the side of the *building* facing any *street* , except a controlled access *street* , from which the establishment has a direct grade level public entrance up to three hundred (300) square feet, but if any *ground high profile sign* , or *ground medium profile* , or *ground low profile sign* , or tract identification *sign* is located on the *premise* , up to two hundred (200) square feet is the maximum allowable signage per establishment.

Cross references: Special areas of control §10-2083.1(b) and Residential Business District §10-2032 (e). (Ord. No. 2003-373-TC-231, §30, TC-23-02, 2-4-03)

This maximum allowable signage limitation*shall* not apply to landmark signs permitted pursuant to §10-2083.2, *product* and *information signs* permitted pursuant to §10-2083.2, unit number identification *signs* under ten (10) inches in height, or to *temporary signs* permitted pursuant to §10-2083.2. All *premises* containing units are required to have unit number *signs* in accordance with §10-2083.1(c)(2).

Notwithstanding this maximum allowable signage limitation, no*premise* , including those in *residential districts* , is prevented from having at least thirty-two (32) square feet of *on-premise* signage. Allowable signage *may* be allocated among the permitted *signs* in the district, provided that, the applicable *sign* regulations in §10-2083.3 are met, and further provided that the total signage allowed herein is not exceeded.

(Ord. No. 1993-207-TC-59, §4, TC-12-93, 6-1-93; Ord. No. 1993-132-TC-45, §4, TC-16-92, 2-2-93; Ord. No. 1996-901-TC-131, §7, TC-3-96, 5-21-96; Ord. No. 2006-33-TC-286, §§2, 3, TC-6-06, 6-6-06)

(i) Miscellaneous (Omnibus) ***Signs*** .

Each*premises* which is not allowed to contain either a *wall sign* or an *on-premises sign* or *off-premises ground sign* is allowed to contain a maximum amount of signage of sixty (60) square feet, provided that, no *sign* is more than fifteen (15) square feet in size and three and one-half (3 1/2) feet in height.

Cross reference:*Nonconforming uses* in *residential districts* are eligible to receive from the Board of Adjustment a special use permit to *erect* non-illuminated *wall sign* , §10-2146.3(a)(5).

(Ord. No. 946-TC-286, §25, TC-29-85, 4-7-87)

Sec. 10-2083.2. SPECIFIC SIGN REGULATIONS.

- Announcement*signs.*

-*Awning, marquee* , and canopy *signs.*

-*Changeable copy signs.*

- Community watch*signs.*

- Directional signs.

-*Directory signs.*

-*Ground low profile signs.*

-*Ground signs* for double *frontage lots.*

-*Ground medium profile signs.*

-*Ground high profile signs.*

- Landmark*signs.*

-*Product and information signs.*

-*Projecting signs.*

-*Temporary signs.*

- Tract identification*signs.*

-*Wall signs.*

-*Windblown signs.*

Cross references: Private*street signs* , §10-2083.1(c)(1); unit numbering *signs* , §10-2083.1(c)(2); miscellaneous (omnibus) *signs* , §10-2083.1(i).

The*following* specific *sign* types are allowed in the various general use zoning districts according to the *following* Schedule of Permitted Signs in Zoning Districts, which is incorporated herein. All of the *following* specific *sign* types are subject to all the applicable provisions of §10-2083.1.

(Ord. No. 867-TC-377, §1, TC-14-91, 12-1-91; Ord. No. 1993-132-TC-45, §5, TC-16-92, 2-2-93; Ord. No. 1993-207-TC-59, §5, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §§8, 9, TC-3-96, 5-21-96)

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Announcement ***Signs.***

Announcement*signs* are accessory to a special use or conditional use.

Cross references:*Bed and breakfast inn,* §10-2144; *day care facility,* §10-2144; *guest house,* §10-2144; kennel and cattery, §10-2144; *limited home business,* §10-2144; plant nursery, fruit and vegetable stand, §10-2144; residential development sales office or model homes, §10-2072; *rooming house,* §10-2144; school, church or government *building* adaptively reused as an office or studio, operating on a not for profit basis, for a professional, business, political, or labor association or agency, §10-2144.

(Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

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Awning, Marquee, and Canopy ***Signs.***

Awning, marquee and *canopy signs* are permitted when all the *following* standards are met:

(1) Individual cutout words and/or placards*may* be attached, stenciled or otherwise affixed onto *awnings, marquees* and *canopies* .

(2) *Signs* suspended from the underside of an *awning, marquee* or *canopy shall* be at least eight (8) feet above the sidewalk or finished grade and *shall* not exceed an overall height of twelve (12) inches.

(3) *Signs* shall not extend outside the overall length or width of an *awning, marquee* or *canopy* , nor extend above the height of the *building* wall to which the *awning, marquee* or *canopy* is attached.

(4) No portion of the*sign shall* exceed a height of thirty-six (36) inches above the height of the *awning* , *marquee* or *canopy* . *Signs* exceeding an overall height of twelve (12) inches *shall* not extend further than twelve (12) feet from the *building* wall

to which the *awning, marquee* or *canopy* is attached.

GRAPHIC LINK:Diagram: Awning, Marquee and Canopy Sign Height

(5) All*awnings, marquees* and *canopies shall* otherwise comply with §12-1001 of this Code.

Annotation:*Marquee signs. Signs* attached to *marquees may* project more than twelve (12) inches from the *marquee* . A-105-81 Fulk, Board of Adjustment (Aug. 10, 1981).

(6) *Awnings, marquees* and *canopies* which extend into or over the required *front* and *rear yards* by more than twenty (20) per cent are permitted only after a special use has been approved by the Board of Adjustment in accordance with §10-2144, yard encroachments.

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1987-946-TC-286, §26, 4-7-87; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03; Ord. No. 2004-669-TC-250, §2, TC-9-04, 7-6-04)

GRAPHIC LINK:Section 10-2083.2 SCHEDULE OF PERMITTED SIGNS IN ZONING DISTRICTS

GRAPHIC LINK:Section 10-2083.2 SCHEDULE OF PERMITTED SIGNS IN ZONING DISTRICTS (Cont'd.)

Changeable Copy Signs.

Changeable copy signs (manual or automatic) *shall* comply with all of the *following* standards:

(1) For any*premise* permitted by this chapter to *erect* a wall, *projecting* , or *ground sign* , up to one-half (1/2) of the erected *sign* area *may* be *changeable copy* , which *shall* be physically part of that *sign* .

(2) No*changeable copy sign* *may* contain more than three (3) horizontal pieces of information.

(3) Such*changeable copy sign* *may* take the form of a wall, *projecting* , or *ground sign* subject to the regulations which apply to each of these *signs* .

(4) When a*ground sign* is already located on the *premise* , all *ground changeable copy signs* must be physically part of that *sign* .

(5) Any*premise* permitted by this chapter to *erect* a tract identification *sign* *may* devote one-half (1/2) *area of the copy* to changeable *copy* , but the total *area of copy* cannot be greater than eight (8) square feet per *sign* . Only one (1) such *changeable copy sign* *may* be erected and it must be physically part of that tract identification *sign* .

(6) No*changeable copy sign* , except a *changeable copy* time and temperature *sign* , *may* have its *copy* changed more than four (4) times in any twenty-four (24) hour period.

GRAPHIC LINK:Diagram: Not Changeable & Changeable Areas of Ground or Wall Sign

(7) Automatic*changeable copy* time and temperature *signs* *may* take the form of wall, *ground* or *projecting signs* subject to the regulations which apply to each of these *signs* .

(8) Ground-supported time and temperature*signs* *shall* be permitted only where the sidewalk is at least eight (8) feet wide and has a clearance of at least nine (9) feet from

the *sign* at its lowest extremity.

GRAPHIC LINK: Diagram: Placement of Ground Supported Time and Temperature Signs

(Ord. No. 1987-946-TC-286, §§27, 28, 29, 4-7-87; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03)

Annotation: Time and temperature*signs* which mechanically move. *Signs* which are otherwise permitted *may* not rotate or move. A-85-79 First Federal Board of Adjustment (August 13, 1979).

Community Watch ***Signs*** .

An appropriate number of such*signs* *may* be erected after approval by the *City* police or *County* sheriff's department, according to guidelines set out in "Community Watch in North Carolina," published by the Department of Crime Control and Public Safety.

(Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96)

Directional Signs .

Directional signs are permitted when all of the *following* are met:

(1) *Directional signs* are only allowed in developments that contain at least two hundred (200) acres.

(2) No permit*shall* be issued for a *directional sign* until a set of written unified *sign* criteria pursuant to §10-2083.1(b)(3) is approved by the *City.* Said criteria *shall* include the total numbers, *sign* area, *sign* size, type script and specific location of each *sign.* All *signs* *shall* be under the maintenance responsibility of a single association or other legal entity. If any unified *sign* criteria amendment is approved by the *City* , all existing *signs* that do not comply with the new *sign* criteria *shall* be removed within thirty (30) days of approval of such amendment.

(3) There*shall* be no more than one (1) *directional sign* for every one thousand (1,000) feet of frontage along any *thoroughfare* , commercial or collector street.

(4) No*directional sign* *shall* exceed seven (7) feet in height or thirty-five (35) square feet for the *sign* area.

(5) The*sign* copy *may* include the name of the overall development, and the type of land use subareas that is identified in the approved *Master Plan.*

(6) *Directional signs* *may* be located on the same lot with a *ground sign.*

(Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 2003-373-TC-231, §§31, 32, TC-23-02, 2-4-03)

Directory Signs.

Directory signs *shall* meet all of the *following* :

(1) The*premise* *shall* contain no more than one (1) *directory sign* .

(2) The maximum*area of copy* *shall* not exceed three (3) inches by fifteen (15) inches for each identified activity, business, firm or tenant on the *premise* .

(3) The outdoor*directory sign* *may* either be a *changeable copy sign* or fixed professional nameplates; provided that the standards of each are met.

(4) The*directory sign* *may* take the form of any *sign* permitted in the zoning district provided that such *sign* *shall* comply with its applicable specification sign regulations. If the *directory sign* is a *ground sign* , no other *ground sign* *shall* be located on the *premise* unless the *directory sign* is positioned so as not to be visible from any right-of-way and contains no other message, *copy* , announcement, or decoration other than identification allowed in subsection (2) above.

(Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03)

Ground Low Profile Signs.

Ground low profile signs shall comply with all of the *following* standards:

(1) With the exception of*shopping centers* and *shopping areas* greater than thirty (30) acres in size, which have no such requirement, the *building* or structure in which the activity is conducted is set back at least thirty (30) feet from the edge of the immediately adjacent *street* right-of-way to which the *ground sign* is oriented.

Cross reference: Certain*ground signs* are exempt from this provision, §10-2083.1(b)(6).

(Ord. No. 2005-882-TC-270, §2, TC-9-05, 8-2-05)

(2) The*ground low profile sign* complies with the standards in the Schedule of Basic Design Elements, §10-2083.1(a).

(3) No part of a*ground sign* , including *projection* , *may* extend into or over an existing public right-of-way unless authorized by the *City Council.*

(4) No part of a*ground sign* , including *projections* *may* extend into or over a proposed right-of-way as shown on the amended Five-Year Capital Improvements Program--Thoroughfare Plan (a copy of which is on file in the office of the *City* Clerk and Treasurer) unless the *owner* of the *sign* and the *property* *owner* agree *in writing* to relocate and remove the *sign* , including *projection* , at no expense to the *City* .

(5) All *ground sign* braces or uprights *shall* be self-supporting structures permanently attached to concrete foundations in or upon the ground.

(6) No*sign* *may* contain more than five (5) lines of *copy* .

(7) No*premise* *may* contain more than one (1) *ground sign* unless the *sign* is approved as: a special use permit for double *frontage* *lots* with parallel opposite one-way *streets* by the Board of Adjustment in accordance with §10-2144, or a tract identification *sign* approved in accordance with §10-2083.2, or as a *directory sign* approved in accordance with §10-2083.2, or an *information sign* , in accordance with §10-2083.2 or included in the approved *sign* criteria for *Master Plans* in accordance with §10-2083.1(b)(6) or a *directional sign* in accordance with §10-2083.2.

(8) The*sign* is neither located in nor faces any pedestrian mall area.

(9) In any*office and institution zoning district* the maximum length of the *sign* *shall* not exceed twenty (20) feet.

GRAPHIC LINK:Diagram: Ground Low Profile Sign Standards

(Ord. No. 1987-946-TC-286, §15, 4-7-87; Ord. No. 1993-207-TC-59, §7, TC-12-93, 6-1-93; Ord. No. 1994-454-TC-86, §1, TC-20-94, 8-2-94; Ord. No. 1996-901-TC-131, §§9--11, TC-3-96, 5-21-96; Ord. No. 1999-616-TC-181, §59, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §§31, 33, TC-23-02, 2-4-03; Ord. No. 2003-501-TC-239, TC-9-03, §1, 9-2-03)

Annotation: Distances in calculating if a*building* is thirty (30) feet from the edge of the right-of-way, open porches are excluded from the calculation. A-83-83 Davis Board of Adjustment June 13, 1983.

Cross reference: Ground signs to comply with sight triangles, §10-2086.

(Ord. No. 1995-760-TC-122, §20, TC-20B-95, 11-21-95)

Ground Signs for Double Frontage ***Lots*** **With Parallel Opposite One-Way** ***Streets, or Lots With Frontage on Two (2) or More Median-divided Thoroughfares.***

Where a*premise* *fronts* on parallel *streets* which are one-way in opposite directions, or where the *premise* has *frontage* on two (2) or more median-divided *thoroughfares,* the *premise* *may* contain one (1) additional *ground sign* when the Board of Adjustment approves a special use permit in accordance with §10-2144(b), or *lots* with *frontage* on two (2) or more median-divided thoroughfares.

(Ord. No. 1987-946-TC-286, §48, 4-7-87; Ord. No. 1993-247-TC-63, §5, TC-17-93, 8-3-93; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96)

Ground Medium Profile ***Signs.***

Ground medium profile signs shall comply with all of the *following* standards:

(1) With the exception of*shopping centers* and *shopping areas* greater than thirty (30) acres in size, which have no such requirement, the *building* or structure in which the activity is conducted is set back at least thirty (30) feet from the edge of the immediately adjacent *street* right-of-way to which the *ground sign* is oriented.

Cross reference: Certain*ground signs* are exempt from this provision, §10-2083.1(b)(6).

(Ord. No. 2005-882-TC-270, §2, TC-9-05, 8-2-05)

(2) The*ground medium profile sign* complies with the standards in the Table of Basic Design Elements, §10-2083.1(a).

(3) No part of a*ground sign* , including *projection* , *may* extend into or over an existing public right-of-way, unless authorized by the *City Council.*

(4) No part of a*ground sign* including *projections* *may* extend into or over a proposed right-of-way as shown on the amended Five-Year Capital Improvements Program--Thoroughfare Plan (a copy of which is on file in the office of the *City* Clerk and Treasurer), unless the *owner* of the *sign* and the *property* *owner* agree *in writing* to relocate and remove the *sign* , including *projection* , at no expense to the *City* .

(5) All*ground sign* braces or uprights *shall* be self-supporting structures permanently attached to concrete foundations in or upon the ground.

(6) No*sign* *may* contain more than five (5) lines of *copy* .

(7) No*premise* *may* contain more than one (1) *ground sign* unless the *sign* is approved as: a special use permit by the Board of Adjustment in accordance with §10-2144(b), *ground signs* for double *frontage* *lots* with parallel opposite one-way *streets* , or *lots* with *frontage* on two (2) or more median-divided *thoroughfares* , or approved as either a tract identification *sign* in accordance with §10-2083.2, or a *directory sign* in accordance with §10-2083.2, or an *information sign* in accordance with §10-2083.2 or included in the approved *sign* criteria for *Master Plans* in accordance with §10-2083.1(b)(6) or a *directional sign* in accordance with §10-2083.2.

(8) The*sign* is neither located in nor faces any pedestrian mall area.

(9) The*height of sign* and area of the *sign* *shall* comply with either of the *following* standards.

a. The*height of sign* is more than ten (10) feet but not greater than fifteen (15) feet, and the area of the *sign* is seventy (70) square feet or less.

GRAPHIC LINK:Diagram: Ground Medium Profile Sign Placement Standard (a.)

b. The area of the*sign* does not exceed one hundred (100) square feet and the maximum *height of sign* is ten (10) feet.

GRAPHIC LINK:Diagram: Ground Medium Profile Sign Standard (b.)

(Ord. No. 1987-946-TC-286, §32, 4-7-87; Ord. No. 1993-207-TC-59, §8, TC-12-93, 6-1-93; Ord. No. 1993-247-TC-63, §6, TC-17-93, 8-3-93; Ord. No. 1994-454-TC-86, §1, TC-20-94, 8-2-94; Ord. No. 1995-760-TC-122, §21, TC-20B-95, 11-21-95; Ord. No. 1996-901-TC-131, §§9--11, TC-3-96, 5-21-96; Ord. No. 1999-616-TC-181, §59, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §§31, 33, TC-23-02, 2-4-03; Ord. No. 2003-501-TC-239, TC-9-03, §1, 9-2-03)

Annotation: Distances. In calculating if a*building* is thirty (30) feet from the edge or the right-of-way, open porches are excluded from the calculation. A-83-83 Davis, Board of Adjustment, (June 13, 1983).

Cross reference: Ground signs to comply with sight triangles, §10-2086.

(Ord. No. 1995-760-TC-122, §20, TC-20B-95, 11-21-95)

Ground High Profile Signs.

Ground high profile signs *shall* comply with all of the *following* standards:

(1) With the exception of*shopping centers* and *shopping areas* greater than thirty (30) acres in size, which have no such requirement, the *building* or structure in which the activity is conducted is set back at least thirty (30) feet from the edge of the immediately adjacent *street* right-of-way to which the *ground sign* is oriented.

(2) The *ground high profile sign* complies with the standards in the Table of Basic Design Elements §10-2083.1(a).

(3) No part of a*ground sign* , including *projections* , *may* extend into or over an existing public right-of-way, unless authorized by the *City Council.*

(4) No part of a*ground sign* , including *projections* *may* extend into or over a proposed right-of-way as shown on the amended Five-Year Capital Improvements Program--Thoroughfare Plan (a copy of which is on file in the office of the *City* Clerk and Treasurer) unless the *owner* of the *sign* and the *property* *owner* agree *in writing* to relocated and remove the *sign* , including *projection* , at no expense to the *City* .

(5) All*ground sign* braces or uprights *shall* be self-supporting structures permanently attached to concrete foundations in or upon the ground.

(6) No*sign* *may* contain more than five (5) lines of *copy* .

(7) No*premise* *may* contain more than one (1) *ground sign* unless the *sign* is approved as: a special use permit is issued by the Board of Adjustment in accordance with §10-2144 *ground signs* for double *frontage* *lots* with parallel opposite one-way *streets* , or approved as either a tract identification *sign* in accordance with §10-

2083.2, or a *directory sign* in accordance with §10-2083.2, or on *information sign* in accordance with §10-2083.2 or included in the approved *sign* criteria for *Master Plans* in accordance with §10-2083.1(b)(6) or a *directional sign* in accordance with §10-2083.2.

(8) The*sign* is neither located in nor faces any pedestrian mall area.

GRAPHIC LINK:Diagram: Ground High Profile Sign Standards

(Ord. No. 1987-946-TC-286, §40, 4-7-87; Ord. No. 1993-207-TC-59, §9, TC-12-93, 6-1-93; Ord. No. 1994-454-TC-86, §1, TC-20-94, 8-2-94; Ord. No. 1995-760-TC-122, §22, TC-20B-95, 11-21-95; Ord. No. 1996-901-TC-131, §§9--11, TC-3-96, 5-21-96; Ord. No. 1999-616-TC-181, §59, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §§31, 33, TC-23-02, 2-4-03; Ord. No. 2003-501-TC-239, TC-9-03, §1, 9-2-03)

Annotation: Distances. In calculating if a*building* is thirty (30) feet from the edge of the right-of-way, open porches are excluded from the calculation. A-83-83 Davis, Board of Adjustment (June 13, 1983).

Cross reference: Ground signs to comply with sight triangles, §10-2086.

(Ord. No. 1995-760-TC-122, §20, TC-20B-95, 11-21-95)

Landmark Signs.

A landmark*sign* is defined as a *sign* which exhibits unique characteristics that enhance the streetscape or identity of a neighborhood and as such contributes to the historical or cultural character of the streetscape or the community at large. Landmark *signs* *shall* meet all of the *following* standards:

(1) The*sign* is an *on-premise sign* which meets at least one (1) of the *following* criteria:

a. It was expressly designed for the business, institution, or other establishment at that location; or

b. It bears a national emblem, logo, or other graphic that is no longer used by the company; or

c. It is a remnant of an advertising program that is no longer used by the parent company.

(2) The*sign* complies with §10-2083.1(f), and if any portion is permitted to remain on or over a public right-of-way, a *City* or State approved encroachment agreement is executed.

(3) The*sign* complies with lighting standards, §10-2089, prohibited sign requirements, §10-2083.3, and marking and identification requirements, §10-6034.1.

(4) The*sign* exists or will within six (6) *months* of its designation as a landmark *sign* be restored, and continuously maintained, in its full original condition except for minor changes required for structural enhancements, changes required to comply with subsections (1)--(4), and Federal or State regulations. Where original materials are unavailable, substitute materials, which are as near as possible substitutes for the original material *may* be used.

(5) The*sign* was erected prior to January 1, 1973, and has existed continuously in place on the *premise.*

(6) The application requesting landmark designation was completed and submitted to the Inspections Department within six (6)*months* of the application of Ordinance No.

1993-207-TC-59, or within six (6) *months following* an extension of areas in which this ordinance is applicable.

Editor's note: This regulation first became applicable on June 6, 1993, Ordinance No. 1993-207-TC-59, TC-12-93.

(7) The*sign* is approved by the *City Council* as a landmark *sign.*

Other*signs* that are of the same *sign* type as any landmark *sign* are permitted on the *premise* so long as: the maximum area, including the area of landmark *signs,* of such type of signage, as determined by §10-2083.1(a) is not exceeded, all other applicable requirements for that type of *sign* are met, and the maximum signage allowed for the *premise,* as determined by §10-2083.1(h), is not exceeded.

(Ord. No. 1993-207-TC-59, §10, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96)

Product and Information Signs.

Product signs and *information signs shall* meet all of the *following* standards:

(1) A*product sign* or *information sign may* not exceed six (6) square feet in area, except in the case of *information signs* for a *multi-establishment campus* . Individual *information signs* for any *multi-establishment campus may* be a maximum of fourteen (14) square feet in area with a maximum height of three-and-one-half (3 1/2) feet and a maximum width of four (4) feet; further, one (1) primary *information sign may* be located at each major entrance; provided that, no such *sign shall* be closer than one hundred (100) feet to the public right-of-way, and not exceed a maximum of thirty-five (35) square feet in area, a maximum height of seven (7) feet, and a maximum width of five (5) feet.

(2) The total*area of sign* for all *product and information signs* located on any *premise* does not exceed thirty-two (32) square feet; provided that the total allowable *sign* area for *information signs* which are part of a *multi-establishment campus may* be increased in accordance with the *following* :

a. Thirty-two (32) square feet per major entrance drive for any*multi-establishment campus* with three (3) or more major entrances from a commercial *street* meeting *City* standards or a *thoroughfare* ; and

b. Ten (10) square feet for each acre in excess of ten (10) acres of the*multi-establishment campus* .

(3) No commercial message,*copy* , announcement, or decoration is located on the *information sign* other than instruction or direction to the public.

(4) The*product sign* is attached directly to either the dispensary structure or the product and is not located in any *residential district* .

(5) An*information sign* when located in a *residential district* is located on the same *premises* as a *residential institution* .

GRAPHIC LINK: Diagram: Residential Information Sign Standards

(Ord. No. 1984-450-TC-228, §3, 12-4-84; Ord. No. 1993-130-TC-44, §§2, 3, TC-2-93, 2-2-93; Ord. No. 1993-185-TC-54A, §§3, 4, TC-9-93, 5-4-93; Ord. No. 1993-207-TC-59, §10, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03)

Projecting Signs.

Projecting signs *shall* meet all of the *following* standards:

(1) Any*premise* *may* display one (1) *projecting sign* on each *street frontage* in accordance with the standards in the Schedule of Basic Design Elements §10-2083.1(a), provided that, any *projecting sign* which is not internally illuminated and is suspended to allow the *sign* to swing due to wind action *shall* not exceed sixteen (16) square feet of surface area.

(2) The*projecting sign* maintains a clear height of nine (9) feet above the ground, and the *sign* does not project more than five (5) feet from the *building* wall or two-thirds (2/3) the width of the sidewalk whichever is less, provided that no *sign* *may* project closer than eighteen (18) inches to the curb line.

(3) No part of the*projecting sign* , including *projections* , extends into or over a public right-of-way, unless authorized by the *City Council.*

(4) The*projecting sign* is fastened directly to the supporting *building* wall, and the supporting structure is physically integrated into the *sign* .

(5) *Projecting signs* *erected* at the intersection of *building* corners *shall* intersect at right angles to the side of the *building* . *Projecting signs erected* at the intersection of *building* corners when the *building* corner adjoins the intersection of two (2) public *street rights-of-way may* intersect at a forty-five (45) degree angle to the corner of the *building* , in which case the *premise* is limited to a maximum of one (1) *projecting sign* .

(6) No *projecting sign* extends above the *roof line* or the *parapet wall* .

(7) *Buildings* with two (2) or more stories *may* not have *projecting signs* located higher than the second story or twenty-four (24) feet whichever is less.

(8) The*projecting sign* is not within a pedestrian mall area.

(9) The*projecting sign* is constructed entirely of metal or other noncombustible material.

GRAPHIC LINK:Diagram: Projecting Sign Standards

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §81, TC-18-96, 6-17-97; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03; Ord. No. 2004-700-TC-256, §2, TC-19-04, 9-7-04)

Cross reference:*Projecting signs* which extend into or over the required *front* and *rear yards* by more than twenty (20) per cent are permitted after a special use permit has been issued by the Board of Adjustment §10-2144(b), yard encroachments.

Temporary Signs .

After the issuance of a*temporary sign* permit pursuant to Part 10, chapter 6 of this Code, the *following signs* *may* be *erected* :

(1) Unlighted*on-premise portable signs,* and three-dimensional *banners* , moored blimps, gas balloons and *windblown signs* such as pennants, spinners, flags, and streamers for *special events* for a total period not to exceed thirty (30) days.

Annotation:*Goodman Toyota* v. *City of Raleigh,* 63 N.C. App 660, 306 S.E. 2d 192, review den, 310 N.C. 477, 312 S.E. 2d 884 (1983). Preventing the use of blimps and other *windblown signs* except under specified circumstances, constitutes a valid exercise of the *City's* police power.

(2) *Construction signs* are permitted on a construction project site which *shall* meet all

of the *following* standards:

a. The total signage*shall* not exceed fifteen (15) square feet in *sign* area in Conservation Management, Agricultural Productive, or *residential zoning districts* and *shall* not exceed thirty-two (32) square feet in *sign* area in all other zoning districts.

b. No*construction sign* *shall* be *erected* prior to issuance of a grading or building permit, and the *sign* *shall* be removed within fifteen (15) days after issuance of a Certificate of Compliance.

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1993-132-TC-45, §7, TC-16-92, 2-2-93; Ord. No. 1993-207-TC-59, §10, TC-12-93, 6-1-93; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §82, TC-18-96, 6-17-97)

Tract Identification ***Signs*** .

(1) Residential tract identification*signs* *shall* meet all of the *following* :

a. The*on-premise* use is one (1) of the *following* activities: apartments, community facilities, government *buildings* and grounds, *manufactured home parks* , *recreation outdoor use - commercial* , *recreation uses restricted to membership - not for profit* , *residential institutions* (except *day care facilities*), residential and *manufactured home subdivisions* and *rest homes* .

b. The*sign* is *erected* outside of the *street* right-of-way, and not on a *building* wall.

c. No more than one (1)*on-premise* tract identification *sign* for each *street frontage* is *erected* unless the *premise* *fronts* on the same *street* for more than four hundred (400) feet, in which case then one (1) additional tract identification *sign* along that *street frontage* *may* be *erected* .

d. The*area of copy* for any tract identification *sign* *shall* not exceed sixteen (16) square feet and three (3) feet six (6) inches in height.

e. No extremity of a*sign* or structure used to support or decorate a free-standing tract identification *sign* *shall* exceed an area of one hundred sixty (160) square feet or exceed six (6) feet in height.

GRAPHIC LINK:Diagram: Tract Identification Sign Standards

Notwithstanding the foregoing limitations,*signs* identifying the development *may* be placed on a *subdivision wall* or *fence* provided that no part of the *subdivision wall* or *fence* exceeds six (6) feet in height, or, *may* be placed on a retaining *wall* greater than six (6) feet in height provided that no part of the *sign* exceeds a height of five (5) feet.

(2) Nonresidential tract identification*signs* *shall* meet all of the *following* :

a. The*principal use* located on the *premise* is one (1) of the *following* : a *shopping center* , *shopping area* , *office center* or other unified commercial development located in a *nonresidential zoning district* .

b. The overall size of the development is at least two and one-half (2 1/2) acres and contains a minimum of three (3) separate establishments.

c. No tract identification*sign* will be allowed on any portion of a *lot* with a minimum width of less than sixty (60) feet.

d. The tract identification*sign* conforms with each of the requirements of tract identification signs, §10-2083.2(1)c., d. and e., above.

(Ord. No. 1987-946-TC-286, §35, TC-29-85, 4-7-87; Ord. No. 1988- 246-TC-323, §2, TC-16-86, 9-20-88; Ord. No. 1992-111-TC-42, §40, TC-19-92, 12-8-92; Ord. No. 1993-207-TC-59, §11, TC-12-93, 6-1-93; Ord. No. 1994-434-TC-81, §§1, 2, TC-8-94, 6-21-94; Ord. No. 1995-556-TC-101, §§1, 2, TC-3-95, 2-7-95; Ord. No. 1996-901-TC-131, §§9, 12, TC-3-96, 5-21-96; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2005-869-TC-268, §1, TC-11-05, 7-5-05)

Wall Signs.

Wall signs *shall* meet all of the *following* :

(1) The*sign* complies with the standards in the Schedule of Basic Design Elements §10-2083.1(a).

(2) The*wall sign* *may* be attached flat to or mounted away from the *building* wall, but *shall* not project more than twelve (12) inches from the wall of a *building* or structure, measured at the bottom of the *sign* .

GRAPHIC LINK:Diagram: Parapet Wall Sign Standards

(3) More than one (1)*wall sign* *may* be *erected* on the *premise* provided the total maximum area established by §10-2083.1(a)(4) is not exceeded.

(4) All*wall signs* *shall* comply with the *following* height limitations:

a. No portion of a*wall sign* *may* extend above the *roof lines* of *buildings* without a *parapet wall* . No portion of a *wall sign* *may* extend two (2) feet above the *roof line* of a *building* with a *parapet wall* ; provided, no portion of such *sign* extends above the *parapet wall* ; and

b. No*wall sign* *may* extend above the lower *eaves* line of a *building* with a pitched roof, except if the roof is a *mansard-type roof* in which case the *sign* *may* be attached not to project more than twelve (12) inches from, but not extend above, said roof; and

GRAPHIC LINK:Diagram: Wall Sign Standards for Mansard Roofs

c. *Wall signs* affixed to a *covered pedestrian walkway* *shall* not extend above the *roof line* , or be placed on the roof of the walkway, or extend above the *eaves* line of the walkway with a pitched roof or project outside the length or width of the walkway. At its lowest point, said *sign* *shall* be no closer to the sidewalk or ground than allowed by the North Carolina State Building Code and, in those instances not regulated by the Building Code, no closer than eight (8) feet to the ground or sidewalk.

A*wall sign* affixed to a *covered pedestrian walkway* *shall* be limited to two (2) colors and *shall* be uniform for the entire pedestrian walkway, and any facia that is part of the pedestrian walkway *shall* be limited to one (1) color. Construction and use of a *covered pedestrian walkway* *shall* in no way increase the allowable amount of wall *signage* permitted by this chapter. Covered walkways located on or above public *rights-of-way shall* meet the standards of §12-1001 of this Code.

GRAPHIC LINK:Diagram: Overhead Sign Standards for Covered Pedestrian Walkways

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1982-955-TC-166, §4, 8-3-82; Ord. No. 1993-207-TC-59, §10, TC-12-93, 6-1-93; Ord. No. 1993-247-TC-6, §§7, 8, TC-17-93, 8-3-93; Ord. No. 1996-901-TC-131, §9, TC-3-96, 5-21-96; Ord. No. 1996-930-TC-137, §4, TC-7-96, 7-2-96; Ord. No. 2003-373-TC-231, §31, TC-23-02, 2-4-03)

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Windblown signs.

(1) Windblown signs*shall* meet all of the *following* :

a. No*premise* *shall* contain more than three (3) *windblown signs* . For purposes of this Code each windblown device erected to a tether, pole, mast, *building* , or any structure *shall* be deemed to be a separate distinct *windblown sign* .

b. The total*sign* area of all *windblown signs* on any *premise* located in a *nonresidential zoning district* *shall* not exceed the sum of forty (40) per cent of the maximum allowable signage as set forth in §10-2083.1(h). The total *sign* area of all *windblown signs* on any *premise* located in a *residential zoning district* *shall* not exceed thirty-five (35) square feet.

c. The maximum*height* of any *windblown sign* *shall* not exceed the greater of either twenty (20) feet or the tallest *principal building* located on the *premise* .

(2) The limitations established in subsection (1) above*shall* not apply to *temporary windblown signs erected* pursuant to §10-2083.2, temporary signs, subsection (1).

(Ord. No. 1993-132-TC-45, §8, TC-16-92, 2-2-93; Ord. No. 1993-207-TC-59, §§10, 12, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §§9, 13, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §83, TC-18-96, 6-17-97)

Sec. 10-2083.3. PROHIBITED SIGNS.

The*following* *signs* are expressly prohibited within all zoning districts:

(1) Any*sign* which the Director of Transportation determines obstructs the view of bicyclists or motorists using any *street* , private driveway, approach to any *street* intersection, or which interferes with the effectiveness of or obscures any traffic *sign* , device, or signal.

(2) Illuminated, highly reflective*signs* , or spotlights which the Director of Transportation determines hampers the vision of motorists or bicyclists.

(3) *Signs* , lights, rotating disks, words, and other devices which resemble traffic signals, traffic *signs* , or emergency vehicle lights.

(4) *Signs* , lights, rotating disks, words, and other devices not *erected* by public authority which *may* be erroneously construed as governmental *signs* or emergency warning *signs* .

(5) Any*sign* which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairways, ladder, or opening intended as a means of ingress or egress or providing light or air.

(6) Any*sign* placed on any curb, sidewalk, post pole, hydrant, bridge, tree, or other surface located on, over, or across any public *street* , right-of-way, *property* or *thoroughfare* , unless authorized by the *City* *Council* .

(7) Any newly created*flashing signs* , travelling lights, or *signs* animated by lights or changing degrees of intensity, except *signs* in public rights-of-way.

(8) Any newly*erected sign* which mechanically moves except *signs* on public rights-of-way.

(9) Any newly*erected roof sign* .

(10) The tacking, posting, or otherwise affixing of*signs* of a miscellaneous character visible from a public way located on the outside walls of *buildings* , barns, sheds, trees, poles, fences, or other structures provided unit number identification *signs* authorized by this chapter, mailbox and paper tube identification *signs* which do not exceed one (1) square foot in area, and *signs* which warn the public against danger *shall* be allowed.

(11) Any newly*erected* message, *copy* or announcement, which uses a series of two (2) or more *signs* placed in a line parallel to a *street* , highway, or expressway carrying a single message, *copy* , or announcement part of which is contained on each *sign* .

(12) Any*sign* which pertains to a business, profession, commodity, or service which is vacant, unoccupied, or discontinued for a period of one (1) *year* or more; any part of a *sign* which is unused for a period of one (1) *year* or more; or any *sign* which pertains to an event or purpose which no longer applies *shall* be deemed abandoned. An abandoned *sign* is prohibited and *shall* be removed by the *owner* of the *sign* or the *owner* or tenant of the *premise* .

(13) Any*sign* unlawfully *erected* or maintained.

(Ord. No. 1979-982-TC-96, §4, 1-2-79)

State law reference: Unlawful posting and advertising*G.S.* 14-145.

Sec. 10-2083.4. NONCONFORMING SIGNS.

(a) Within ninety (90) days after the effective date of this provision or within ninety (90) days*following* an extension of areas in which this section is applicable:

Editor's note: This regulation first became applicable on January 31, 1979, Ord. No. 1979-982-TC-96.

(1) Any existing nongovernmental*flashing sign* *shall* stop flashing;

(2) Any*portable sign* , *banner* or *windblown sign* not authorized by §10-2083.2, *temporary signs,* or §10-2083.2, *windblown signs,* *shall* be removed;

(3) Any existing*sign* which mechanically moves *shall* cease its movement;

Annotation: Time and temperature*signs* which mechanically move. *Signs* which are otherwise permitted *may* not rotate or move. A-85-79 First Federal, Board of Adjustment (Aug. 13, 1979).

(4) Any message,*copy* , or announcement which uses a series of two (2) or more *signs* *following* one another placed parallel to a *street* or highway carrying a single message, *copy* , or announcement part of which is contained on each *sign* *shall* terminate.

(Ord. No. 1993-132-TC-45, §9, TC-16-92, 2-2-93; Ord. No. 1993-207-TC-59, §13, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §14, TC-3-96, 5-21-96)

Annotation:*Goodman Toyota* v. *City of Raleigh,* 63 N.C. App 660, 306 S.E. 2d 192, review den, 310 N.C. 477, 312 S.E. 2d 884 (1983). The 90-day period for the amortization of nonconforming windblown and *portable signs* does not violate either substantive due process or equal protection.

(b) All other *nonconforming on-premise signs shall* be discontinued and removed or made conforming (amortized) within five and one-half (5 1/2) *years* from the effective date of this provision. All such *signs* which are made *nonconforming* by a subsequent amendment to this chapter or an amendment to the **Official Zoning Map or extension of areas in which this section is applicable *shall* be discontinued and removed or made conforming (amortized) within five and one-half (5 1/2) *years* after the date of such amendment or extension.**

Editor's note: This provision first became applicable on July 1, 1987, Ord. No. 1987-946-TC-286.

(c) Nothing in this chapter*shall* prohibit the ordinary maintenance repair of a *nonconforming sign* or replacement of a broken part of a *nonconforming sign* . Whenever any *nonconforming sign* , or part thereof is altered, replaced, converted or changed, the entire *sign* must immediately comply with the provisions of this Code.

Annotation: Change of a*nonconforming sign* . A change in the copy of a *nonconforming ground sign* from one (1) car make to another without altering the size, shape, structure, electrical components, or materials of the *sign* is prohibited. A-68-83 Leith Leasing Inc., Board of Adjusters *shall* not be deemed exclusive or all-inclusivement (*May* 9, 1983).

Cross reference: Ordinary maintenance and repair, §10-2146.5(a).

(d) *Nonconforming signs* which are destroyed or damaged by fifty (50) per cent or more of their value *shall* not be rebuilt or repaired except in conformance with this Code.

(Ord. No. 1979-982-TC-96, §4, 1-2-79; Ord. No. 1987-946-TC-286, §§45, 4-7-87)

Editor's note: Ord. No. 1987-946-TC-286, §46, adopted April 7, 1987, effective July 1, 1987, repealed §10-2065.7, pertaining to conditional*sign* uses, as derived from the *following* legislation: Ord. No. 1979-982-TC-96, §1, 1-2-79; Ord. No. 1979-135- TC-103, 7-3-79; Ord. No. 1981-677-TC-143, §2, 6-2-81; Ord. No. 1981-784-TC-154, §3, 11-3-81; and Ord. No. 1983-216-TC-199, §2, 11-3-83.

(e) Nothing herein*shall* prevent a *City Council* -designated landmark *sign* from indefinitely remaining *on-premise* so long as the landmark *sign* complies with all the standards of §10-2083.2.

(Ord. No. 1993-207-TC-59, §14, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §§14, 15, TC-3-96, 5-21-96)

Sec. 10-2084. OFF-PREMISE SIGNAGE (OUTDOOR ADVERTISING SIGNS, BILLBOARDS).

Purpose: For the purpose of regulating excess signage, encouraging the positive economic development of the*City* , promoting the safety of the traveling public, protecting existing *property* values in both residential and nonresidential areas, preventing the overcrowding of land, promoting a positive community appearance as part of a concerted *city* -wide effort to protect and enhance the aesthetics of the Capital *City* for the enjoyment of all citizens of North Carolina, *outdoor advertising signs* are herein regulated.

The regulations are designed to prevent their overconcentration, improper placement, and excessive height, bulk, number, and area. It is recognized that, unlike*on-premise* identification *signs* which are in actually a part of a business, outdoor advertising is a separate and distinct use of the public *thoroughfare* . With a view to this distinction, *outdoor advertising signs* are regulated differently from *on-premise signs* . It is intended that *outdoor advertising signs* be located away from residential areas, and that such *signs* be regulated to protect the character of the area wherein *outdoor advertising signs* are located, and to conserve *property* values in these areas.

(Ord. No. 1979-982-TC-96, §38, 1-2-79; Ord. No. 1983-210-TC-198, §1, 10-18-83)

Sec. 10-2084.1. GENERAL REGULATIONS.

All*outdoor advertising signs* *shall* be consistent with all definitions and *shall* comply with all standards and regulations of this Code. Except for ordinary maintenance, and repair, *poster panel* replacements, *copy* changes, or repair not involving structural, material, or electrical changes, no *outdoor advertising signs* , or part thereof, *shall* be *erected* , altered, constructed, changed, converted, *re-erected* , additionally illuminated, reduced in size, enlarged, or moved unless the entire *outdoor advertising sign* and structure are brought into conformity with this Code.

(a) Area of ***Outdoor Advertising Signs*** .

No*outdoor advertising sign* facing *streets* with four (4) or more traffic lanes *may* exceed one hundred and fifty (150) square feet;

GRAPHIC LINK:Diagram: Standards for Signs on Streets with More than Four Lanes

outdoor advertising signs facing *streets* with fewer than four (4) traffic lanes *may* not exceed seventy-five (75) square feet.

GRAPHIC LINK:Diagram: Standards for Signs on Streets with Fewer than Four Lanes

The*sign* area is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines which fully encloses all extremities of the *sign* , excluding supports, the base, or apron unless *copy* , message, announcement, or decoration appears on the base or apron. The allowable *sign* area of *signs* with equal size and shape for both double-faced (back-to-back) and V-type *signs* is measured by computing the area of only one (1) side of the *sign* . Both sides of a double-faced or V-type *sign* *shall* be of equal size.

The*sign* area of *signs* with three (3) or more sides (*multiple sided signs*) containing *copy* , message, decoration, or announcement visible from a *street* , highway or expressway is measured as the sum of the area of any two (2) adjacent sides.

(b) Height.

No*outdoor advertising sign* or part thereof, including base or apron, supports, supporting structures, and trim, *may* exceed thirty (30) feet in height.

(c) Setback Requirements.

Zoning district setback and yard requirements contained in this chapter are not applicable to*outdoor advertising signs* .

(d) Construction Standards.

(1) Compliance with Building Codes.

All*signs* *shall* comply with the appropriate detailed provisions of the **North Carolina and City Building Codes** , the National Electric Code and other provisions of the Code of the *City* of Raleigh.

(2) Clearance from high-voltage power lines.

Outdoor advertising signs *shall* be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code; provided that, no *outdoor advertising sign* *shall* be *erected* closer than ten (10) feet in any direction from any conductor or public utility guy wire.

(e) Location and Spacing.

(1) ***Corner lots*** .

No part of an*outdoor advertising sign* *may* be located within a triangular area formed by the *street* right-of-way lines and a line connecting them at points fifty (50) feet from the right-of-way intersection.

GRAPHIC LINK:Diagram: Advertising Sign Prohibitions on Corner Lots

(2) Spacing of ***signs*** .

a. No part of any*outdoor advertising sign* *shall* be located less than one thousand (1,000) feet from any part of another *outdoor advertising sign* when located within either of two (2) two hundred-foot corridors along each side of a roadway. The two (2) corridors *shall* be delineated by connecting perpendicular measurements from all points along the road rights-of-way. No part of any permitted *outdoor advertising sign* which is located outside of the two hundred (200) foot corridor areas *may* be located within a one thousand (1,000) foot radius of any other *outdoor advertising sign* .

GRAPHIC LINK:Diagram: Outdoor Sign Spacing near Streets and Intersections

b. No part of any*outdoor advertising sign* is permitted within four hundred (400) feet of a zoning district that allows dwellings.

(Ord. No. 1992-111-TC-42, §41, TC-19-92, 12-8-92)

Annotation:Major Media of the Southeast v. *Raleigh,* 792 F. 2d 1269 at 1272 (4th Cir. 1986), Cert. denied, 107 S. Ct. 1334. 94 L. Ed. 2d 185 (1987) Aff'g 621 F. Supp. 1446 (E.D.N.C. 21985). These regulations are not an impermissible burden on commercial speech.

Sec. 10-2084.2. PROHIBITED SIGNS.

The provisions contained in §10-2083.3 are expressly made applicable to all outdoor advertising structures.

Sec. 10-2084.3. NONCONFORMING OFF-PREMISE SIGNS (AMORTIZATION).

All*nonconforming outdoor advertising signs* *shall* be discontinued or made conforming (amortized) within five and one-half (5 1/2) *years* from the applicable date of this section* unless explicitly prohibited by state statute. All *outdoor advertising signs* which are made nonconforming by an amendment to this chapter, or to the Official Zoning Map, or extension of the areas in which this section is applicable *shall* be discontinued or made conforming (amortized) within five and one-half (5 1/2) *years* after the date of such amendment or extension, unless explicitly prohibited by state statute.

(Ord. No. 1983-210-TC-198, §1, 10-18-83)

*Editor's note: This provision first became applicable on October 18, 1983, Ord. No. 1983-210-TC-198.

Annotation:*Major Media of the Southeast* v. *Raleigh,* 792 F. 2d 1269 at 1272-3, (4th Cir. 1986) Cert denied, 107 S. Ct. 1334, 94 L. Ed. 2d 185 (1987), Aff'g 621 F. Supp. 1446 (E.D.N.C. 1985). A five and one-half (5 1 / 2) *year* amortization period is no constitutional taking.

Cross reference: Nonconformities generally, §10-2146et seq.

Sec. 10-2085. FENCES AND WALLS.

(a) Definitions.

(1) ***Closed fence*** . A *solid fence* or wall which has no openings and contains shiplap, or tongue and groove or similar overlapping design if made of wood.

Cross references: Fence or wall as part of a*transitional protective yard* , §10-2082.9(g); outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles, §10- 2144.

(2) ***Decorative fence*** . A designed *open* or *solid fence* or wall which meets all of the *following* :

a. It contributes to the identification and beauty of the*principal use* .

b. It is not erected to satisfy any other provision of this Code.

c. It does not act as a retaining structure.

d. It is made of material that typically is not found in security structures, such as chain link.

e. It is not available for purchase in stores.

Cross reference: Tract identification*signs* on fences §10-2083.2(1)(e) and §10-2083.2(2)(f).

(3) ***Open fence*** . A wall or fence through which clear vision is possible from one (1) side to the other for seventy-five (75) per cent or more of the structure, as viewed on a horizontal plane.

(4) ***Solid fence*** . A wall or fence that is not an open wall or fence.

(b) Height and ***Street*** **Right-of-Way Landscaping Standards for Fences and Walls.**

(1) Fences and walls located outside the minimum*front* , *side* or *rear* district *yard* setbacks, as shown in the Schedule of Zoning District Yard Setbacks §10-2075(b) *may* be *erected* to any height permitted for buildings according to the **Schedule of Zoning District Height Standards, §10-2076(a).**

(2) *Solid fences* and walls located within minimum *front* , *side* or *rear* district *yard areas* *shall* not exceed six (6) feet in height unless specifically required as a screening device by this Code, or approved by the *City* *Council* as part of a special use permit, or approved by the Board of Adjustment as part of either a variance or a special use permit.

GRAPHIC LINK:Diagram: Standard Setbacks for Solid Fences

(3) Excluding *decorative fences* and fences *erected* on single-family detached and *duplex lots,* all fences taller than forty-two (42) inches high which are visible from the public *street* right-of-way, other than *thoroughfare rights-of-way* which are regulated in subsections (4) and (5) below, and which are constructed after the application of this section* *shall* be installed with planting materials so that no more than two-thirds (2/3) of its surface area will be visible from the *street* within three (3) *years* of *erection* of the fence. Forty (40) per cent of this plant material *may* be deciduous.

*Editor's note: This subsection was first applied on January 1, 1987 (Ord. 799 TC 267, §39).

Cross references: Fences prohibited in floodways, §10-4007; permit fee required for erection of a fence, §10-6039(e); fencing required surrounding swimming pools, §13-2028; barbed wire fences

generally prohibited in*City* limits, §13-3011; electric fences regulated, §13-2030.

Annotation: Retaining walls. A*solid* wall that retains grades resulting from the cutting into existing grades of interior *lots* only are retaining walls and are not subject to the regulations in §10-2085 relating to *solid fences* and walls: A-72-79 Chief Zoning Inspector, Board of Adjustment (Sept. 10, 1979).

(4) Except as otherwise regulated by subsection (5) below, all fences and walls constructed and replaced after application of this section* and located less than twenty (20) feet from*thoroughfare rights-of-way shall* either be less than forty-two (42) inches in height or situated at least fifteen (15) feet from any *thoroughfare right-of-way* and screened with evergreen planting materials, so that no more than one-fourth (1/4) of its surface area will be visible from the *thoroughfare* within three (3) *years* of *erection* of the fence or wall. Except as otherwise regulated by subsection (5) below, all fences and walls constructed and replaced after application of this section* that are more than forty-two (42) inches in height and located between twenty (20) and forty (40) feet from any *thoroughfare right-of-way, shall* be installed with planting materials, so that no more than one-third (1/3) of its surface area will be visible from the *thoroughfare* within three (3) *years* of *erection* of the fence or wall. Forty (40) per cent of this plant material *may* be deciduous. *Decorative fences* that are more then fifty (50) per cent *open,* or *solid fences* located within the Downtown Residential Housing Overlay District, *shall* be exempt from these provisions.

(5) After application of this section*, no fence or wall greater than forty-two (42) inches in height*shall* be constructed or replaced within any landscaped *street protective yard* required by any *Resource Management Zoning District* . In all other zoning districts, no fence or wall greater than forty-two (42) inches in height constructed or replaced after the application of this section* *shall* be situated closer than fifteen feet (15) feet to any *thoroughfare right-of-way* . *Decorative fences* that are more than fifty (50) per cent *open* , or *solid fences* located within the Downtown Residential Housing Overlay District or any Transit Oriented Development Overlay District, *shall* be exempt from these provisions.

*Editor's note: The regulations of this provision first became applicable on July 7, 2002.

(Ord. No. 716-TC-146, §2, TC-191, 7-21-81; Ord. No. 869-TC-85, TC-120, 9-12-78; Ord. No. 946-TC-286, §49, TC-29-85, 4-7-87; Ord. No. 799-TC-267, §39, TC-21-85, 1-1-87; Ord. No. 499-TC-349, §50, TC-15-89, 3-7-90; Ord. No. 1993-207-TC-59, §15, TC-12-93, 6-1-93; Ord. No.1995-693-TC-114, §1, TC-16-95, 8-1-95; Ord. No. 1996-901-TC-131, §16, TC-3-96, 5-21-96; Ord. No. 2002-248-TC-223, §§1, 2, TC-11-02, 7-2-02; Ord. No. 2004-596-TC-245, §8, TC-14-03, 4-6-04)

Sec. 10-2086. SIGHT TRIANGLES.

(a) Sight Triangles Required.

No sight obstructing or partially obstructing wall, fence, foliage, berming, parked vehicles or*sign* between the heights of twenty-four (24) inches and eight (8) feet above the curb line elevation, or the nearest traveled way if no curbing exists, *shall* be placed within a sight triangle of a public *street* , private *street* or driveway contained either on the *property* or on an adjoining *property.*

(b) Size of Required Sight Triangles.

A sight triangle is that triangle as set forth by the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways manual, and all subsequent amendments thereto.

Cross reference: Calculation of sight triangles,**Street, Sidewalk and Driveway Access Handbook** ,

§4.7.

(Ord. No. 1994-428-TC-77, §1, TC-11-94, 6-21-94; Ord. No. 1995-760-TC-122, §§23, 24, TC-20B-95, 11-21-95)

Editor's note: Ord. No. 1994-428-TC-77, §1, TC-11-94, adopted June 21, 1994, deleted the previous §10-2086, which pertained to "Sight triangles for fences, walls and ground medium profile signs, and ground high profile signs" and derived from Ord. No. 463-TC-229, §1, TC-277, 12-23-84.

Cross references: Landscaping to follow guidelines of sight triangles, §10-2082.3(c); billboard construction on corner lots, §10-2084.1(e).

Sec. 10-2087. FLOODPRONE AREA REGULATIONS.

The requirements of "Floodprone Area Regulations" contained in Part 10, chapter 4*shall* be deemed to apply in addition to those requirements contained in this chapter.

(*Code 1959* , §§24-34.1; Ord. No. 1978-872-TC-88, TC-119, §14, 8-15-78).

Sec. 10-2088. NUMBER OF PRINCIPAL BUILDINGS OR USES ON A LOT.

No more than one (1)*principal building* or use *shall* be permitted on a *lot* unless excepted by this Code. Exceptions which permit more than one (1) *building* on a *lot* include:

- Church and synagogue buildings, including*day care facilities* and private schools of any kind.

(Ord. No. 1997-134-TC-151, §1, TC-8-97, 6-3-97)

- Government *buildings* , structures and uses.

- *Group housing development, congregate care* and *congregate living structures* and *life care community* under one (1) ownership except for residential unit ownership.

(Ord. No. 2003-504-TC-240, TC-8-03, §3, 9-16-03)

-*Hotel and motel* .

-*Hospital* campus.

- Mini warehouse storage facility and warehousing distribution structures, including a caretaker or watchman's*residence.*

- Manufactured home park.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

- Nonresidential *unit ownership (condominium) development* .

-*Office center* .

- Outdoor recreational use, park and other related uses.

- Residential*unit ownership (condominium) development* .

-*Retail sales - outdoor mobile vending cart* approved in accordance with §10-2072(b).

(Ord. No. 2006-985-TC-584, §5, TC-17-05, 4-4-06)

- School campus, including college, university, technical, vocational and*specialty school* .

-*Shopping center* and *shopping area* .

- Telecommunication towers located on the same*lot* as a *residential institution* golf courses,

private recreation or governmental/public use within a *residential zoning district;* and telecommunication towers within nonresidential zoning districts.

- Temporary event approved in accordance with §10-2072(b).

A*principal building or use* is defined as the *building* , structure, or land area that contains the primary function or activity on a *lot* .

(Ord. No. 1993-157-TC-50, §1, TC-4-93, 4-6-93; Ord. No. 1993-296- TC-68, §5, TC-23-93, 12-7-93; Ord. No. 1994-372-TC-72, §2, TC-3-94, 4-19-94; Ord. No. 1994-408-TC-75, §6, TC-9-94, 6-7-94; Ord. No. 1995-692-TC-113, §5, TC-15-95, 8-1-95)

Cross references: Governmental*buildings* and grounds, §10-2072; *group housing developments* , §10-2103; *congregate care* and *congregate living structures* , §10-2102; mini warehouse storage facility, §10-2072; *manufactured home parks* , §10-2105; *nonresidential unit ownership (condominium) development* , §10-2122; *office center,* §10-2123 *; residential unit ownership (condominium) development,* §10-2108; *shopping center* and *shopping area* , §10-2124.

Sec. 10-2089. LIGHTING.

(a) Intent and Purpose.

Outdoor lighting*shall* be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and not create or cause excessive *glare* onto adjacent *properties* and public *street rights-of-way.*

(b) Definitions.

Cutoff fixture - An outdoor light fixture shielded or constructed in such a manner that no more than two and one-half (2 1/2) per cent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

Flood lamp - A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Flood light - A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

Footcandle (FC) - A quantitative unit measuring the amount of light cast onto a given point, measured as one (1) *lumen* per square foot.

Full cutoff fixture - An outdoor light fixture shielded or constructed in such a manner that it emits no light above the horizontal plane of the fixture.

Glare - The effect produced by a *light source* within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

IESNA - The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

Internal refractive lens - A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the *light source* thereby reducing direct *glare.*

Light source - The element of a lighting fixture that is the point of origin of the *lumens* emitted by the fixture.

Lumen - A quantitative unit measuring the amount of light emitted by a *light source.*

Maintained footcandles - Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

Medium base - The size of lamp socket designed to accept a medium or Edison base lamp.

Outdoor sports field - An area designed for active recreation, whether publicly or privately owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.

Outdoor performance area - An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

Right-of-way - An interest in land to the *City* which provides for the perpetual right and privilege of the *City* , its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public *street* , including related and customary uses of *street rights-of-way* such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the *rights-of-way.*

Semi-cutoff fixture - An outdoor light fixture shielded or constructed in such a manner that it emits no more than five (5) per cent of its light above the horizontal plane of the fixture, and no more than twenty (20) per cent of its light ten (10) degrees below the horizontal plane of the fixture.

Vehicular canopy - A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

Wall pack - A type of light fixture typically flush-mounted on a vertical wall surface.

Wide-body refractive globe - A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures). "Wide-body" refers to a wider than average size globe (greater than fifteen and seventy-five one hundredths (15.75) inches in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. *Wide-body refractive globes* are intended to soften and spread the light being distributed from the *light source* thereby reducing direct *glare.*

(c) Light Measurement Technique.

Light level measurements*shall* be made at the *property* line of the *property* upon which the light to be measured is being generated. If measurement on private *property* is not possible or practical, light level measurements *may* be made at the boundary of the public *street right-of-way* that adjoins the *property* of the complainant or at any other location on the *property* of the complainant. Measurements *shall* be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter *shall* have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) per cent. Measurements *shall* be taken with a light meter that has been calibrated within the *year.* Light levels are specified, calculated and measured in *footcandles (FC).* All FC values below are *maintained footcandles.*

(d) General Standards for Outdoor Lighting.

(1) Unless otherwise specified in subsections (e) through (j) below, the maximum light levels*shall* be one-half (0.5) *maintained footcandle* at any *property* line in a residential district, or on a *lot* occupied by a *dwelling, congregate care* or *congregate living structure,* and two (2.0) *maintained footcandles* at any public *street right-of-way,* unless otherwise approved by the Planning Commission.

(2) All flood lights*shall* be installed such that the fixture *shall* be aimed down at least forty-five (45) degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights *shall* be positioned such that any such fixture located within fifty (50) feet of a public *street right-of-way* is mounted and aimed perpendicular to the *right-of-way,* with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the *right-of-way.*

(3) All flood lamps emitting one thousand (1,000) or more*lumens shall* be aimed at least sixty (60) degrees down from horizontal, or shielded such that the main beam from the *light source* is not visible from adjacent *properties* or the public *street right-of-way.*

(4) All*wall pack* fixtures *shall* be *cutoff fixtures.*

(5) Service connections for all freestanding fixtures installed after application* of this ordinance*shall* be installed underground.

* Editor's note: This provision first became applicable on November 20, 2001; Ord. No. (2001) 123-TC-210.

(6) Within Thoroughfare and Special Highway Overlay Districts, all outdoor lighting fixtures*shall* be at minimum *semi-cutoff fixtures.*

(7) All light fixtures installed by public*agencies,* their agents, or contractors for the purpose of illuminating public *streets* are otherwise exempt from this regulation.

(e) Lighting in ***Parking Lots*** **and Outdoor Areas.**

(1) Other than flood lights and flood lamps, all outdoor area and*parking lot* lighting fixtures of more than two thousand (2,000) *lumens shall* be *cutoff fixtures,* or comply with subsection (3) below.

(2) The mounting height of all outdoor lighting, except*outdoor sports field* lighting and *outdoor performance area* lighting, *shall* not exceed forty-one (41) feet above finished grade, unless approved by the Planning Commission as having no adverse effect.

(3) Exceptions:

a. Non-cutoff fixtures*may* be used when the maximum initial *lumens* generated by each fixture *shall* not exceed nine thousand five hundred (9,500) initial lamp *lumens* per fixture.

b. All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium and color improved high pressure sodium lamps used in non-cutoff fixtures*shall* be coated with an internal white frosting inside the outer lamp envelope.

c. All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a*wide-body refractive globe.*

d. All non-cutoff fixture open-bottom lights*shall* be equipped with full *cutoff fixture* shields that reduce *glare* and limit uplight.

(f) Lighting for ***Vehicular Canopies.***

Areas under a*vehicular canopy shall* have a maximum point of horizontal illuminance of twenty-four (24) *maintained footcandles (FC).* Areas outside the *vehicular canopy shall* be regulated by the standards of subsection (d) above. Lighting under *vehicular canopies shall* be designed so as not to create *glare* off-site. Acceptable methods include one (1) or more of the *following:*

(1) Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the*vehicular canopy.*

(2) Light fixture incorporating shields, or shielded by the edge of the*vehicular canopy* itself, so that light is restrained to five (5) degrees or more below the horizontal plane.

(3) Surface mounted fixture incorporating a flat glass that provides a*cutoff fixture* or shielded light distribution.

(4) Surface mounted fixture, typically measuring two (2) feet by two (2) feet, with a lens cover that contains at least two (2) per cent white fill diffusion material.

(5) Indirect lighting where light is beamed upward and then reflected down from the underside of the*vehicular canopy.* Such fixtures *shall* be shielded such that direct illumination is focused exclusively on the underside of the *vehicular canopy.*

(6) Other method approved by the Planning Commission.

(g) ***Outdoor Sports Field/Outdoor Performance Area*** **Lighting.**

(1) The mounting height of*outdoor sports field* and *outdoor performance area* lighting fixtures *shall* not exceed eighty (80) feet from finished grade unless approved by the Planning Commission as having no adverse effect or approved by the *City Council* as part of a special use permit.

(2) All*outdoor sports field* and *outdoor performance area* lighting fixtures *shall* be equipped with a *glare* control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

(3) The hours of operation for the lighting system for any game or event*shall* not exceed one (1) hour after the end of the event.

Cross reference: Outdoor stadium/theater/racetrack, §§10-2072 and 10-2145.

(h) Lighting of Outdoor ***Display Areas.***

(1) *Parking lot* outdoor areas *shall* be illuminated in accordance with the requirements for subsection (e), above. Outdoor *display areas* *shall* have a maximum point of illuminance of twenty-four (24) *maintained footcandles (FC).*

(2) All light fixtures*shall* meet the IESNA definition of *cutoff fixtures.* Forward throw fixtures (type IV light distribution, as defined by the *IESNA*) are required within twenty-five (25) feet of any public *street right-of-way.* Alternatively, directional fixtures (such as flood lights) *may* be used provided they *shall* be aimed and shielded in accordance with subsections (d)(1) and (d)(2) of this ordinance.

(3) The mounting height of outdoor*display area* fixtures *shall* not exceed forty-one (41) feet above finished grade, unless approved by the Planning Commission as having no adverse effect.

(i) Sign Lighting.

Lighting fixtures illuminating signs*shall* be aimed and shielded so that direct illumination is focused exclusively on the sign.

Cross reference: Illumination of Signs, §10-2083.1(g).

(j) Lighting of ***Buildings*** **and Landscaping.**

Lighting fixtures*shall* be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the *building* facade, plantings, and other intended site feature and away from adjoining *properties* and the public *street right-of-way.*

(k) Permits.

The applicant for any permit required for work involving outdoor lighting*shall* submit documentation at time of *site plan* or *plot plan* approval that the proposed lighting plan complies with the provisions of this Code. The submission *shall* contain, but not be limited to the *following* , all or part of which *may* be part of or in addition to the information required elsewhere in this Code:

(1) A point-by-point*footcandle* array in a printout format indicating the location and aiming of illuminating devices. The printout *shall* indicate compliance with the maximum *maintained footcandles* required by this Code.

(2) Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [*cutoff fixture, wall pack,* flood light, etc.]).

The Inspections Director or his/her designee(s)*may* waive any or all of the above permit requirements, provided the applicant can otherwise demonstrate compliance with this Code.

(l) Nonconformities.

(1) *Following* application * of this regulation, the installation of outdoor lighting, replacement of outdoor lighting, and changes to existing light fixture wattage, type of fixture, mounting, or fixture location *shall* be made in strict compliance with this Code. Routine maintenance, including changing the lamp, ballast, starter, photo control, fixture housing, lens and other required components, is permitted for all existing fixtures not subject to subsection (2) below.

* Editor's note: This provision first became applicable on November 20, 2001; Ord. No. (2001) 123-TC-210.

(2) All outdoor lighting that fails to conform with subsection (d) above which is either located in a*residential zoning district* or which affects a *lot* occupied by a *dwelling, congregate care,* or *congregate living structure* located in a *residential zoning district shall* be discontinued, removed, or made to conform with subsection (d) within five and one-half (5 1/2) *years* from the effective date of this provision. All such lights which are made nonconforming by a subsequent amendment to this chapter or extension of areas in which this section is applicable *shall* be discontinued, removed, or made to conform within five and one-half (5 1/2) *years* after the date of such amendment or extension.

Cross references: Residential Institutions, §10-2002; Thoroughfare District, §10-2045(e)(4); Airport Overlay District, §10-2050(e)(3); Metro Park Protection Overlay District, §10-2053(e)(3); Special Highway Overlay District-1, §10-2058(e)(4), -2,

§10-2059(e)(4), -3, §10-2060(e)(4), and -4, §10-2061(e)(4); Signs, §10-2083.1(g) and 10-2083.3(2); Underground Utilities, §10-3059.

(Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1997-137-TC-153, §84, TC-18-96, 6-17-97; Ord. No. 2001-123-TC-210, §1, TC-3-01, 11-20-01)

Sec. 10-2090. UNITY OF DEVELOPMENT GUIDELINES.

Unity of development guidelines *shall* be submitted for any retail area with more than one (1) *principal building* , *unit-ownership (condominium) development* , a *shopping center* and *shopping area* , *office center* , *life care community* , and *congregate care and congregate living structures* , and any non-retail use included in such a development.

The guidelines*shall* describe the physical characteristics of the development in terms of the *following* primary unifying elements: building materials, color(s), and architectural features. At least two (2) of these elements must be present in each building of the development, including associated out-parcels.

(1) Building materials.

If selected, the dominant material or combination of materials*shall* be specified within the guidelines. The means by which a material or combination of materials is dominant must clearly be stated. If a building material is selected as a unifying element, the color of that material *shall* also be specified, but the combination of the building material and its color *shall* only be credited as one (1) unifying element.

(2) Color(s).

If selected, the dominant color or pattern of colors*shall* be specified within the guidelines. The means by which a color or pattern of colors is dominant and how that color(s) is to be used on the *building* facades must clearly be stated. A maximum of three (3) colors *may* be designated as a primary unifying element; however, the *number* of colors within the development is not limited. Specifications for colors must be listed. Colored renderings are encouraged, but are not a substitute for specifications.

(3) Architectural features.

If selected, the dominant architectural feature or combination of features*shall* be specified within the guidelines. The means by which an architectural feature or combination of features is dominant must clearly be stated. Architectural features include, but are not limited to: roof treatment, including style, material, and color of roof; facade treatments, including fenestration pattern and ornamentation; and *building* form, including overhangs, canopies, protected exterior walkways, and entrance treatments.

Unity of development may include optional secondary unifying elements. Although secondary unifying elements are optional at the time of submittal, they will be a development requirement upon approval of the guidelines. Secondary unifying elements include landscaping, setbacks, height, lighting, additional colors, or other elements which *may* be relevant to a specific development.

In addition, projects which are permitted a*ground sign* inaccordance with §10-2083 et seq. *may* elect toincorporate architectural compatibility between the *groundsign* and the proposed *building(s)* as a secondary unifying element. If such an election is made, the base andsupporting structure of the *ground sign* which is approved aspart of the unity standards *shall* not be subject to thethree-color limitations stated in §10-2083.1(b)(3).

In addition, projects which are permitted a*wall sign* inaccordance with §10-2083 et seq. *may* elect toincorporate color compatibility between the electricalraceway of the *wall sign* and the *building* material onto which the raceway is attached. Specification for the colorof the raceway must be made, and be as close as possible tothe dominant color of the *building* material. If thiselection is made, the raceway color *shall* not be subject tothe three-color limitations stated in §10-2083.1(b)(3).

Unity of development guidelines, and subsequent revisionsand amendments, must be signed by the *property owner* . Therevisions must be applied throughout the entire center ordevelopment. Within *shopping centers* or retail areas, where *properties may* be separately owned, the *owner* that controls the primary uses and structures of the unified development *shall* sign all guidelines and amendments thereto.

Editor's note: This provision was formerly codified in§10-2132.2(d)(5). (Ord. No. (1991) 843-TC-374, §2, TC-10-91, 10-1-91; Ord. No. (1993) 247-TC-63, §9, TC-17-93, 8-3-93; Ord. No. (1996) 930-TC-137, §5, TC-7-96, 7-2-96)

(Ord. No. 1997-137-TC-153, §85, TC-18-96, 6-17-97; Ord. No. 2003-373-TC-231, §34, TC-23-02, 2-4-03; Ord. No. 2003-504-TC-240, §4, 9-16-03)

Sec. 10-2091. PEDESTRIAN ACCESS.

Site plans for the *following* uses *shall* show pedestrian access to a public *street* from the *principal building(s)* or use (including parking) which are located within four hundred (400) feet of a public *street* and which allow for public access:

- Art gallery, museum, library,*hospital, day carefacility*

- Church, synagogue

-*Civic/convention center* , stadium, theater,amphitheater, race track of over two hundred fifty (250) seats

- Commercial use - all uses listed on Schedule of Permitted Land Uses in Zoning Districts

-*Congregate care structure* or *congregate living structure*

-*Group housing development*

-*Life care community*

(Ord. No. 2003-504-TC-240, TC-8-03, §5, 9-16-03)

- Manufacturing use - all uses listed on Schedule of Permitted Land Uses in Zoning Districts

-*Manufactured home park*

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

-*Multifamily dwelling* development of over six (6) dwellings

- Office use - all uses listed on Schedule of Permitted Land Uses in Zoning Districts

- Recreational indoor or outdoor use - commercial

- Rest home

-*Rooming house, boarding house, lodging house* or *tourist home, guest house*

- Schools - all schools listed on Schedule of Permitted Land Uses in Zoning Districts

- Transportation use - all uses listed on Schedule of Permitted Land Uses in Zoning Districts

- Transitional housing - all uses listed on Schedule of Permitted Land Uses in Zoning Districts

The pedestrian access surface*shall* meet the standards of §10-7001 unless otherwise approved by the Planning Commission.

(Ord. No. 1997-137-TC-153, §85, TC-18-96, 6-17-97)

Sec. 10-2092. SCREENING OF MECHANICAL EQUIPMENT.

(a) Ground Units.

All mechanical equipment located on the ground that is used to serve any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential building, installed

after the application of this regulation*,*shall* be positioned, screened, or both so that the mechanical equipment is not visible from any public *street right-of-way* and any adjacent *property* . Screening enclosures *shall* be the same or compatible, in terms of color, texture, quality, and material as the *principal building* , and the screening *shall* form a continuous enclosure around the mechanical equipment at least one (1) foot taller than the tallest equipment enclosed.

(b) Rooftop Units.

All mechanical equipment located on the roof of any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential building, installed after the application of this regulation*,*shall* be positioned, screened, or both so that the rooftop mechanical equipment is not visible from any public *street right-of-way* and any adjacent *property* . Screening enclosures *shall* be the same as or compatible with, in terms of color, texture, quality, and material, the *principal building* , and the screening *shall* form a continuous enclosure around the mechanical equipment at least one (1) foot taller than the tallest equipment enclosed.

(c) Elevator Penthouses.

All elevator penthouses located on the roof of any commercial, office, institutional, recreational, agricultural, industrial, or multi-family residential building, installed after the application of this regulation*,*shall* be the same as or compatible with, in terms of color, texture, quality, and material, the *principal building* .

(Ord. No. 2002-203-TC-218, §6, TC-5-02, 5-7-02)

*Editor's note: This provision first became applicable on June 1, 2002 Ord. No. (2002) 203 TC 218, TC-5-02.

Secs. 10-2093--10-2100. RESERVED.

ARTICLE F. PLANNED RESIDENTIAL DEVELOPMENT REGULATIONS.

Sec. 10-2101. CLUSTER UNIT DEVELOPMENT REGULATIONS.

(a) A*cluster unit development* is a planned residential development which *may* include *townhouse* , residential *unit ownership (condominiums)* , *group housing* and *multi-family developments* , *congregate care* and *congregate living structures* , detached *single-family dwellings* and *attached cluster housing* , and *manufactured homes* . It permits *recreational uses related to residential developments* and *residential related services* . It allows for transfer of allowable *dwelling unit* densities, placement of *dwelling units* , creation of residential *lots* , and installation of private *streets* that are not otherwise permitted by this Code.

(Ord. No. 398-TC-341, §6, TC-8-89, 7-5-89; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

(b) Standards.

All*cluster unit developments* *shall* meet all of the *following* :

(1) General.

Cluster unit development site plans *shall* conform with the requirements of Part 10, chapter 3 of this Code.

Cross reference: Design standards for*cluster unit developments* , §10-3071.

(2) Site size and land ***use*** .

The minimum site size of land under unified control for a*cluster unit development* is:

Rural Residential, Residential-2, and Residential-4 districts: twenty (20) contiguous acres;

All other zoning districts which permit*dwellings* : ten (10) contiguous areas.

Property which is used to meet the minimum site size *shall* consist of *dwelling* or *rooming units* , open space, *landfill (debris from on-site) recreational uses related to residential developments* and *residential related services* . Land in excess of the minimum site size that is not utilized for residential density, *impervious surface* transfer or required open space *may* contain additional uses permitted by the applicable zoning district(s) within the *cluster unit development* .

Multi-family dwellings , *congregate care* and *congregate living structures* , and *group housing* , *townhouse* , *attached cluster housing* and residential *unit ownership (condominium) developments* as part of a *cluster unit development* are permitted in Rural Residential, Residential-2, Residential-4 and Special Residential-6 Districts located outside a *primary reservoir watershed protection area* .

Editor's note: This subsection is also set forth in §10-3071(b)(2), and is repeated here for the convenience of the reader.

(Ord. No. 1992-111-TC-42, §42, TC-19-92, 12-8-92)

(3) Private ***streets*** .

Access to the*cluster unit development* as a whole *may* be from private *street(s)* , approved as part of another *cluster unit development* , *townhouse* or condominium development, so long as the *property* within the *cluster unit development* is part of the *owner* s association which controls the private *street(s)* and the *cluster unit development* contains only *apartment houses* , *rooming units* , open space, *recreational use related to residential developments* , and *residential related services* . Otherwise, the access to the *cluster unit development* as a whole *shall* be from public *streets* .

Access to each*lot* within a *cluster unit development used for apartment houses* , *rooming units* , open space, *recreational uses related to residential developments* , and *residential related services may* be from private *streets* , meeting the standards of Part 10, chapter 3. Access to other uses within a *cluster unit development* including all detached *single-family dwellings, manufactured homes, attached cluster housing* , and *duplexes* , *shall* be from public *streets* , unless otherwise explicitly permitted by this Code.

Notwithstanding the foregoing paragraphs, subdivisions with private*streets* approved prior to August 1, 1993, that are part of a *cluster unit development* , *may* utilize private *streets* providing access to *lots* containing *dwellings* .

(Ord. No. 440-TC-345, §7, TC-3-89, 10-3-89; Ord. No. 511-TC-232, §19, TC-270, 3-26-85; Ord. No. 1993-223-TC-61, §2, TC-15-93, 7-6-93; Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

(4) Residential density.

Except within*primary reservoir watershed protection areas* , *dwelling units* or *equivalent dwelling units* and *rooming units may* be arranged on *lots* such that the residential density on a particular *lot* exceeds that allowed by the Schedule of Minimum Net Lot Areas for Dwelling Units or Equivalent Dwelling Units, §10-2073(b), provided that, the overall density of the *cluster unit development* does not exceed that allowed in the applicable zoning district as determined by the above referenced schedule.

Residential density allocations*shall* comply with §10-3071(b).

Editor's note: This subsection is also set forth in §10-3071(b)(3)a., and is repeated here for the convenience of the reader.

(Ord. No. 1992-111-TC-42, §43, TC-19-92, 12-8-92)

(5) Minimum ***net lot area*** .

Outside of*primary reservoir watershed protection areas* , the minimum *net lot area may* be reduced in accordance with §10-3071(b)(4) for *dwelling units* and *rooming units* .

(Ord. No. 1992-111-TC-42, §44, TC-19-92, 12-8-92)

(6) ***Yard areas*** **and setback.**

The*following* minimum setbacks *shall* apply to *cluster unit developments* :

a. Within*primary reservoir watershed protection areas* , and for all uses other than *dwellings* , *rooming units* , or *related residential services* within *dwelling unit* or *rooming unit* structures, yard setbacks *shall* be in accordance with the Schedule of Zoning District Yard Setbacks, §10-2075(b).

b. *Group housing developments shall* comply with §10-2103, *townhouse developments shall* comply with §10-2109, residential *unit ownership (condominium) developments shall* comply with §10-2108, and *multi-family dwelling* developments *shall* comply with §10-2107.

c. Detached*single-family dwellings* and *attached cluster housing shall* comply with the *following* yard setback requirements. The method of measuring *yard areas* and setbacks *shall* be calculated in accordance with §10-2075.

TABLE INSET:

Yard Type	Minimum Setback
1. *Front* or *rear yard* abutting a *street* , and *corner lot side yard*	Private *street* measured from outside edge of private *street* right-of-way: 10 feet

If no private*street* right-of-way exists:

- 30 feet from center line of pavement.

Public*street* , measured from the existing or proposed right-of-way line:

- 10 feet from any residential service, minor residential, or residential*street* ;

- 15 feet from all other*streets* .

Cross reference: Private*street* right-of-way, §10-3074(e)(1).

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TABLE INSET:

Yard Type	Minimum Setback
2. *Rear yard* not abutting a street	20 feet

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TABLE INSET:

Yard Type	Minimum Setback

3. Aggregate *front* and rear yards	40 feet, unless the cluster unit development plan conforms to the following site standards in which case the minimum aggregate front and rear yards setback *may* be reduced to 30 feet:
	i. The *lot* fronts on a public residential *street* with a minimum right-of-way width of fifty-five (55) feet.
	ii. The main entrance of the *dwelling unit* *shall* be oriented toward the public *street* right-of-way.
	iii. Building height *shall* be a maximum of thirty-four (34) feet.
	iv. HVAC equipment, generators and similar mechanical equipment *shall* not be located within the front *yard area* .

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TABLE INSET:

Yard Type	Minimum Setback
4. *Side yard* other than *corner lot side yard*	*Not less than 5 feet unless building* envelopes are approved as part of the preliminary plan which allows two *dwellings* to be built on a common zero (0) interior *lot* line or maintains a ten (10) feet minimum separation between *buildings* . The maximum allowable area within which a *building* *may* be constructed *shall* be shown the final plat required by Part 10, chapter 3, of this Code.

Cross references: Legal documents, §§10-3071(b)(9) and 10-3073(b); zero setback party walls, §10-3073(b)(7); yard setbacks of less than five (5) feet in width, perpetual access easement required, §10-3073(b)(8).

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TABLE INSET:

Yard Type	Minimum Setback
5. Aggregate side yards	15 feet, unless the cluster unit development plan conforms to the following site standards in which case the minimum aggregate *side yard* setback *may* be reduced to 10 feet:
	i. The width of any garage door(s) facing the *street shall* be no greater than fifty (50) percent of the width of the *street* -facing building facade. On *corner lots* and *lots* with alleys, only one (1) *street* -facing facade *shall* be required to meet this standard.
	ii. The main entrance of the *dwelling unit* *shall* be oriented toward the public *street right-of-way* .
	iii. Building height *shall* be a maximum of thirty-four (34) feet.
	iv. HVAC equipment, generators and similar mechanical equipment *shall* not be located within the *side yard* areas.

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(Ord. No. 823-TC-371, §§7, 8, TC-11-91, 7-21- 91; Ord. No. 440-TC-345, §§8, 9, 25, TC-3-89, 10-3-89; Ord. No. 880-TC-277, §11, TC-18-86, 10-27-86; Ord. No. 1992-111-TC-42, §45, TC-19-92, 12-8-92; Ord. No. 1995-760-TC-122, §25, TC-20B-95, 11-21-95; Ord. No. 1999-616-TC-181, §60, TC-3-99, 8-3-99; Ord. No. 2005-920-TC-274, §1, 2, 11-1-05)

d. Perimeter*protective yard* areas.

It is recognized that*cluster unit developments* contain a broad range of housing styles, including residential *unit ownership (condominium)* , *townhouse* , *multi-family* and *group housing* . Perimeter *protective yards* which *may* overlap other *yard areas* required by this Code are established to protect adjoining *properties* . When a *cluster unit development* abuts properties zoned either Rural Residential, Residential-2, or Residential-4, the perimeter *lots* of those portions of the *cluster unit development* are required to either:

1. Contain a detached*single-family dwelling* on its own *lot* meeting the minimum *net lot area* and *yard area* setback requirements for the zoning district of the *cluster* ; or,

2. Contain perimeter*protective yard areas* equivalent to the minimum *yard area* setbacks required for the adjacent property, but no less than twenty (20) feet.

Buildings over twenty-five (25) feet in height and located on a *lot* with a perimeter *protective yard* area, *shall* add one (1) foot of additional width to each perimeter *protective yard* for every foot of height over twenty-five (25) feet.

Later establishment of a Rural Residential, Residential-2, or Residential-4 Districts which require a perimeter yard or minimum*lot* sizes under this subsection *shall* not render existing conforming *buildings* in the *cluster unit development* nonconforming.

e. Encroachments into*yard areas* .

Uses and structures permitted in the*yard areas* required by this subsection, including detached *accessory structures* for *dwellings* , are set forth in the Schedule of Permitted Land Uses Within Types of Yard Areas §10-2075(e). No encroachments outside of a *building* envelope within a *cluster unit development* *shall* be permitted unless allowed in the above-referenced schedule.

f. Detached*accessory structures* .

Detached accessory*buildings* for detached *single-family dwellings* or *attached cluster housing* on *lots* meeting the minimum *net lot areas* required by the **Schedule of Minimum Lot Areas for Dwelling Units or Equivalent Dwelling Units** , §10-2073(b), are permitted, subject to applicable yard setbacks of (b)(6) c. above, and are allowed within yard setbacks subject to footnote g., Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075(e).

Detached accessory*buildings* for detached *single-family dwellings* or *attached cluster housing* on *lots* which do not meet the minimum *net lot areas* required by the **Schedule of Minimum Lot Areas for Dwelling Units or Equivalent Dwelling Units** , §10-2073(b), are permitted in accordance with footnote h., Schedule of Permitted Land Uses Within Types of Yard Areas, §10-2075(e).

(Ord. No. 1992-111-TC-42, §45, TC-19-92, 12-8-92; Ord. No. 1995-543-TC-97, §1, TC-30-94, 1-17-95; Ord. No. 1995-760-TC-122, §25, TC-20B-95, 11-21-95)

(7) Open space standards.

Open space within *cluster unit developments shall* be provided in accordance with §10-2103(d), §10-3071(b)(5), and §10-3073.

Cross references: Building envelopes, §10-3071(b)(4) and (b)(8), and §10-2101(b)(6);*residential related to services* , §10-2072; *recreation uses related residential development* other than a *single-*

family dwelling , §10-2072.

(Ord. No. 890-TC-161, §2, TC-211, 4-20-82; Ord. No. 596-TC-241, §2, TC-8-85, 6-24-85; Ord. No.660-TC-251, §1, TC-25-85, 11-5-85; Ord. No. 221-TC-318, §1, TC-11- 88, 7-24-88; Ord. No. 1995-760-TC-122, §§26, 27, TC-20B-95, 11-21-95; Ord. No. 1998-370-TC-167, §20, TC-3-98, 7-7-98)

(8) Parking to ***street*** **relationship.**

Automobile parking spaces and drives located in a minimum front yard space, as determined by §10-2101(b)(6)c.1.,*shall* not occupy more than one-half (1/2) of said yard space, except this provision *shall* be inapplicable to underground parking areas.

Cross reference: Location of automobile parking spaces in*group housing, townhouse* , and *multi-family dwelling developments,* §10-2103(b)(3)e. and §10-2103(c)(5) and (6).

(Ord. No. 1995-760-TC-122, §28, TC-20B-95, 11-21-95; Ord. No. 1998-370-TC-167, §21, TC-3-98, 7-7-98)

(9) ***Refuse*** **Removal.**

Refuse collection facilities *shall* be provided and designed in accordance with the Solid Waste Collection Design Manual, as amended.

Cross reference: Solid Waste collection, Part 7, chapter 2.

(Ord. No. 1995-760-TC-122, §28, TC-20B-95, 11-21-95; Ord. No. 2000-786-TC-194, TC-1-2000, §3, 5-2-00)

Sec. 10-2102. CONGREGATE CARE STRUCTURE OR CONGREGATE LIVING STRUCTURE (SENIOR CITIZEN HOUSING).

A*congregate care* or *congregate living structure* provides housing, part-time medical care, shared food preparation and dining areas, and recreation facilities, as well as significant social facilities to meet the needs of the elderly. Since congregate facilities serve senior citizens, there are special provisions for open space, off- *street* parking, and residential density calculations are required by this Code.

Congregate care structures or *congregate living structures* *shall* meet all of the *following* :

(a) The structure is limited in occupancy to*persons* sixty-two (62) *years* or older, their spouses, and their surviving spouses, except for rooms or units *occupied* by resident staff personnel performing duties directly related to operation of the congregate facility.

(b) A*congregate care* or *living structure(s)* *shall* contain at least two (2) *dwelling units* or *rooming units* , each unit *occupied* by no more than two (2) *persons* not related by blood, marriage, or adoption. The structure(s) *shall* consist of either:

(1) One (1)*principal building* on a *lot* , meeting the standards of *multi-family dwelling* developments, §10-2107; or

(2) Two (2) or more*principal buildings* on a *lot* , each consisting of three (3) or more *dwelling* or *rooming units* , meeting the standards for *group housing developments* , §10-2103.

(c) Facilities for resident managers or custodians providing administrative services and medical services for the exclusive use of the*residents* *shall* be located on site and open and staffed at least four (4) hours one (1) day a week.

(d) The development*shall* contain conveniently located indoor shared food preparation service, common dining halls, and common recreation rooms, all for the exclusive use of all *residents* and their guests, and these facilities together *shall* total a minimum of thirty (30) square feet per constructed *rooming unit* exclusive of circulation space. Common indoor social

and *residential related service* facilities *may* also be part of *congregate care* or *congregate living structures* .

Congregate care and *congregate living structures* *shall* meet one of the *following* :

(1) All*dwelling units* or *rooming units* are connected by heated pedestrian corridors or breezeways to the common dining halls and indoor spaces required above, and all or a portion of the *dwelling* or *rooming units* are connected by heated pedestrian corridors or breezeways to *residential related services* and required medical facilities; or

(2) A comprehensive pedestrian circulation plan, including internal accessible walkways, is submitted and approved with provisions for alternative transportation services for the*residents* of the *congregate care* or *congregate living structure* . Alternative transportation services *may* include, but are not limited to regularly scheduled or on-call van services, tram services and full bus service.

(Ord. No. 2003-504-TC-240, TC-8-03, §6, 9-16-03)

(e) The structure contains a central interior circulation system to all units through at least one (1) main controlled entrance.

(f) Outdoor open space or park areas*shall* be provided at a minimum rate of the greater of either ten (10) per cent of the land area of the development or two hundred eighteen (218) square feet per *dwelling unit* or *rooming unit* , excluding private drives and off- *street* parking areas.

The amount of required open space for a*congregate care* or *congregate living structure* which is part of the *following* site plans, issued in accordance with §10-2051 et seq. , *shall* be determined in conjunction with the special use permit: Downtown Residential Housing Overlay District and Pedestrian Business Overlay District - additional density, conversions of *buildings* to *dwellings* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts.

A majority of said open space or park areas*shall* be located no further than three hundred (300) feet from the controlled entranceway to any congregate structure.

(Ord. No. 1992-88-TC-401, §20, TC-4-92, 11-4-92; Ord. No. 1998-370-TC-167, §22, TC-3-98, 7-7-98)

(g) For purposes of residential density calculations,*dwelling units* or *rooming units* in a *congregate care* or *congregate living structure* *shall* be *equivalent* to one-half (1/2) of a *dwelling unit* , and *shall* be calculated in accordance with §10-2073.

(h) Off-*street* parking *shall* be provided in accordance with §10-2081.

(i) In the Thoroughfare District the minimum land area required for any residential development including any*congregate or congregate living structure* is ten (10) acres.

(j) *Unity of development* guidelines in accordance with §10-2090 *shall* be submitted to, and approved by the Planning Director for any *congregate care structure* or *congregate living structure* with more than one (1) *principal building* .

(Ord. No. 2003-504-TC-240, TC-8-03, §8, 9-16-03)

Cross reference:*Recreation uses related to residential development* other than a *single-family dwelling unit* , *residential related services* , §10-2072.

Sec. 10-2103. GROUP HOUSING DEVELOPMENT.

A*group housing development* *shall* consist of two (2) or more *dwellings* , each containing three (3) or more *dwelling units* , and *may* or *may* not contain private *streets* . A *group housing development* *shall* meet all the *following* :

(a) ***Dwelling*** **Frontage and Maximum** ***Building*** **Wall Length.**

(1) Subject to the provisions of §10-2103(g)(1)e.*dwelling units* within a *group housing development* built after application of this section* *may* gain their access from either a public or private *street* used exclusively for the project satisfying the standards of §10-3074 et seq.

Editor's note: This regulation first became applicable on July 7, 1998 (Ord. No. (1998) 370 TC 167 TC-3-98).

(2) Any*building* wall which exceeds a length of one hundred fifty (150) feet *shall* be required to incorporate architectural features such as building facade offsets, varying fenestration patterns and roof line treatments to lessen the perceived bulk, scale, length and width of the *building* .

(b) ***Dwelling*** **-to-** ***Dwelling*** **Relationship and Yard Setbacks.**

(1) A*dwelling* *shall* be considered as separate from any other *dwelling* unless it shares a common wall for at least two (2) feet in length.

(2) Minimum distance separation between *buildings* walls and outdoor living areas.

a. When the opposing*building* walls are parallel to each other or oriented at an angle less than forty-five (45) degrees from each other, the *following* minimum distance separations between *building* walls shall be required:

Buildings twenty-eight (28) feet or less in height without windows on the affected wall . . . 10 feet

Any*building* twenty-eight (28) feet or less in height with windows on the affected wall . . . 15 feet

Any*building* greater than twenty-eight (28) feet in height without windows on the affected wall . . . 20 feet

Any*building* greater than twenty-eight (28) feet in height with windows on the affected wall . . . 30 feet

b. When the opposing *building* walls are perpendicular to each other or oriented at an angle which is forty-five (45) degrees or greater from each other, the *following* minimum distance separations between *building* walls *shall* be required:

Buildings twenty-eight (28) feet or less in height . . . 10 feet

Any*building* greater than 28 feet in height . . . 20 feet

GRAPHIC LINK:Diagram: BUILDING SETBACKS

c. In lieu of the yard spaces required on the sides of *buildings* by subsections a. and b. above, the *side yard* setback for detached townhouse *single family dwelling* or two (2) attached townhouse *single family dwellings* *may* be no less than the aggregate of fifteen (15) feet. No *side yard* setback *shall* be less than five (5) feet, unless building envelopes are approved as part of the preliminary plan which either allows two (2) *dwellings* to be built on a common zero (0) lot line or maintains a ten (10) feet minimum separation between *dwellings* . The maximum allowable *yard area* within which a *dwelling* *may* be constructed *shall* be shown on the final plat required by Chapter 3 Part 10 of this Code.

Cross references: Legal documents required for zero (0) setback party walls, §10-3073(b)(7); yard

setbacks of less than five (5) feet in width, perpetual access easement required, § 10-3073(b)(8).

GRAPHIC LINK:Diagram: TOWNHOUSE DEVELOPMENT

d. Private outdoor living areas (patios, decks, porches, balconies)*shall* maintain a minimum forty-foot separation from opposing *building* walls with windows when the opposing *building* walls are parallel to each other or oriented at an angle which is less than forty-five (45) degrees from each other.

(3) *Yard Area* Setbacks.

a. The minimum*yard area* setback adjoining an existing or proposed public *street* right-of-way *shall* either be the minimum *yard area* setback for the zoning district [§10-2075(b)], the *street protective yard* as set forth by the landscape ordinance (§10-2082), or that required by §10-2103(d), whichever is greater. The minimum *yard area* setback adjoining an existing or proposed private *street shall* be five (5) feet from the wall of any *dwelling* or *accessory building* .

Cross reference: Site triangles, §10-2086.

b. Outside of the Downtown Overlay District and Pedestrian Business Overlay District, the*yard area* around the perimeter of the *group housing development* that abuts any *residential zoning district* or *lot* containing any *dwelling, congregate care,* or *congregate living structure shall* be the minimum *rear yard area* setback as required by the zoning district, except *buildings* which exceed a building height of twenty-eight (28) feet *shall* have a minimum perimeter *building* setback of thirty (30) feet. No later establishment of any *residential zoning district, dwelling, congregate care* , or *congregate living structure* abutting the previously permitted *group housing development* or *townhouse development shall* be construed to create a nonconformity or illegality on the part of the existing *group housing development* or *townhouse development* .

c. Outside of the Downtown Overlay District and Pedestrian Business Overlay District, the*yard area* around the perimeter of the *group housing development* that abuts any *lot* zoned *nonresidential* which does not contain a *dwelling, congregate care* , or *congregate living structure shall* be the minimum *yard area setback* as required by the zoning district. However, if the rear or front (as determined by the main entrance to a *dwelling*) of the *dwelling* faces the side property line, the perimeter *yard area shall* be the minimum *rear yard area* . Regardless of which side of the *building* faces a *rear yard area* , the *yard area shall* continue to be a *rear yard area* . No later establishment of any *residential zoning district, dwelling, congregate care* , or *congregate living structure* abutting the previously permitted *group housing development* or *townhouse development shall* be construed to create a nonconformity or illegality on the part of the existing *group housing development* or *townhouse development* .

d. Within the Downtown Overlay District and Pedestrian Business Overlay District, the*yard area* around the perimeter of the group housing development shall be the minimum setback required by the underlying zoning district.

e. *Vehicular surface areas* and private *streets shall* not be located closer than five (5) feet to the wall of any *dwelling* except for individual driveways which are provided to serve the individual *dwelling unit* only.

Cross reference: Transitional protective yards are required for developments with densities of seven (7) or more dwelling units per acre, §10-2082.9.

GRAPHIC LINK: Diagram: PERIMETER YARD SETBACKS

(Ord. No. 2005-932-TC-275, §24, TC-6-05, 11-15-05)

(c) ***Streets* /Sidewalks.**

(1) All standards from the*City* of Raleigh's Streets, Sidewalks, and Driveway Access Handbook *shall* apply to this section.

(2) One (1) access point to the public*street* system *shall* be required for every one hundred fifty (150) *dwelling units* , or increment thereof, unless traffic safety, surrounding development, severe topography or other physical features prevent such additional access.

(3) The main circulation route(s) throughout the development, as determined by the Transportation Director and Fire Marshall,*shall* be constructed to the minimum private *street* standards specified by the *City* of Raleigh's Streets, Sidewalks, and Driveway Access Handbook. Other private vehicular drives *shall* maintain a minimum centerline radius of fifty (50) feet.

(4) The maximum length of a public or private dead-end*street* or vehicular drive shall be eight hundred (800) feet. All dead-end *streets* must intersect with an interconnected system of public *streets* or private *streets* that allows vehicular access to the dead-end *street* from at least two (2) directions. A private dead-end *street* or vehicular drive which exceeds a length of one hundred fifty (150) feet *shall* be required to provide a vehicular turn-around with a minimum interior curb radius of thirty (30) feet.

(5) Private*streets* and drives located within two hundred (200) feet of any *dwelling unit* or recreational facility *shall* provide parking, either perpendicular or parallel, on both sides of the private *street* or drive, provided that, a minimum travel portion, exclusively of parking, of twenty (20) feet.

(6) All parking bays, other than those directly along private*streets* , *shall* be clearly separated from the private *street* by a minimum five-foot wide planted *street protective yard* in accordance with the standards of §10-2082.5(c).

(7) *Group housing developments* exceeding a total of two hundred (200) *dwelling units may* be required to submit a traffic impact analysis to the *City* 's Transportation Department, and comply with all recommended intersection and traffic control improvements to guarantee that the affected *streets* are safe and a level of service "D", or better, is maintained.

(8) Sidewalks*shall* be provided from the main entrance of each *dwelling unit* and all recreational facilities to a public *street* in accordance with §10-2091. Sidewalks *shall* provide the most direct access possible, taking into account existing topography, from the individual *buildings* to the public *street(s)* . In designing the sidewalk system, consideration should be given to increasing the pedestrian's usage, existing or future greenways, adjacent land uses, and existing or future transit stops. Sidewalks *shall* be provided on public and private *streets* as required by the *City* of Raleigh's Streets, Sidewalks, and Driveway Access Handbook.

(Ord. No. 2002-204-TC-219, §§ 1--3, TC-6-02, 5-7-02; Ord. No. 2006-11-TC-285, §1, TC-2-06, 4-18-06)

(d) Open Space/Natural Areas.

(1) With the exception of higher density projects approved as a*site plan* by *City Council* within the Downtown Housing and Pedestrian Business Overlay Districts, §10-2051(e)(2), all *group housing developments shall* comply with the greater of:

a. Ten (10) per cent of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way, or

b. One-hundredth (.01) of an acre per*dwelling* unit (four hundred thirty-five and six-tenths (435.6) square feet per unit), or in the case of *congregate care* or *congregate living* structures, two hundred eighteen (218) square feet per *dwelling unit* or *rooming unit* .

The open space*shall* be logically located and accessible to all dwellings, insofar as possible, by pedestrian ways and connecting open spaces and *streets* .

Editor's note: This regulation was first made applicable on July 19, 1983. (Ord. No. 151-TC-188).

(2) If the open space is nongovernment owned, nongovernmental recreational facilities, including driveways and*off-street* parking required to serve the recreation facilities, *may* , except in open space areas designated tree conservation areas be placed within the required open space, in accordance with *recreational use related to residential development* other than a *single-family dwelling* , §10-2072. If the open space is governmental owned, governmental recreation facilities and associated *off-street* parking and drives *may* be placed within the open space.

(3) Required minimum open space*may* be conveyed without reimbursement to the government as part of a greenway easement or park. No *off-street* parking, drives or *buildings* *may* be located in the open space except as provided in subsection (2) above.

Cross references: Greenway residential density transfer, §10-2074(c); Greenway dedication and reimbursement, §10-3022.

(4) Required open space for*group housing developments* which are part of the *site plan* approved by the *City Council* in accordance with §10-2051(e)(2) *shall* be determined as part of that *site plan* .

(Ord. No. 2005-762-TC-264, §17, TC-7-04, 1-4-05)

(e) Stormwater Management.

Group housing developments shall incorporate stormwater control measures that comply with Part 10 Chapter 9 of this Code.

(Ord. No. 2002-154-TC-214, §2, TC-1-02, 2-5-02)

(f) ***Refuse*** **Removal.**

Refuse collection facilities *shall* be provided and designed in accordance with the Solid Waste Collection Design Manual, as amended.

Cross reference: Solid Waste collection, Part 7, chapter 2.

(Ord. No. 2000-786-TC-194, TC-1-2000, §4, 5-2-00)

(g) Fire Protection, Utilities, and Identification.

(1) Fire Protection.

a. Fire hydrants*shall* be spaced no greater than five hundred (500) feet apart, located adjacent to the public or private *street* . All portions of every residential *building* *shall* be within a radius of three hundred fifty (350) feet from a fire hydrant.

b. Fire hydrants must be on a loop water system; however, a dead-end fire line*shall* be allowed up to eight hundred (800) feet in length.

c. Fire lines*shall* be constructed pursuant to §8-2007. The flow from a fire

hydrant *shall* be a minimum of seven hundred fifty (750) gallons per minute (gpm) at twenty (20) pounds per square inch (psi) residual for two (2) continuous hours.

d. When the*vehicular surface areas* of a site are designed such that a fire truck can only derive perpendicular access to a *building* , as opposed to being able to park parallel to the *building* , an alternate plan for fire truck access or *building* construction methods for fire control or a combination thereof *shall* be approved by the *City* 's Fire Chief and Transportation Director.

e. All portions of*buildings* housing a *dwelling unit* *shall* be located within one hundred fifty (150) feet from the closest *vehicular surface area* which is accessible by fire truck, as measured around both sides of the *building* and not through the *building* ; or, that an alternate plan for fire truck access, or *building* construction methods for fire control, or a combination thereof *shall* be approved by the *City* 's Fire Chief and Transportation Director.

(2) Water Supply.

All*group housing developments* *shall* be connected to the *City* water utility system so that such developments will have sufficient fire protection.

(3) Identification of buildings, units, and private streets.

All private*streets* and *buildings* must be properly identified in accordance with §10-2083.1(c).

(4) ***Units* in *buildings.***

All developments which are designed under these standards*shall* at their time of initial submittal to the *City* indicate the number of *units* in each *building.*

(Ord. No. 2006-11-TC-285, §2, TC-2-06, 4-18-06)

(h) Alternate Design Approval by the Planning Commission.

When a site or development has a unique character which precludes its ability to comply with*building* -to- *building* separation and minimum *yard area* setback requirements the *following* ; including standards and design requirements of the *City* of Raleigh Street, Sidewalks and Driveway Access Handbook [§10-2103(b)], or *street* and sidewalk design requirements [§10-2103(c)], landscaping and open space requirements [§10-2103(d)], the applicant *may* request alternate design approval by the Planning Commission. This alternate design approval *shall* be in accordance with the procedures set forth in §10-2132.2(c)(2). The Planning Commission shall find that the standards of §10-2132.2(d) have been met and that the proposed alternate design provides equivalent privacy, environmental, recreational, and safety benefits, and provides comparable utility and accessibility as the Code standard.

If a request will reduce the required district yard setbacks in §10-2075, a variance must be approved by the Board of Adjustment.

(Ord. No. 2002-204-TC-219, § 4, TC-6-02, 5-7-02; Ord. No. 2003-373-TC-231, §35, TC-23-02, 2-4-03)

(i) Special Standards in Certain Zoning Districts.

In a Thoroughfare District the minimum land area for a*group housing development shall* be ten (10) acres.

In the Special Residential-30 District, developments with either three (3) or more*dwelling units* or *equivalent dwelling units* on a *lot* or with a residential density of more than twenty (20) dwelling units per net acre *shall* comply with the standards of §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or

both, in the Special Residential-30 District."

No residential development which either exceeds fifteen (15)*dwelling units* per acre within the Office & Institution-1, Office & Institution-2 and Shopping Center zoning districts or which exceeds twenty (20) *dwelling units* per acre within the Thoroughfare zoning district *shall* be approved without the prior approval of a *site plan* in accordance with §10-2132.2.

No residential development considered an infill development in accordance with §10-2132.2(c)(1)h.*shall* be approved without the prior approval of a *site plan* in accordance with §10-2132.2.

(*Code 1959* , §24-42; Ord. No. 1978-704-TC-77, §2, 2-7-78; Ord. No. 1982-956-TC-167, §1, 8-3-82; Ord. No. 1983-160-TC- 191, §1, 8-2-83; Ord. No. 1984-366-TC-218, §5, 6-19-84; Ord. No. 1985-542-TC-236, §7, 4-16-85; Ord. No. 1985-592- TC-240, §2, 6-18-85; Ord. No. 1997-137-TC-153, §86, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §§23, 24, TC-3-98, 7-7-98; Ord. No. 2003-373-TC-231, §36, TC-23-02, 2-4-03)

Editor's note: Ord. No. 1998-370-TC-167, §23, TC-3-98, 7-7-98, repealed and re-enacted subsections (a) through (g) of §10-2103. Prior to their repeal, these subsections pertained to similar subject matter and derived from the following ordinances: Ord. No. 704-TC-77, TC-111, adopted March 7, 1978; Ord. No. 384-TC-120, §2, TC-0-80, adopted May 20, 1980; Ord. No. 384-TC-120, §2, TC-J-81, adopted April 7, 1981; Ord. No. 946-TC-164, §§8, 10, 11, TC-213, adopted July 22, 1982; Ord. No. 956-TC-167, §1, TC-217, adopted Aug. 3, 1982; Ord. No. 151-TC-188, §1, TC-241, adopted July 19, 1983; Ord. No. 160-TC-191, §1, TC-231, adopted Aug. 7, 1983; Ord. No. 384-TC-120, §1, TC-0-80, adopted May 20, 1984; Ord. No. 424-TC-224, §§3, 4, TC-260A, adopted Oct. 7, 1984; Ord. No. 531-TC-235, §1, TC-5-85, adopted April 7, 1985; Ord. No. 76-TC-302, §§2, 3, TC-23-87, adopted Nov. 9, 1987; Ord. No. 799-TC-267, §§ 41, 42, TC-21-85, adopted Jan. 1, 1987; Ord. No. 319-TC-335, TC-29-88, adopted Feb. 26, 1989; Ord. No. 1989-440-TC-345, §§10, 11, TC-3-89, adopted Oct. 3, 1989; Ord. No. 1992-88-TC-401, §§21, 22, TC-4-92, adopted Nov. 4, 1992; Ord. No. 1992-111-TC-42, §§46--48, TC-19-92, adopted Dec. 8, 1992; Ord. No. 1995-673-TC-111, §§1, 2, TC-12-95, adopted July 5, 1995; Ord. No. 1995-760-TC-122, §§29--32, TC-20B-95, adopted Nov. 21, 1995.

Sec. 10-2104. LIFE CARE COMMUNITY.

A*life care community* *shall* consist of one (1) or more *building* or structures located on one (1) or more *lots* providing housing in conjunction with full-time health and nursing care, shared food preparation and dining areas, related service facilities, recreational facilities as well as significant social facilities to meet the needs of the elderly, their spouses and surviving spouses that reside in the *life care community* .

Life care communities *shall* meet all of the *following* :

(a) It*shall* contain a minimum total of one hundred (100) *dwelling units* , *rooming units* , or any combination thereof totaling one hundred (100) units in a *congregate care* or *congregate living structure* limited to and *occupied* by *persons* sixty-two (62) *years* of age and older, their spouses or surviving spouse. It *may* contain rooms or units *occupied* by personnel performing on-site duties directly related to the operation of the *life care community* .

(b) It*shall* contain health service facilities, twenty-four (24) hour skilled nursing care, and emergency services for exclusive use of all *persons* in the *life care community* , and *may* contain a *rest home* and/or *hospital* for the exclusive *use* of the *residents* .

(c) It*shall* contain shared food preparation service, common dining halls, and common spaces for recreation all of which *shall* be conveniently located indoors for the exclusive *use* of all *residents* and their guests. Together these facilities *shall* total a minimum area of thirty (30) square feet per constructed *dwelling* or *rooming unit* , exclusive of circulation space. Common indoor spaces for social and *residential related service* facilities *may* also be part of a *life care community* .

(d) *Congregate care* and *congregate living structures*shall meet one (1) of the *following* :

(1) All*dwelling units* or *rooming units* are connected by heated pedestrian corridors or breezeways to the common dining halls and indoor spaces required in subsection (c) above, and all or a portion of the *dwelling* or *rooming units* are connected by heated pedestrian corridors or breezeways to *residential related services* and required medical facilities; or

(2) A comprehensive pedestrian circulation plan, including internal accessible walkways, is submitted and approved with provisions for alternative transportation services for the*residents* of the *congregate care* or *congregate living structure* . Alternative transportation services *may* include, but are not limited to regularly scheduled or on-call van services, tram services and full bus service.

In order for*dwelling units* or *rooming units* within the *life care community* to be a component of the *congregate care* or *congregate living structure* and qualify for the special density provisions provided by §10-2102(g) and the *congregate care* or *congregate living structure* parking standards provided by §10-2081, all *dwelling units* or *rooming units* *shall* be accessed by means of a central interior circulation system through at least one (1) main controlled entrance.

(Ord. No. 2003-504-TC-240, §7, 9-16-03)

(e) Outdoor open space or park areas, excluding private drives and off-*street* parking areas, *shall* be provided at a minimum rate of the greater of:

(1) Ten (10) per cent of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way, or

(2) Two-hundred eighteen (218) square feet per*dwelling* or *rooming unit* in a *congregate care* or *congregate living structure* , and four-hundred thirty five and six tenths (435.6) square feet per *dwelling unit* for all other types of units.

A majority of said open space or park areas*shall* be located no further than three hundred (300) feet from the controlled entranceway of any *congregate structure* .

(f) Unless a*transitional protective yard* is otherwise required by §10-2082.9 all *loading areas* *shall* be screened in accordance with §10-2082.8.

(g) In Thoroughfare Districts the minimum land area required for a*life care community* is ten (10) acres.

(h) *Unity of development* guidelines in accordance with §10-2090 *shall* be submitted to, and approved by the Planning Director for any *life care community* with more than one (1) *principal building* .

(Ord. No. 2003-504-TC-240, TC-8-03, §9, 9-16-03)

Cross references:*Recreational use related to residential development* , other than a *single-family dwelling unit* ; *residential related services* , §10-2072.

Sec. 10-2105. MANUFACTURED HOME PARKS.

Manufactured home parks *shall* meet all the *following* :

(a) Size and Land Use.

A*manufactured home park* *shall* be at least ten (10) acres in size and *shall* be devoted to the leasing of space for *manufactured homes, manufactured homes* for rent or sale for use within the *manufactured home park* provided that the sold *manufactured home* is connected to on-

site utilities and the *manufactured home* remains on the site for a minimum of one (1) *year* , or *unit ownership (condominium)* pursuant to Chapter 47C of the North Carolina General Statutes, not exceeding six (6) units per acre residential density, and *may* contain one (1) or more of the *following* uses:

(1) Laundry, sanitation and vending machine sales for the use and convenience of the*manufactured home* occupants;

(2) *Recreational uses related to residential development* , other than a *single-family dwelling* , §10-2072;

(3) *Accessory uses* ; storage facilities, *buildings* , and structures; and *landfills (debris from on site)* .

Property in excess of the minimum ten (10) acre site size *may* on separate *lots* contain uses allowed in the applicable zoning district as set forth in the Schedule of Permitted Land Uses in Zoning Districts.

Outside overlay districts, the maximum residential density per net acre is six (6)*manufactured homes.* Residential density *shall* be calculated in accordance with §10-2073.

(Ord. No. 1996-991-TC-141, §6, TC-14-96, 10-16-96; Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00; Ord. No. 2001-948-TC-204, §1, TC-13-00, 2-20-01)

(b) ***Manufactured Home Phasing, Setback and Other Regulations*** .

(1) Phasing.

Every*manufactured home park* *shall* contain at least ten (10) *manufactured home spaces* in each phase.

(Ord. No. 29-TC-294, §6, TC-14-87, 12-1-87)

(2) Preparation of space.

The surface of each*manufactured home space* *shall* have a *manufactured home stand or pad* graded for proper drainage and *shall* be covered by a paved slab or compacted earth, gravel or crushed stone adequate to meet Building Code requirements for foundation footings for *manufactured homes* . The remainder of the space *shall* be graded for drainage and graded areas grassed or otherwise provided with protective cover to prevent erosion.

(Ord. No. 1996-991-TC-141, §§8, 9, TC-14-96, 10-16-96)

(3) Installation.

All*manufactured homes* installed in a *manufactured home park* *shall* comply with all local, state, and federal rules and regulations applicable to the installation and occupancy of *manufactured homes* .

Cross reference: Adoption of*manufactured home* standards approved by HUD, Part 10, chapter 6, Article I.

(Ord. No. 1996-991-TC-141, §8, TC-14-96, 10-16-96)

(4) Yard setbacks.

a. *Manufactured home* . Each *manufactured home* *shall* comply with the *following* yard setbacks measured perpendicular to and from the boundary of the *manufactured home* . The corner yard *side yard* setback and the *front yard* setback *shall* be measured from the existing or proposed public *street* right-of-way in accordance with §10-2075(c), or from the private *street* right-of-way (see: Street, Sidewalk and Driveway Access Handbook, §4.11) or if none exists from the edge of private *street* pavement. The *front yard* setback *shall*

be from the *street* providing access.

1.*Front yard* adjoining any public minor residential or residential *street* as defined in Part 10, chapter 3, when such *street* establishes a new *block face* and the *street* is platted after application of this regulation** . . . 10 ft.*

Otherwise . . . 20 ft.

2.*Front yard* adjoining any private street . . . 15 ft.*

As measured from the private*street* right-of-way (see: Street, Sidewalk, and Driveway Access Handbook section 4.11), or if none exist, from edge of private *street* pavement.

3.*Building* to *building* separation . . . 20 ft.

4.*Corner lot side yard* adjoining any public minor residential or residential *street* as defined in Part 10, chapter 3, when such *street* establishes a new *block face* and the *street* is platted after application of this regulation** . . . 10 ft.*

Otherwise . . . 20 ft.

5. Perimeter*protective yard* equal to the minimum *yard area* setback required by the adjacent zoning district, but not less than . . . 20 ft.

* Where parking space is to be located in the*front yard* area, the setback *shall* be at least eighteen (18) feet as shown on §10-2075(b), Schedule of Zoning District Yard Setbacks, illustration b.

** Editor's note: This regulation first became applicable on October 21, 1996. (Ord. No. 1996-991, TC-14-96)

b. *Buildings* and uses located in a *manufactured home park* , other than *manufactured homes* , *shall* not locate within thirty (30) feet of a *manufactured home* or twenty (20) feet of a public right-of-way.

Cross reference: Schedule of Permitted Land Uses Within Types of Yard Areas §10-2075.

(Ord. No. 1995-760-TC-122, §33, TC-20B-95, 11-21-95; Ord. No. 1996-991-TC-141, §§8, 10--13, TC-14-96, 10-16-96)

(5) **Streets, sidewalks, and street yards.**

All*manufactured home spaces* and *lots* containing uses permitted in a *manufactured home park* , listed in subsection (a) (1), (2) and (3) above, *shall front* a public *street* , or a private *street* meeting the standards of §10-3074, et seq. All other uses within a *manufactured home park shall* be on *lots* which *front* on public *streets* . Sidewalk surfacing meeting the requirements of §10-7001 *shall* be required in areas served by private *streets.* Sidewalks provided in compliance with this subsection *shall* provide general pedestrian access within the development served and *shall* connect with public sidewalks, public *streets,* and greenway access points. Each *street* block *shall* be served by a connection to the pedestrian access system.

A*street protective yard* adjoining all public *street* or private *street* right-of-way (or if the private *street* has no right-of-way, from the edge of pavement) *shall* be provided in accordance with §10-2082.5 except that:

a. The tree spacing*may* be increased to one (1) natural tree within every one hundred (100) feet of *street protective yard* or fraction thereof. Trees *shall* be planted at least ten (10) feet from any tree.

b. Up to thirty-six (36) per cent of the*protective yard may* be devoted to *vehicular surface areas.*

(Ord. No. 440-TC-345, §§1, 2, TC-3-89, 10-3-89; Ord. No. 1996-991-TC-141, §§8, 14, TC-14-96, 10-16-96)

(6) Parking.

Each*manufactured home space* *shall* provide off- *street* parking for two (2) vehicles. The parking spaces *shall* be constructed of permanent, nonerodible surface treatment limited to masonry, concrete or asphalt.

(Ord. No. 211-TC-317, §1, TC-10-88, 7-10-88; Ord. No. 1996-991-TC-141, §§8, 15, TC-14-96, 10-16-96)

(7) Skirting.

Skirting*shall* be installed around all sides of a *manufactured home* . Skirting *shall* consist of any rigid weatherproof material providing a solid barrier between the underside of the *manufactured home* and the stand.

(Ord. No. 1996-991-TC-141, §8, TC-14-96, 10-16-96)

(8) Signage.

Tract identification*signs* that meet the standards of §10-2083.2(n) are permitted.

(Ord. No. 1993-207-TC-59, §16, TC-12-93, 6-1-93; Ord. No. 1996-991-TC-141, §8, TC-14-96, 10-16-96)

(9) Rubbish.

All cut foliage, construction materials, and rubbish*shall* be completely removed from the *manufactured home park* , unless deposited in a *landfill (debris from on-site)* , approved in accordance with §10-2072.

(Ord. No. 1996-991-TC-141, §8, TC-14-96, 10-16-96)

(10) Clearing drainage ways.

During the construction, preparation, arrangement and installation of improvements and facilities in a*manufactured home park* the stream bed of each stream, creek or backwash channel contiguous to the *manufactured home park* *shall* be maintained in an unobstructed state and the channel and banks of the stream *shall* be kept free of all debris, logs, timber, junk, and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course; installation of appropriately sized stormwater drains, culverts, bridges or dams for water impoundments *shall* not be construed as obstructions in the stream.

(Ord. No. 1996-991-TC-141, §8, TC-14-96, 10-16-96)

(11) Grading and drainage plan.

A grading and drainage plan allowing positive drainage away from the*manufactured home pad shall* be approved by the *City* prior to any grading around any *manufactured home pad.*

(Ord. No. 1996-991-TC-141, §16, TC-14-96, 10-16-96)

(12) Accessory detached structures and uses.

Accessory detached structures including but not limited to storage shed, storage tank, greenhouse, horsestall, or gazebo*shall* be located within five (5) feet of the *manufactured home* it is an accessory to and *shall* not exceed one hundred (100) square feet in size. No accessory detached structure *shall* be located within ten (10) feet of any other structure, including other *manufactured homes.*

Open structures including but not limited to a deck, porch, stairway or any noncombustible awning, eave or carport that exceed three and one-half (3 1/2) feet in height*shall* not be located within ten (10) feet of another *manufactured home* or ten (10) feet of another open structure associated with another *manufactured home.*

Garages*shall* not exceed three hundred (300) square feet in size and *shall* not be located within sixteen (16) feet of another *manufactured home* or ten (10) feet of another open structure associated with another *manufactured home.*

No structure except for an open carport that exceeds three and one-half (3 1/2) feet in height is allowed to be located in the space between the*manufactured home* and the public right-of-way or private street. The carport *shall* be located to meet sight distance standards as approved by the *City* of Raleigh Department of Transportation, as set forth in §10-2086 et seq.

(Ord. No. 1996-991-TC-141, §17, TC-14-96, 10-16-96; Ord. No. 2001-948-TC-204, §§2--4, TC-13-00, 2-20-01)

(13) Unit numbering.

Unit numbers for each*manufactured home shall* be installed in accordance with §10-2083.1(c)(2).

(Ord. No. 1996-991-TC-141, §18, TC-14-96, 10-16-96)

(Ord. No. 1996-991-TC-141, §7, TC-14-96, 10-16-96; Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

(c) Utilities, Lighting, Sanitary Services, and Fire Protection.

All utility installations*shall* comply with applicable codes of the *City* , Wake *County* and *the State* of North Carolina, and the requirements of the North Carolina Utilities Commission.

(1) Utilities installation.

All utilities within the*manufactured home park shall* be installed underground in accordance with §10-3059.

(Ord. No. 1995-760-TC-122, §34, TC-20B-95, 11-21-95)

(2) Utilities.

Manufactured home space . Each *manufactured home space shall* be connected to all utilities provided including water and sanitary sewer.

(3) Water and sewer supply.

Each*manufactured home park shall* connect to the *City* water system, and either the *City* sewer system if available or a community sewer system. All sewage wastes from each *manufactured home park* including wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned *shall* be piped into the *manufactured home park* sewage disposal system or *City* utility system.

(Ord. No. 424-TC-224, §1, TC-260A, 10-7-84)

(4) Street lights.

A system of*street* lights *shall* be installed meeting the minimum standards of §10-3059 of this Code.

(Ord. No. 1995-760-TC-122, §34, TC-20B-95, 11-21-95)

(5) ***Refuse*** **Removal.**

In those*manufactured housing parks* located outside the *City,* all garbage and *refuse shall* be regularly disposed of in a manner acceptable to the Wake County Health Department. *Refuse* collection facilities *shall* be provided and designed in accordance with the Solid Waste Collection Design Manual, as amended.

Cross reference: Solid Waste collection, Part 7, chapter 2.

Wake County Board of Health Regulation reference: **Mobile home park and Recreational Campground restrictions, sections 6 and 7.**

(Ord. No. 2000-786-TC-194, TC-1-2000, §5, 5-2-00

(6) Fire protection.

a. Fire hydrants*shall* be spaced no greater than five hundred (500) feet apart, located adjacent to the *street* . All portions of every *manufactured home shall* be within a radius of three hundred fifty (350) feet from a fire hydrant.

b. Fire hydrants must be on a loop water system; however, dead-end fire line*shall* be allowed up to eight hundred (800) feet in length.

c. Fire lines must be constructed pursuant to §8-2007. The flow from a fire hydrant*shall* be a minimum of seven hundred fifty (750) gallons per minute (gpm) at twenty (20) psi residual for two (2) continuous hours.

(Ord. No. 424-TC-224, §2, TC-260A, 10-7-84; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(d) Open Space Standards.

(1) Minimum acreage required.

The required minimum outdoor open space provided for a*manufactured home park shall* be the greater of either:

a. Ten (10) per cent of the land area of the development, excluding dedicated rights-of-way unless density transfer is allowed from that right-of-way, or

b. One-hundredth (.01) of an acre per unit (435.6 square feet per unit).

Required minimum open space*may* be conveyed to the government without reimbursement as part of a greenway easement. No off- *street* parking, drives or *buildings shall* be located in the open space, except for recreational facilities.

Cross reference: Greenway residential density transfer, §10-2074(c). Greenway dedication and reimbursement, §10-3022.

If the open space is nongovernmental owned, nongovernmental recreational facilities, including driveways and off-*street* parking required to serve the recreation facilities, *may* be placed within the required open space, in accordance with *recreational use related to a residential development* , other than a *single-family dwelling* , §10-2072. If the open space is governmental owned, governmental recreation facilities *may* be placed in the open space.

(2) Open space configuration.

The minimum average open space quotient*shall* not be less than seventy-five (75) feet, except the average minimum open space quotient *shall* not apply to parks or greenways dedicated to the *City* . The minimum average open space quotient *shall* be determined by dividing the square footage of the open space *used* to satisfy the requirement in subsection (1) above, by one-quarter (1/4) of the lineal footage of its periphery.

A minimum of one-third (1/3) or two (2) acres, whichever is less, of the open space

required by subsection (1) above, *shall* be in one (1) continuous part with a maximum average slope of eight (8) per cent.

(3) Location.

The open space required in subsection (1) above*shall* be contiguous with the *manufactured home park* . In such cases where a *manufactured home park* is divided by a *thoroughfare* the amount of required open space for the tracts created by the *thoroughfare* *shall* be allotted to those tracts in the same proportion as the units approved to be located on each tract.

(Ord. No. 211-TC-317, §2, TC-10-88, 7-10-88; Ord. No. 29-TC-294, §5, TC-14-87, 12-1-87; Ord. No. 1995-760-TC-122, §32, TC-20B-95, 11-21-95; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(e) Floodplain Evacuation Plan.

An evacuation plan must be filed with the Wake*County* Office of Emergency Preparedness indicating alternative vehicular access and escape routes from *manufactured home parks* located within floodprone areas.

(Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Cross reference:*Manufactured home* in floodprone area, §10-6172. Replacement of *zoning nonconforming manufactured homes* that fail to meet federal *manufactured home* construction and safety standards §10-2146.2(a)(6). Repair of *zoning nonconforming manufactured homes* that fail to meet safety standards of the **Housing Code** or **North Carolina Building Code** §10-2146.2(a)(9).

Sec. 10-2106. MANUFACTURED HOME SUBDIVISION.

Manufactured home subdivisions *shall* meet all of the *following* :

(a) A*manufactured home subdivision* *shall* be at least ten (10) acres in size and *shall* be devoted to *dwellings* , including *manufactured homes* , and *may* contain one (1) or more of the *following* uses:

(1) Laundry, sanitation and vending machine sales for the use and convenience of the*manufactured home* occupants.

(2) *Recreational use related to a residential development* other than a *single-family dwelling unit* .

(3) *Accessory uses* , *structures* , *buildings* , and *landfills (on-site debris)* .

Property in excess of the required ten (10) acres *may* on separate *lots* contain any use allowed in the applicable zoning district(s) within the *manufactured home subdivision* .

(Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

(b) Residential Density, Setback, and Other Regulations.

(1) Residential density and setbacks.

The yard setbacks, minimum*net lot areas* , and residential density *shall* be determined by the applicable zoning district, in accordance with §10-2075 and §10-2073, provided that the exceptions for a *townhouse development* , in §10-2075(d)(2), and §10-2073(d)(6), *shall* not apply. If the *manufactured home subdivision* is also a part of a *cluster unit development* , the density and yard setback exceptions of a *cluster unit development* are applicable.

(2) Subdivision standards.

A*manufactured home subdivision* *shall* meet all the requirements of Part 10, chapter 3

of this Code.

(3) ***Streets*** .

Each*lot* within a *manufactured home subdivision* *shall* *front* on a public *street* .

(Ord. No. 440-TC-345, §1, TC-3-89, 10-3-89; Ord. No. 1993-223-TC-61, §3, TC-15-93, 7-6-93)

(4) Installation.

All*manufactured homes* installed in *manufactured home subdivisions* *shall* comply with all local, state, and federal rules and regulations applicable to the installation and occupancy of *manufactured homes* .

Cross reference: Adoption of*manufactured home* standards approved by HUD, Part 10, chapter 6, Article I.

(5) Preparation of ***lot*** .

The surface of each*lot* which will contain a *manufactured home* *shall* have a *manufactured home stand or pad* graded for proper drainage and covered by a paved slab or compacted earth, gravel or crushed stone adequate to meet the Building Code requirements for foundation footings for *manufactured homes* . The remainder of the *lot* *shall* be graded for proper drainage and graded areas grassed or otherwise provided with protective cover to prevent erosion.

(6) Skirting.

Skirting*shall* be installed around all sides of a *manufactured home* . Skirting *shall* consist of any rigid weatherproof material providing a solid barrier between the underside of the *manufactured home* and the stand.

(7) Signage.

Tract identification*signs* that meet the standards of §10-2083.2(n) are permitted.

(Ord. No. 1993-207-TC-59, §17, TC-12-93, 6-1-93)

(Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

(c) Floodplain Evacuation Plan.

An evacuation plan must be filed with the Wake*County* Office of Emergency Preparedness indicating alternative vehicular access and escape routes from *manufactured home subdivisions* located within floodprone areas.

Cross reference:*Manufactured home* in floodprone area, §10-6172. Replacement of *zoning nonconforming manufactured homes* that fail to meet federal *manufactured home* construction and safety standards, §10-2146.2(a)(6). Repair of *zoning nonconforming manufactured homes* that fail to meet the **Housing Code** or **North Carolina Building Code** , §10-2146.2(a)(9).

(Ord. No. 389-TC-220, §1, TC-267, 8-12-84; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

Sec. 10-2107. MULTI-FAMILY DWELLING DEVELOPMENT.

A*multi-family dwelling* is any *dwelling* located on its own separate *lot* which contains two (2) or more *dwelling units* , whether an *apartment house* , condominium, *duplex* , cooperative, or any other *multi-family dwelling* . *Multi-family dwellings* *shall* meet all of the *following* :

(a) ***Streets*** **, Open Space/Natural Areas, Stormwater Management, Refuse Removal, Fire Protection and Identification.**

Multifamily dwelling developments *shall* meet the *following* provisions of *group housing*

developments : §10-2103(c), (d), (e), (f), and (g).

(Ord. No. 946-TC-164, §10, TC-213, 7-22-82; Ord. No. 319- TC-335, TC-29-88, 2-26-89; Ord. No. 440-TC-345, §12, TC-3- 89, 10-3-89; Ord. No. 946-TC-164, §2, TC-213, 7-22-82; Ord. No. 151-TC-188, §2, TC-241, 7-19-83; Ord. No. 424-TC-224, §5, TC-260A, 10-7-84; Ord. No. 76-TC-302, §§4, 5, TC-23- 87, 11-9-87; Ord. No. 592-TC-240, §§2, 3, TC-9-85, 6-18-85; Ord. No. 1998-370-TC-167, §25, TC-3-98, 7-7-98)

(b) Yard Setbacks.

(1) General setbacks.

Multi-family dwellings *shall* comply with the district yard setback and *yard area* requirements of §10-2075.

(2) Special setbacks.

a. If the main entrance to a*dwelling* or a *dwelling unit* is on the *building* wall not facing a public *street* , the yard setback from that side of the *dwelling* *shall* be at least the size of the required district *corner lot side yard* setback for the zoning district in which the *dwelling* is located, or ten (10) feet, whichever is greater. All other walls of the *dwelling* which have any entrances and exits, and do not face on a public *street* , *shall* have a minimum yard setback at least one-half (1/2) the required district *rear yard* setback for the zoning district in which the *dwelling* is located, or ten (10) feet, whichever is greater.

In those multi-family developments which contain private*streets* , *multi-family dwellings* *shall* be set back at least ten (10) foot from the edge of a private *street* right-of-way or if no right-of-way exists, thirty (30) feet measured from the center line of the pavement of the private *street* .

(Ord. No. 1999-616-TC-181, §61, TC-3-99, 8-3-99)

b. Off-street parking spaces and driveways located in the minimum*front yard area* , or the ten-foot yard setback from the edge of the private *street* right-of-way or if no right-of-way exists, the thirty (30) foot yard setback required from a private *street* *shall* not occupy more than one-half (1/2) of the *yard area* , unless within underground parking areas.

(Ord. No. 880-TC-277, §5, TC-18-86, 10-27-86; Ord. No. 1999-616-TC-181, §62, TC-3-99, 8-3-99)

GRAPHIC LINK:Diagram: FRONT YARD SETBACK

(c) Special Standards in Certain Areas.

The minimum land area for a*multi-family dwelling* development in a Thoroughfare District is ten (10) acres.

In the Special Residential-30 District, developments with either three (3) or more*dwelling units* or *equivalent dwelling units* on a *lot* or with a residential density of more than twenty (20) dwelling units per net acre *shall* comply with the standards of §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a lot (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District." Certain multifamily dwelling development site plans are required to be approved by the Planning Commission or *City Council* in accordance with §10-2132.2(c)(1)g. and h.

No residential development which either exceeds fifteen (15)*dwelling units* per acre within the Office & Institution-1, Office & Institution-2 and Shopping Center zoning districts or which exceeds twenty (20) *dwelling units* per acre within the Thoroughfare zoning district *shall* be approved without the prior approval of a *site plan* in accordance with §10-2132.2.

No residential development considered an infill development in accordance with §10-2132.2(c)(1)h.*shall* be approved without the prior approval of a *site plan* in accordance with §10-2132.2.

(Ord. No. 1997-137-TC-153, §86, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §26, TC-3-98, 7-7-98; Ord. No. 2003-373-TC-231, §37, TC-23-02, 2-4-03)

(d) Water Supply.

Each*multi-family dwelling* with six (6) or more *dwelling units* *shall* be connected to the *City* utility system.

Cross reference:*Recreational use related to a residential development* , other than a *single-family dwelling unit* , *residential related services* , §10-2072.

Sec. 10-2108. RESIDENTIAL UNIT OWNERSHIP (CONDOMINIUM) DEVELOPMENT.

A residential*unit ownership (condominium)* *shall* consist of two (2) or more *dwelling units* or *equivalent dwelling units* , or *rooming units* , and *may* consist of one (1) or more *buildings* or structures, created in accordance with the North Carolina Unit Ownership Act.

Residential*unit ownership (condominium) developments* *shall* meet all the *following* standards:

(a) All new and expanded*unit ownership (condominium) developments* and all conversions of existing buildings to *unit ownership (condominium) developments* that require the approval of a site plan, pursuant to §10-2132.2, *shall* conform to all *street* , sidewalk, open space, storm drainage, and utility dedication and improvement requirements of Part 10, chapter 3, of this Code. *Unit ownership (condominium) developments* which subdivide land *shall* comply with the provisions of Part 10, chapter 3, of this Code.

Cross reference: Number of principal buildings or uses on a lot, §10-2088.

(Ord. No. 1995-760-TC-122, §36, TC-20B-95, 11-21-95)

(b) Existing*buildings* which are *zoning nonconformities* *may* be converted to condominiums provided that the *dwelling units* , *equivalent dwelling units* , or *rooming units* comply with the residential density and maximum *net lot area* provisions of §10-2073, and if any improvements, renovations, or expansions are made, the provisions of §10-2146 et seq. are met.

(c) All condominium developments containing a *dwelling* or *rooming unit* including their *accessory uses* built after application of this section* *shall* conform to *group housing development* standards, §10-2103, except:

(1) condominium units located within*cluster unit developments* with only one (1) or two (2) *dwelling units* in a single *dwelling* on one (1) *lot* *may* conform to the yard setbacks of §10-2101(b)(6)c., d., in lieu of §10-2103(b)(2); and

(2) two (2) or more condominium units located within a single*dwelling* on one (1) *lot* , *shall* comply with *multi-family dwelling* development standards, §10-2107.

*Editor's note: This subsection was first applied on*May* 3, 1983 (Ord. No.1983-166-TC-194).

(Ord. No. 1998-370-TC-167, §27, TC-3-98, 7-7-98)

(d) Condominium developments*shall* not be located within a *primary reservoir watershed protection area* .

(e) Access to a condominium development as a whole*shall* be from any public *street(s)* , or from private *street(s)* approved as part of a *townhouse, cluster unit* , or condominium development, so long as the *property* within the condominium development which gains access by a private *street* is part of the *owner* s association which controls that *street* , and

so long as the *condominium development* contains only *apartment houses* , *rooming units* , open space, *recreational uses related to residential development* , and *residential related services* . Otherwise, access to the condominium development as a whole *shall* be from public *street(s)* .

Access to each*apartment house* , *rooming unit* , open space area, *recreational use related to residential development* , and *residential related service* within the development *may* be from private or *public streets* , meeting the standards of Part 10, chapter 3. Other uses within the development *shall* gain access from a public *street* . All detached *single-family dwellings, manufactured homes* , and two (2) attached *single-family dwellings shall* gain access from a public *street* .

Notwithstanding the foregoing paragraphs, condominium developments approved prior to August 1, 1993,*may* utilize private *streets* providing access to *dwellings* .

(Ord. No. 2000-734-TC-189, TC-2-00, §2, 2-15-00)

(f) In a Thoroughfare District the minimum land area for a residential condominium*shall* be ten (10) acres.

In the Special Residential-30 District, developments with either three (3) or more*dwelling units* or *equivalent dwelling units* on a *lot* or with a residential density of more than twenty (20) *dwelling units* per net acre *shall* comply with the standards of §10-2072(b), "Additional *dwelling units* or *equivalent dwelling units* on a *lot* (three (3) or more) or additional residential density (greater than twenty (20) but not greater than thirty (30) *dwelling units* per net acre), or both, in the Special Residential-30 District."

Cross reference: Other unit ownership requirements, §10-3073.*Recreational use related to a residential development* other than a *single-family dwelling unit* , *residential related services* , §10-2072.

(Ord. No. 31-TC-296, §80, TC-16-87, 12-1-87; Ord. No. 511- TC-232, §7, TC-270, 3-26-85; Ord. No. 166-TC-193, §3, TC-244, 8-2-83; Ord. No. 1993-223-TC-61, §4, TC-15-93, 7-6-93; Ord. No. 1995-760-TC-122, §37, TC-20B-95, 11-21-95; Ord. No. 1997-137-TC-153, §87, TC-18-96, 6-17-97)

(g) As part of the contents of the declaration of unit ownership, which is required by*State* law to be filed with the Wake County Registry, the declaration *shall* contain the *following* :

(1) The definition of common elements*shall* state that water lines and sewer lines located outside public *street* rights-of-way and *City* utility easements are common elements;

(2) The definition of common expenses*shall* state that ad valorem taxes, public assessments, or governmental liens levied against the common elements are common expenses; and

(3) A statement that conforms to Raleigh*City* Code provision §10-3074(b) if the *unit ownership (condominium) development* or part thereof is served by any private *street* .

(Ord. No. 1995-760-TC-122, §35, TC-20B-95, 11-21-95)

Sec. 10-2109. TOWNHOUSE DEVELOPMENT.

A*townhouse development shall* consist of one (1) or more *single-family dwelling units* , where land underneath each *dwelling unit* is sold with that *dwelling unit* , developed in accordance with chapter 3, Part 10 of this Code.

Townhouse developments shall meet all the *following* standards:

(a) *Dwellings* and their *accessory uses* are exempt from the Schedule of Zoning District Yard

Setbacks, §10-2075(b).

(b) The standards, including open space requirements, for*group housing developments* set forth in §10-2103 *shall* be applicable to all open space areas *dwellings* and their *accessory uses* .

(Ord. No. 1995-760-TC-122, §39, TC-20B-95, 11-21-95)

(c) *Lots* containing *single-family dwelling units* *may* be reduced below the minimum *net lot area* size that would otherwise be required within the *townhouse development* so long as portions of the development segmented by public *streets* , and the overall *townhouse development* , complies with the residential density and minimum *net lot areas* required by the applicable zoning district on the **Schedule of Minimum Net Lot Areas for Dwelling Units and Equivalent Dwelling Units** , §10-2073(b).

(d) Access to the *townhouse development* as a whole which contains structures containing three (3) or more *dwelling units* , open space, *recreational use related to residential developments* , and *residential related services* *may* be from private *streets* , approved as part of another *cluster unit development* , townhouse or condominium development, so long as the *property* within the *townhouse development* is part of the *owner* s association which controls the private *street* (s). Otherwise, the access to the *townhouse development* as a whole *shall* be from public *streets* .

Access to each*lot* within the *townhouse development* *used for* a structure containing three (3) or more *dwelling units* , open space, *recreational use related to residential development* , and *residential related service* *may* be from private *streets* . Access to no more than one (1) structure or fifteen (15) per cent of the total number of *dwelling units* within the *townhouse development* devoted to two (2) attached *single family dwellings,* whichever is greater, *may* be from one (1) or more private *streets.* Access to other uses within a *townhouse development* , including all detached *single-family dwellings* , and all other two (2) attached *single-family dwellings* , *shall* be from public *streets* , unless explicitly permitted otherwise by this Code.

Notwithstanding the foregoing paragraphs,*townhouse developments* approved prior to August 1, 1993, *may* utilize private *streets* providing access to *single-family dwellings* and two (2) attached *single-family dwellings* .

All private*streets* *shall* meet the standards of §10-3072(b)(3).

(Ord. No. 1993-223-TC-61, §5, TC-15-93, 7-6-93; Ord. No. 2002-152-TC-213, §§1--3, TC-13-01, 2-5-02)

(e) *Townhouse developments* *shall* not be located within a *primary reservoir watershed protection area* .

(f) At no time*shall* more than fifty (50) per cent of the *dwellings* within a *townhouse development* be detached *dwellings* .

(g) In the Thoroughfare District the minimum land area for a*townhouse development* *shall* be ten (10) acres.

(h) All*townhouse developments* *shall* conform to the requirements of §10-3072 and §10-3073.

Cross references:*Recreational use related to a residential development* other than a *single-family dwelling unit* ; *residential related services* , §10-2072.

(Ord. No. 511-TC-232, §7, TC-270, 3-26-85; Ord. No. 667-TC- 140, TC-F-81, 5-19-81; Ord. No. 1992-111-TC-42, §49, TC-19-92, 12-8-92; Ord. No. 1995-760-TC-122, §38, TC-20B-95, 11-21-95)

Secs. 10-2110--10-2120. RESERVED.

ARTICLE G. PLANNED NONRESIDENTIAL DEVELOPMENT REGULATIONS.

Sec. 10-2121. MIXED USE DEVELOPMENT MASTER PLAN.

A*mixed use development Master Plan* is a planned, unified development of at least twenty (20) contiguous acres, approved as a *Master Plan* by *City Council* .

The objectives of the*mixed use development Master Plan* are to promote transit usage, more usable open space, affordable housing, preserve land for economic base uses, facilitate the more economic arrangement of *buildings* , preserve irreplaceable or significant natural features, protect roadway corridors from strip development, contain innovative architectural elements and design, and provide community-wide public services and amenities.

A*mixed use development Master Plan shall* meet all the *following* :

(Ord. No. 1997-137-TC-153, §88, TC-18-96, 6-17-97)

(a) The development contains at least twenty (20) contiguous acres zoned Thoroughfare or Industrial-1 and 2 Districts, or any combination thereof.

(b) The development exhibits a mixture of land use categories allowed in the applicable zoning district, provided that no more than ten (10) acres or thirty (30) per cent of the land area, whichever is greater,*shall* be devoted to any combination of retail uses as defined in §10-8002, and *hotels* and *motels* . The land area limitations of the foregoing sentence *may* be increased if the *City Council* , based on the evidence provided, finds that additional retail or *hotel/motel* use allows the development to better achieve the objectives of the *Master Plan* listed above.

(Ord. No. 1995-595-TC-108, §1, TC-11-95, 4-4-95; Ord. No. 1997-137-TC-153, §88, TC-18-96, 6-17-97)

(c) The*Master Plan shall* be approved by *City Council* in accordance with §10-2132.2.

(Ord. No. 1997-137-TC-153, §88, TC-18-96, 6-17-97)

(d) The*Master Plan* is required by a Conditional Use Thoroughfare, Industrial-1, or Industrial-2 District enacted prior to March 1, 1992, or an amendment is being made to a *Master Plan* adopted prior to March 1, 1992.

(Ord. No. 1991-868-TC-378, §4, TC-9-91, 3-1-92; Ord. No. 70-TC-300, TC-21-87, 1-1-88)

Sec. 10-2122. NONRESIDENTIAL UNIT OWNERSHIP (CONDOMINIUM) DEVELOPMENT.

A nonresidential*unit ownership (condominium) shall* not contain any *dwelling units* , and *may* consist of one (1) or more *buildings* , structures, or uses created in accordance with the North Carolina Unit Ownership Act.

A nonresidential*unit ownership (condominium) development shall* meet all the *following* :

(a) All new and expanded*unit ownership (condominium) developments* and all conversions of existing buildings to *unit ownership (condominium) developments* that require the approval of a site plan, pursuant to §10-2132.2, *shall* conform to all *street* , sidewalk, open space, storm drainage, and utility dedication and improvement requirements of Part 10, chapter 3, of this Code. *Unit ownership (condominium) developments* which subdivide land *shall* comply with the provisions of Part 10, chapter 3, of this Code.

Cross reference: Number of principal buildings or uses on a lot, §10-2088.

(Ord. No. 1995-760-TC-122, §§36, 40, TC-20B-95, 11-21-95)

(b) Access to a condominium development as a whole*shall* be from public *streets* . Access to each *building* within the development *may* be from private or public *streets* , meeting the standards of Part 10, chapter 3.

(c) Existing*buildings* which are *zoning nonconformities* *may* be converted to condominiums provided that any improvements, renovations, or expansions must comply with §10-2146 et seq.

(d) Condominium developments are not permitted within a*primary reservoir watershed protection area* .

Cross reference: Number of*principal buildings or uses* on a *lot* , §10-2088.

(Ord. No. 1995-760-TC-122, §41, TC-20B-95, 11-21-95)

(e) As part of the contents of the declaration of unit ownership, which is required by*State* law to be filed with the Wake County Registry, the declaration *shall* contain the *following* :

(1) The definition of common elements*shall* state that water lines and sewer lines located outside public *street* rights-of-way and *City* utility easements are common elements;

(2) The definition of common expenses*shall* state that ad valorem taxes, public assessments, or governmental liens levied against the common elements are common expenses; and

(3) A statement that conforms to Raleigh*City* Code provision §10-3074(b) if the *unit ownership (condominium) development* or part thereof is served by any private *street* .

(Ord. No. 1995-760-TC-122, §35, TC-20B-95, 11-21-95)

Sec. 10-2123. OFFICE CENTER.

A planned, nonresidential unified development which includes office uses and which contains more than one (1)*principal use* or *building* on one (1) *lot* is an *office center* .

An*office center* in an office and institution district *may* qualify for a nonresidential related service facility under §10-2072.

Cross reference:*Principal building or use* on a *lot* , §10-2088.

An*office center* *shall* meet all the *following* :

(a) *Principal uses* are limited to those permitted in the office category set forth in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071.

(b) The*office center* is located on one (1) *lot* of at least two and one-half (2 1/2) acres in size, and contains at least two (2) *buildings* totalling at least thirty thousand (30,000) square feet of *floor area gross* .

(c) The*office center* is under one (1) ownership.

The preliminary*site plan* *shall* exhibit *unity of development* and provide for unified overall site improvements, vehicular *access points* , and pedestrian movements.

Cross reference: Definition of*floor area ratio* applied to offices §10-2002.

(Ord. No. 1997-137-TC-153, §90, TC-18-96, 6-17-97)

(d) Approval Process.

An*office center shall* receive final *site plan* approval by the *City* administration in accordance with §10-2132.2(i) unless:

(1) The *office center* contains any *building(s)* with an occupiable room as defined in the **North Carolina State Building Code which is eighty (80) feet in height or higher, in which case it *shall* be approved by the *City Council* in accordance with §10-2132.2; or**

(2) Any portion of the*office center* is within four hundred (400) feet of a *residential zoning district* , or the lot line of a *lot* containing any *dwelling, congregate care or congregate living structure* , in which case it *shall* be approved by the Planning Commission or the *City Council* in accordance with §10-2132.2.; or

(3) The*office center* is located in the downtown area set forth in §10-2132.2(b)(4).

(Ord. No. 1997-137-TC-153, §89, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §63, TC-3-99, 8-3-99)

Sec. 10-2124. SHOPPING AREA AND SHOPPING CENTER.

A planned, unified development which includes retail uses*may* contain more than one (1) *building* or *principal use* on a *lot* if the development is a *shopping area* or *shopping center* , and *may* reduce parking in accordance with the Schedule of Off-Street Parking Standards, §10-2081, if a *shopping center* .

Cross reference:*Principal building or use* on a *lot* , §10-2088.

(a) Shopping Area.

A planned unified development which meets all the*following* is a *shopping area* :

(1) It is located on one (1)*lot* of at least two and one-half (2 1/2) acres in size.

(2) It contains more than one (1)*building* or *principal use* , of least twenty-five thousand (25,000) square feet and the separate *principal buildings* or sites containing these *principal uses* cannot be sold separately.

(3) It contains at least one (1) retail establishment as a*principal use* , and the category of uses that *may* locate on the one (1) *lot* are limited to commercial, office, residential, recreational, and institutional/civic/services uses, as set forth in the Schedule of Permitted Land Uses in Zoning Districts, §10-2071.

(4) It is under one (1) ownership.

(Ord. No. 409-TC-49, TC-87, 1-14-77; Ord. No. 1997-137-TC-153, §91, TC-18-96, 6-17-97; Ord. No. 2001-934-TC-202, §3, TC-2-01, 2-6-01)

(b) Shopping Center.

A planned unified development, including*shopping areas* , which meets all the *following* is a *shopping center* :

(1) It contains at least three (3) establishments with either commercial or recreational uses. The*shopping center* *may* contain more than one (1) *lot* and other uses permitted by the applicable zoning district.

(2) It contains at least twenty-five thousand (25,000) square feet of*floor area gross* on a land area of at least two and one-half (2 1/2) acres in size.

Cross reference: Off-*street* parking §10-2081.

(Ord. No. 2001-934-TC-202, §4, TC-2-01, 2-6-01)

(c) **Approval Process.**

If located within a*City Council* -approved *Master Plan* , a final *site plan* , in accordance with §10-2132.2(i), *shall* be approved by the *City* administration. Otherwise, a preliminary *site plan shall* be approved by the *City Council* or the Planning Commission in accordance with §10-2132.2, and a final *site plan* thereafter *shall* be approved by the *City* administration. In determining the *site plan* approval entity pursuant to §10-2132.2, the square footage of any residential portion of a *shopping area* or *shopping center shall* be included with the square footage of the nonresidential portion of the *shopping area* or *shopping center.*

The*site plan* *shall* exhibit *unity of development* and provide for unified signage, parking, loading, utilities, and vehicular *access points* , drainage and sedimentation controls. No more than one (1) *ground sign* *shall* be permitted within a *shopping center* unless the *shopping center* is greater than fifty (50) acres in size and adjoins three (3) or more public *street frontages.* In this case, the *City Council,* after reviewing a plan showing the location, height, size and appearance of all proposed *ground signs* and following a recommendation by the Planning Commission, *may* approve one (1) of the *following* :

(1) More than one (1)*ground sign* , provided all *ground signs* within the *shopping center* are *ground low profile signs* on individual *lots* ; or

(2) One (1)*ground medium profile sign* [a maximum of ten (10) feet in height] to be located on each public *street frontage* , not to exceed a total of three (3) *ground profile signs* for the entire *shopping center* or *shopping area* ; or, for *shopping centers* and *shopping areas* greater than eighty (80) acres in size, a maximum of two (2) *ground medium profile signs* [a maximum of ten (10) feet in height] to be located on each public *street frontage* , not to exceed a total of five (5) *ground profile signs* for the entire development.

Cross reference: Payment of facility fees as a*shopping center* , §10-8004(e).

(Ord. No. 869-TC-379, §§4-6, TC-16-91, 12-1-91; Ord. No. 1994-515-TC-92, §2, TC-27-94, 12-13-94; Ord. No. 1997-137-TC-153, §91, TC-18-96, 6-17-97; Ord. No. 2001-934-TC-202, §5, TC-2-01, 2-6-01; Ord. No. 2003-501-TC-239, TC-9-03, §2, 9-2-03)

Secs. 10-2125--10-2130. RESERVED.

ARTICLE H. APPROVAL PROCEDURES.

Sec. 10-2131. PERMITS APPLICATION, AND ISSUANCE DURING PENDING OFFICIAL ZONING MAP AMENDMENT.

Applications for permits for use or construction*shall* be made as other building permits are applied for, to the Department of Inspections, which *shall* have authority to pass on them, issuing permits for those that conform to the provisions of this chapter.

No permit for the construction of a*building* , *sign* or use on any *property* *shall* be issued during the pendency of an application for an Official Zoning Map amendment of such *property* unless the proposed construction meets all the provisions of the existing zoning district(s), and also all the provisions of the proposed zoning district(s).

(Ord. No. 1979-982-TC-96, §25, 1-2-79; Ord. No. 1983-245-TC-205, §55, 12-6-83)

Sec. 10-2132. PLOT PLANS AND SITE PLANS REQUIRED.

Before any permit for the construction, moving, reconstruction, extension, repair, or alteration of any*building* , structure, *sign* , parking facility, or use of land, or change in occupancy type, as set forth in the North Carolina Building Code, is issued, whether for any *property* located within the *City* or within the *City's* extraterritorial jurisdiction, either a *plot plan* or a *site plan* in accordance with the provisions herein, *shall* be submitted to and approved by the *City* .

Sec. 10-2132.1. PLOT PLAN.

(a) None of the*following* uses *shall* occur without a *plot plan* being approved by the Inspections Department. A *plot plan* is either a one time improvement or change, or a series of improvements or changes, which singularly or taken together (collectively) meet one (1) or more of the *following* categories:

(1) Interior improvements, renovations, replacement or repairs to existing structures or*buildings* which do not require an increase in excess of ten (10) off-street parking spaces as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions, or any other reduction in parking, or the existence of any surplus parking.

(2) *Exterior feature* improvements, renovations, replacement or repairs to existing structures, or *buildings* which do not do any of the *following* :

a. Add to or expand the exterior of the*building* or structure.

b. Require an increase in excess of ten (10) parking spaces as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions or any other reduction in parking, or the existence of any surplus parking.

c. Demolish an existing*building(s).*

Cross reference: A certificate of appropriateness is required for historic*properties* or *properties* located in Historic Districts, Part 10, chapter 1, Article D and §10-2052.

(3) Changes in use or additions to use which do not do any of the*following* :

a. Require exterior additions or expansions.

b. Require an increase in excess of ten (10) off-street parking spaces as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions or any other reduction in parking, or the existence of any surplus parking.

c. Involve land-disturbing activities within an area forty (40) feet in width surrounding the perimeter of the tract except for necessary access.

(4) Expansions or creation of*vehicular surface areas* unrelated to any improvement, expansion, renovation, addition, replacement, repair to *buildings* or structures, change in use, or additional uses provided such *vehicular surface areas* do not do any of the *following* :

a. Exceed the greater of eighty (80) parking spaces of the existing*vehicular surface area* .

b. Does not exceed twenty-five thousand (25,000) square feet in area.

c. Involve land-disturbing activities within an area forty (40) feet in width surrounding the perimeter of the tract except for necessary access.

(5) Installation of fences, walls,*signs* , telecommunication towers, *dish antennas* , gazebos, cemeteries, carports, *utility services* , and *accessory uses* or *structures* which do not require an increase in off-street parking requirements as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions or any other reduction in parking, or the existence of surplus parking.

(6) *Display areas* of Christmas trees, greenery, and ornaments during the *month* of December.

(7) Additions or expansions to*single-family* and *multi-family dwellings* which do not require an increase in excess of ten (10) off-street parking spaces as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions or any other reduction in parking, or the existence of any surplus parking.

(8) Any other additions or expansions which do not do any of the*following* :

a. Require an increase in excess of ten (10) off-street parking spaces as determined from §10-2081(a) notwithstanding any variances, tree credits, nonconformities, exceptions or any other reduction in parking, or the existence of any surplus parking.

b. Exceed three thousand (3,000) square feet, or five (5) per cent of the*floor area gross* , whichever is greater.

c. Involve land-disturbing activities within an area forty (40) feet in width surrounding the perimeter of the tract except for necessary access.

(9) *Plot plans* for temporary events approved in accordance with §10-2072(b) lasting more than one (1) day or occuring more than three (3) times in any one (1) calendar *year* on any *premise* provided that the number of *access points* are not increased.

Cross reference: Building Code, Electrical Code, and Plumbing Code compliance required, Part 10, Chapter 6, Article A.

(Ord. No. 474-TC-348, §§2-7, TC-12-89, 1-2-90; Ord. No. 278-TC-326, §9, TC-18-88, 11-20-88; Ord. No. 1992-111-TC-42, §50, TC-19-92, 12-8-92; Ord. No. 1993-263-TC-65, §§6, 7, TC-19-93, 9-21-93; Ord. No. 1993-296-TC-68, §9, TC-23-93, 12-7-93; Ord. No. 1999-616-TC-181, §§64, 65, TC-3-99, 8-3-99; Ord. No. 2002-181-TC-215, §2, TC-7-02, 4-2-02; Ord. No. 2007-178-TC-300, §6, TC-19-06, 3-6-07)

(b) Data for ***Plot Plans*** .

Each application for a permit for any of the activities listed in subsection (a) above*shall* contain such information as *may* be necessary to enable the Department of Inspections to determine whether the application complies with the provisions of this Code and *shall* be accompanied by a *plot plan* , in duplicate, drawn to such scale as the Department of Inspections *may* require showing the *following* :

(1) North point with north being at the top of the*plot plan* .

(2) Location and orientation of the*lot* built upon, or to be *used* or to be built upon including names of all *streets* and number of traffic lanes upon which the *lot* abuts or obtains access to and from.

(3) Dimensions and acreage of the*lot* built upon, or to be *used* or to be built upon.

(4) The size, square footage, location and height of all existing and proposed*buildings* and structures, including projections such as chimneys, bay windows, patios, decks, porches, *eaves* , carports, awnings, or stoops and distances from closest point to *property* lines.

(5) Zoning boundaries.

(6) Location of existing and proposed required yards, including district yard setbacks,*protective yards* , cluster building envelopes, group housing yard spaces, flood hazard and flood storage areas, sight triangles, *natural resource buffer yards* , *thoroughfare protective yards* , *major access corridor yards* , common areas, easements, *vehicular surface areas* , outdoor residential living areas in residential developments required to comply with *group housing developments* , and rights-of-way.

(7) Plantings required by this Code.

(8) The*plot plan* *shall* indicate the scale of the drawing, the date of the drawing, the *signature* of the *person* who prepared the drawing, the subdivision name, phase, recorded *lot* number, and address. The *plot plan* *shall* be accompanied by such other information as the Department of Inspections *may* require to enable it to act upon the permit application. The Inspections Department *may* waive any of the various drawings and submissions when it is determined that such information is unnecessary for its review of the *plot plan* .

Unless otherwise requested by the Inspections Department,*plot plan* drawings *shall* be waived for interior improvements and repairs which, in any twelve-month period, do not exceed fifteen (15) per cent of the tax value of the structure or fifteen (15) per cent of the insurance value for structures which have no listed tax value.

(Ord. No. 415-TC-343, §8, TC-1-89, 8-1-89)

(c) Approval of ***Plot Plans*** .

The Department of Inspections*shall* not issue any permit unless the plans, specifications, and intended uses conform in all respects to the provisions of this Code. If an application does not conform to the provisions of this Code, it *shall* be disapproved by the Department of Inspections, which *shall* notify the applicant *in writing* , with the reasons for the disapproval.

(d) No approval of a*plot plan* *shall* be conditioned to require *street* , open space, drainage, or utility dedications or improvements.

Cross references: Fences and walls, §10-2085;*signs* , §10-2083 and §10-2084; *dish antennas* ,§10-2072; telecommunication towers, §10-2145.

(e) Sunset Date for Telecommunication Tower ***Plot Plan.***

Except if a longer time period is established when the special use permit, §10-2145(b) "Telecommunication tower" is initially approved, within one year after approval of a special use permit the tower*shall* be installed and operational, or the special use permit and any related *plot plan shall* be void, unless prior to its expiration this time period is extended by the *City Council* as part of an amended special use permit. Within six months after approval of a *plot plan* for a telecommunication tower which must comply with §10-2072 "Telecommunication tower less than two hundred and fifty (250) feet in height located within either a *nonresidential district* (other than a Conservation Management District) or located on a *residential institution premises.",* the tower *shall* be installed and operational or the *plot plan* shall be void.

(Ord. No. 2000-732-TC-188, TC-17-99, §9, 2-15-00)

Sec. 10-2132.2. SITE PLAN.

(a) General Procedures.

For all uses that do not require a*plot plan* a preliminary *site plan* , a final *site plan* , or both is

required. If both a preliminary and a final *site plan* are required, applicants *may* choose to include final *site plan* data on their preliminary *site plans* provided such choice is clearly shown on the *site plan* to the reviewing body.

No preliminary or final*site plan* will be approved unless it conforms with all *street* , sidewalk, open space, drainage, and utility dedication, and improvement requirements of Part 10, chapter 3 of this Code. If an application for any preliminary *site plan* is disapproved, the applicant *shall* be notified *in writing* of the reasons for the disapproval.

Site plans *may* be approved by the *City Council* , the Planning Commission or the City Administration depending on the regulations of §10-2032 et seq.

(Ord. No. 474-TC-348, §11, TC-12-89, 1-2-90; Ord. No. 1992-111-TC-42, §51, TC-19-92, 12-8-92; Ord. No. 1997-137-TC-153, §92, TC-18-96, 6-17-97)

Annotation:*Site plan* approval. A motorized vehicle from which goods and services or merchandise are sold or stored or from which a business is conducted *may* not be located without first obtaining *site plan* approval. A-23-81 Brantley, Board of Adjustment (Feb. 9, 1981).

(b) ***City Council* Approval of *Site Plans* and *Mixed Use Development Master Plans.***

All*mixed use development Master Plans* and the *following* *site plans shall* receive preliminary review pursuant to the standards of subsection (d), below, by the *City Council* after a recommendation thereon has been made by the City Planning Commission. A final *site plan (s)* is required for all preliminary *site plans* and all *mixed use development Master Plans* approved by the *City Council* . For a *Master Plan* approved as part of a Planned Development Conditional Use Overlay District, a final *site plan(s)* is required, but no preliminary *site plan* review is required. Final *site plans shall* be reviewed by the *City* administration. For properties located within a Transit Oriented Development Overlay District, *City Council* approval of *site plans shall* not be required, but preliminary *site plans shall* be reviewed by the *City* administration.

(1) *Shopping centers* and *Shopping areas* :

a. That are equal to or greater in*floor area gross* than one hundred thirty thousand (130,000) square feet; or

b. That are less in*floor area gross* than one hundred thirty thousand (130,000) square feet and located within four hundred (400) feet of any *residential district* , or any *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or both.

(2) The*following* uses:

a. That are greater than seventy thousand (70,000) square feet gross; or

b. Located within four hundred (400) feet of any*residential district* , or the *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or both and are greater than twenty-five thousand (25,000) square feet.

- Bank - With drive-thru and/or automated teller machine (detached);

- Bar, nightclub, tavern, lounge;

-*Eating establishment* (all categories), except as approved as a *Nonresidential Related Service* within the O&I-1, O&I-2, O&I-3 districts;

-*Food store - retail;*

- Movie theater-indoor;

- Movie theater-outdoor within the Thoroughfare, Industrial-1, and Industrial-2 districts;

- Plant nursery, fruit and vegetable stand except in the Rural Residential district;

-*Recreation outdoor use* - commercial within the Thoroughfare, Industrial-1, and Industrial-2 districts;

-*Retail sales* as shown on §10-2071, Schedule of Permitted Land Uses in Zoning Districts, including *vehicular display areas.*

(3) *Buildings* eighty (80) feet or more in height which contain any occupiable room as defined in the **North Carolina State Building Code.**

(4) Site plans within an area bounded by Peace Street, Person Street and Boundary Street on the north, East Street on the east, Martin Luther King, Jr. Boulevard on the south, and on the west, north on Person Street, west on South Street to the western edge of the East Raleigh - South Park National Register Historic District and to continue in a north - northeasterly direction by following the western edge of the East Raleigh - South Park National Register Historic District to Bloodworth Street, north on Bloodworth Street, west on Edenton Street, north on Person Street, west on Jones Street, north on Blount Street, west on Lane Street, north along the western boundaries of 301 and 309 N. Blount Street (DB 5012/PG 370), west on North Street, north on Wilmington Street to Peace Street, except:

a. *Site plans* containing six (6) or fewer dwelling units or rooming units; provided that no *City Council site plan* is approved in accordance with §10-2051 (e)(2)a.; or

b. *Site plans* located on the following properties: 121 E. South Street (DB 7178/PG 817), 125 E. South Street (DB 7255/PG 548), 301 E. South Street (DB 5039/PG 575), 0 E. Lenoir Street (DB 11036/PG 161), 222 E. Lenoir Street (DB 10857/PG 824), 309, 313, 317 E. Lenoir Street and 0, 526 S. Bloodworth Street (DB 11036/PG 161), 521 S. Person Street (DB 11246/PG 754), 525 S. Person Street (DB 8100/PG 209) and 527 S. Person Street (DB 8187/PG 1702).

GRAPHIC LINK:(Map of) HISTORIC DOWNTOWN EAST: PRELIMINARY SITE PLAN APPROVAL BY CITY COUNCIL

(5) Power plants relying on wind, solar or water, located within a*residential district* .

(6) *Emergency shelter type A.*

(7) The singular or collective expansion(s) of an approved or existing *building* , structure or use listed in this subsection (b), which cannot be approved by the *City* administration in accordance with §10-2132.2(i)(2).

(8) *Site plans* and subdivisions within Metro-Park Protection Overlay Districts, other than *site plans* and subdivisions for *single-family detached dwellings* their *accessory uses* , and recreational uses related to and used exclusively by a single-family development, such as a clubhouse, and *site plans* for temporary events approved in accordance with §10-2072(b).

(9) Downtown Overlay District and Pedestrian Business Overlay Districts - additional residential density, additional residential density for conversions of*building(s*) to *dwelling(s)* , reductions in *net lot area* for *dwellings* , allow *dwellings* and *lodging units* within new and existing hotels and motels and allow *dwellings, congregate care and congregate living structures, lodging units* and *equivalent dwelling units* within underlying industrial zoning districts.

(10) *Site plans* within the Downtown Overlay District for new structures, additions or expansions to existing structures, all in excess of ten thousand (10,000) square feet. For those *site plans* located within both the Downtown Overlay District and the area described by §10-2132.2(b)(4) above, excluding the exceptions provided for in §10-2132.2(b)(4)a. and b., preliminary review pursuant to the standards of subsection (d), below, by the *City Council* after a recommendation thereon has been made by the *City* Planning Commission *shall* be required.

(Ord. No. 869-TC-379,§§9-12, TC-16-91, 12-1-91; Ord. No. 474-TC-348, §§8, 9, TC-12-89, 1-2-90; Ord. No. 415-TC-343, §§9, 10, TC-1-89, 8-1-89; Ord. No. 390-TC-340, §§4, 5, TC-14-88, 7-20-89; Ord. No. 278-TC-326, §10, TC- 18-88, 11-20-88; Ord. No. 70-TC-300, §§4, 5, TC-21-87, 1-1-88; Ord. No. 1992-111-TC-42, §§52, 53, TC-19-92, 12-8-92; Ord. No. 1994-483-TC-90, §1, TC-16-94, 9-20-94; Ord. No. 1995-591-TC-104, §1, TC-6-95, 4-4-95; Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §§66, 67, TC-3-99, 8-3-99; Ord. No. 2003-394-TC-235, §1, TC-21-02, 3-4-03; Ord. No. 2004-596-TC-245, §9, TC-14-03, 4-6-04; Ord. No. 2004-649-TC-249, §1, TC-11-04, 6-1-04; Ord. No. 2004-746-TC-261, § 4, TC-20-04, 12-7-04; Ord. No. 2005-932-TC-275, §§25, 26, TC-6-05, 11-15-05)

(c) Planning Commission Approval of ***Site Plans.***

(1) Types of ***site plans.***

The*following site plans shall* receive preliminary review pursuant to the standards of subsection (d), below, by the Planning Commission as preliminary *site plans* . A *final site(s)* is required for all preliminary *site plans* approved by the Planning Commission. Final *site plans shall* be reviewed by the *City* administration. For properties located within a Transit Oriented Development Overlay District, Planning Commission approval of *site plans shall* not be required, but preliminary and final *site plans shall* be reviewed by the *City* administration.

a. *Shopping centers* and *shopping areas* less in *floor area gross* than one hundred thirty thousand (130,000) square feet and located four hundred (400) or more feet from any *residential district* , any *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or both.

b. The*following* uses that are located within four hundred (400) feet of a *residential district* , or a lot line of any *lot* containing any *dwelling, congregate care* or *congregate living structure* , or both and are twenty-five thousand (25,000) square feet or less:

- Bank - with drive-thru and/or automated teller machine (detached);

- Bar, nightclub, tavern, lounge;

-*Eating establishment* (all categories), except as approved as a *Nonresidential Related Service* within the O&I-1, O&I-2, O&I-3 districts;

-*Food store - retail;*

- Movie theater-indoor;

- Movie theater-outdoor within the Thoroughfare, Industrial-1, and Industrial-2 districts;

- Plant nursery, fruit and vegetable stand except in the Rural Residential district;

-*Recreation outdoor use* - commercial within the Thoroughfare, Industrial-1, and Industrial-2 districts;

-*Retail sales* as shown on §10-2071, Schedule of Permitted Land Uses in Zoning Districts, including *vehicular display areas.*

Irrespective of the location the development relative to*dwellings,* size of the development, and or size of expansion, a preliminary *site plan* approval by the Planning Commission is required [unless otherwise approved by *City Council* in accordance with §10-2132.2(b)(2)] if any of the above listed uses are located within a *city* or community focus area, as designated in the Comprehensive Plan, for which a finding has been made by the *City Council* that the amount of retail uses exceeds the guidelines in the Comprehensive Plan.

Cross reference: Approval of a*site plan* within a focus area that exceeds the retail use guidelines on the Comprehensive Plan, §10-2132.2(d)(2).

c. Banks with no drive-thru or auto teller machines, post offices and office uses and institution/civic/service uses as shown on §10-2071, Schedule of Permitted Land uses In Zoning Districts, that are greater than twenty-five thousand (25,000) square feet, and are located within four hundred (400) feet of any*residential district* , or any *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or both, except:

1. Accessory fund raising activity for*residential institutions* ;
2. *Accessory structure* ;
3. Cemetery;
4. Correctional/penal facility;
5. *Day care facility* in a *residential district* ;
6. *Specialty school* in a *residential district* or Residential Business District;
7. Temporary event;
8. *Veterinary hospital* with a kennel/cattery.

d. *Hotels or motels* that are greater than twenty-five thousand (25,000) square feet and are located within four hundred (400) feet of a *residential district* , or a lot line of any *lot* containing any *dwelling, congregate care* or *congregate living structure* , or both.

e. *Residential institution* in a *residential district* which cannot be approved by the *City* administration in accordance with §10-2072(b). If the *residential institution* is a *day care facility* for which a special use permit is required, then upon a finding by the Planning Commission that the requirements of 10-2144(b) " *Day Care Facility* (child or adult)", standards (2) through (10) inclusive are met, no special use permit issuance by the Board of Adjustment is required. If the *residential institution* is a private/parochial school for which a special use permit is required, then upon a finding by the Planning Commission that there is a minimum of five hundred (500) square feet of total land area per enrolled pupil, no special use permit by the Board of Adjustment is required.

f. The singular or collective expansion(s) of an approved or existing*building* , structure or use listed in this subsection (c), which cannot be approved by the *City* administration in accordance with §10-2132.2(i)(2).

g. Residential developments which either exceed fifteen (15) *dwelling units* per acre within the Office & Institution-1, Office & Institution-2 and Shopping Center zoning districts or which exceed twenty (20) *dwelling units* per acre within the Thoroughfare zoning district. For any residential development *site plan* subject to any provision of §10-2132.2(b)(3)--(5), the *City Council* and not the Planning Commission, *shall* be the final approving authority.

h. *Multifamily dwelling developments* , townhouse developments and *group housing developments* which are located within a *residential district* , which are less than five (5) acres in area, and at least sixty-six (66) per cent of the "periphery" of the development, including public right-of-way, abuts existing residential building *lots* containing a *single family* detached *dwelling* or a structure which was originally constructed as a *single family* detached *dwelling.* "Periphery" includes for purposes of this subsection *properties* both immediately abutting and across a public minor residential *street* , residential *street* , residential collector *street* , or collector *street* from the proposed development, all as defined in Part 10, Chapter 3.

i. The*following* uses, that do not otherwise qualify as a plot plan under section 10-2132.1, that are located within four hundred (400) feet of a *residential district* , or a *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure,* or both: *vehicular surface areas;* parking deck/garage.

j. All nonresidential*site plans* less than two (2) acres in size located adjacent to or within fifty (50) feet of a *thoroughfare* containing a *basal area* of thirty (30) square feet that fails to provide either:

1. A fifty (50) foot-wide*natural protective yard* along the *thoroughfare* ; or

2. A minimum average*natural protective yard* of fifty (50) feet wide along the *thoroughfare* with a minimum and maximum range of zero (0)--one hundred (100); provided, that the number of trees five (5) inches *DBH* or greater (15.625 inches in circumference or greater measured four and one-half (4 1/2) feet above the ground) situated in the proposed average yard, as determined by a tree survey submitted to the City, is not less than the number of such trees located within the required uniform fifty (50) foot wide *natural protective yard* of subsection (1) above; or

3. Tree conservation area pursuant to §10-2082.14et seq .

k. All nonresidential*site plans* less than two acres in size located within the fifty (50) foot wide buffer area for areas directly adjacent to any riparian surface water, as defined in Part 10 chapter 9, that fails to provide a fifty (50) foot wide *natural protective yard* in the riparian buffer.

l. *Site plans* within the Downtown Overlay District for changes of use to *buildings* in excess of ten thousand (10,000) square feet.

m. *Site Plans* within the Downtown Overlay District requested by landowners to apply the Raleigh Downtown Urban Design Guidelines.

(2) Review by the Planning Commission.

The Planning Commission*shall* conduct a hearing on each preliminary *site plan* , including the preliminary *site plans* to be forwarded to the *City Council* , at which time the applicant, and all proponents and opponents to the preliminary *site plan* will be given an opportunity to address the Planning Commission.

The applicant for the preliminary*site plan shall* send notice by first class mail, registered mail, or certified mail return receipt requested at least two (2) weeks prior to the scheduled hearing to all *owners* of the *property* within one hundred (100) feet on all sides of the *property* boundaries of the proposed preliminary *site plan* (not counting the *street* rights-of-way). The *City* will also post a sign(s) on the *property* , when possible, at a convenient location to provide visibility to *property owners* concerned with or affected by the proposed preliminary *site plan* .

(3) Action on the preliminary ***site plan.***

a. Certified action.

Following the hearing, subject to the provisions of subsection (c)(3)b. below, with two-thirds (2/3) of the membership of the Planning Commission both present and voting for the motion, the Planning Commission *may* approve, deny, or approve with conditions the preliminary *site plans* listed in §10-2132.2(c)(1) above. The action of the Planning Commission *shall* be set forth in *written* form as a certified action, stating the findings of the Commission. The certified action *shall* be signed by both the Planning Director and the chairperson of the Planning Commission.

Unless either an appeal is made pursuant to subsection (c)(3)b.2. or 3. or the preliminary*site plan* is required be transmitted to the *City Council* pursuant to subsection (3)b. below, the certified action of the Planning Commission *shall* be final and *shall* be effective on the fourth working day after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays.

b. Certified recommendation.

All other actions by the Planning Commission*shall* be in the form of a *written* certified recommendation to the *City Council* . All recommendations of the Commission *shall* contain findings and reasons for the recommended action. The *City Council* *may* approve, deny, or approve the certified recommendation with amendments.

Following Planning Commission review, the preliminary *site plan* *shall* be forwarded to the *City Council* with a certified recommendation by the Planning Commission if one (1) or more of the *following* are present:

1. The*site plan* requires approval of an encroachment into or over a public right-of-way pursuant to §12-1001 which must be approved by the *City Council* .

2. The action of the Planning Commission is not in accord with the administrative Development Plans Review Group recommendation, and the Planning Director does not sign the certified action within three (3) working days after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays.

3. Within three (3) working days after the date of the Planning Commission action, excluding Saturday, Sunday, and legal holidays, either the*owner(s)* of the subject *property* , or one (1) or more of the *owner(s)* of *property* within one hundred (100) feet of the subject *property* (not counting the *street* rights-of-way), file a *written* notice of appeal with the Planning Director, to transmit the *site plan* to *City Council* for final action. All appeals *shall* be *de novo* and *shall* be quasi judicial at the request of the appellant. The appeal *may* be heard by the entire City Council or a panel of not less than three (3) members.

4. The*site plan* requires *City Council* approval of reimbursement pursuant to §10-3022(e)(1), §10-3023(b)(2), §10-3024(b)(5), §10-3024(c).

5. The Planning Commission acted upon the preliminary*site plan* plan with less than a two-thirds (2/3) vote of the membership of the Commission voting in favor of the motion.

6. A certified recommendation was submitted by the Planning Commission.

7. The*site plan* otherwise requires the approval of the *City Council* .

(Ord. No. 810-TC-268, §15, TC-6-86, 6-22-86; Ord. No. 29-TC-294, §18, TC-14-87, 12-1-87;Ord. No. 70-TC-300, §6, TC-21-87, 1-1-88; Ord. No. 474-TC- 348, §12, TC-12-89, 1-2-90; Ord. No. 1992-111-TC-42, §54, TC-19-92, 12-8-92; Ord. No. 1993-263-TC-65, §8, TC-19-93, 9-21-93; Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §28, TC-3-98, 7-7-98; Ord. No. 1999-616-TC-181, §§68--72, TC-3-99, 8-3-99; Ord. No. 2000-781-TC-193, TC-3(a)-00, §1, 4-18-00; Ord. No. 2002-140-TC-211, §1, TC-14-01, 1-2-02; Ord. No. 2002-192-TC-517, §4, TC-4-02, 4-16-02; Ord. No. 2002-240-TC-222, §1, TC-8-02, 6-18-02; Ord. No. 2003-373-TC-231, §38, TC-23-02, 2-4-03; Ord. No. 2003-445-TC-237, §1, TC-4-03, 5-20-03; Ord. No. 2004-567-TC-242, §1, TC-1-04, 2-3-04; Ord. No. 2004-596-TC-245, §10, TC-14-03, 4-6-04; Ord. No. 2004-719-TC-259, §1, TC-23-04, 10-5-04; Ord. No. 2004-746-TC-261, § 5, TC-20-04, 12-7-04; Ord. No. 2004-747-TC-262, §1, TC-25-04, 12-7-04; Ord. No. 2004-748-TC-263, §1, TC-26-04, 12-7-04; Ord. No. 2005-762-TC-264, §18, TC-7-04, 1-4-05; Ord. No. 2005-775-TC-266, §1, TC-4-05, 2-1-05)

(d) Standards for Approval of a ***Mixed Use Development Master Plan*** and a Preliminary ***Site Plan*** by the ***City Council*** and the Planning Commission.

It is recognized that sometimes particular problems are created in connection with a particular development at a particular location. No preliminary site plan or mixed use development Master Plan shall be approved unless the*City Council* , or the Planning Commission if the Planning Commission has authority to approve the site plan, first finds that the site plan meets all the following:

(1) The site plan protects the public from unsafe or inefficient vehicular circulation, parking, and loading/unloading operations. The site plan considers, among other things:

a. The physical character of adjacent and surrounding roads;

b. Nearby median openings or intersections;

c. The classification of roads and plans for future improvements;

d. Proximity to pedestrian generators such as schools, transit facilities, parks and greenways;

e. The accident experience near the site;

f. Bicycle, pedestrian and transit access and circulation;

g. Traffic volumes existing and projected from approved site plans;

h. Interference with any other driveway;

i. Response time of nearby emergency services such as fire and hospital; and

j. The character of the traffic to be generated from the site.

(2) The plan is in accordance with the general plans for the physical development of the*City* as embodied in the Comprehensive Plan (including the design standards contained therein); redevelopment plans; Streetscape Plans; Neighborhood Plans; design guidelines, including the Raleigh Downtown Urban Design Guide and the Urban Design Guidelines for Mixed Use Neighborhood and Village Centers where designated, manuals, handbooks or other *City Council* - adopted plans and standards. If there are conflicts between the plan and Code restrictions, the more stringent shall apply.

(3) The plan contains adequate measures to protect the development and other properties, including public corridors and facilities, from adverse effects expected from

the proposed development or expansions to the existing development, including without limitation those associated with:

a. Stormwater;

b. Air or water pollutant discharges,

c. Noise, light and odor;

d. Access to air and light;

e. On and off-street parking;

f. Dust, smoke and vibration;

g. Hours of operation; and

h. Site conditions that may foster unsafe or unlawful activities.

(4) The plan contains adequate measures to mitigate the impact of the development on nearby residential neighborhoods from incompatible characteristics such as:

a. Building scale;

b. Architectural character;

c. Landscaping;

d. Amount and placement of impervious surfaces;

e. Placement of structures and vehicular surface areas; and

f. Orientation of uses and entranceways.

(5) The site plan coordinates with existing and planned public facilities such as:

a. Stormwater drainage structures;

b. Public utilities;

c. Streets, sidewalks and on-street parking;

d. Parks, greenways and recreational facilities;

e. Fire stations and community service facilities;

f. Schools;

g. Trash collection; and

h. Transit facilities.

(6) The plan provides for a unified development within the site and with adjoining properties when such properties are either:

a. Under similar ownership as the site,

b. Are being developed in a coordinated manner with the site, or,

c. The site shares a common relationship with surrounding properties, where establishing similar architectural elements, landscaping, shared access or signage will promote good order, convenience and safety.

Situations a, b,and c may consist, among other things, of shared driveways, definitive streetscape character or block face, similar topography, both properties are located within a previously approved concept or master plan or within the same conditional use zoning ordinance)

(7) The plan complies with all street, sidewalk, open space, drainage, greenway,

transit, utility and other public facility dedication and improvement requirements of Part 10, chapter 3 and applicable conditional use zoning ordinances.

(8) The plan conforms to previously approved subdivision plans for the site. The site plan meets all applicable Code requirements, and if there are conflicts between Code provisions the more restrictive shall be met.

(d.1) For any use listed in §10-2132.2(b)(2) or §10-2132.2(c)(1)b. and located within a*city* or community focus area, as designated in the Comprehensive Plan, for which a finding has been made by the *City Council* that the amount of existing retail uses exceeds the guidelines in the Comprehensive Plan, and for which a small area or corridor plan has been approved, it is not a conflict with the Comprehensive Plan to approve a *site plan* which provides the *following* as set forth in the retail use guidelines of the Comprehensive Plan:

a. Preservation of environmental resources;

b. Enhancement of transportation systems, including pedestrian and transit opportunities;

c. Site and*building* design;

d. Civic benefits in terms of site amenities, variety of land uses and services, or promotion of economic development objectives.

The above categories as set forth in the retail use guidelines of the Comprehensive Plan each contain five (5) approval standards. The*following* minimums shall apply:

(1) A minimum of one (1) standard from two (2) separate categories must be met for a use that would otherwise have qualified for administrative approval in accordance with §10-2132.2(e);

(2) A minimum of six (6) standards representing at least two (2) categories, or five (5) standards representing at least three (3) categories must be met for a use that requires Planning Commission approval in accordance with §10-2132.2(c)(1)b.;

(3) A minimum of eight (8) standards representing at least three (3) categories, or seven (7) standardsrepresenting at least four (4) categories must be met for a use that requires*City Council* approval in accordance with §10-2132.2 (b)(2).

Cross reference:*Buildings* and structures that exceedthe height limits in the Business Zone District are permitted if the *City Council* approves a *site plan* , §10-2043(d)(3).

(Ord. No. 799-TC-267, §§22, 24, TC-21-85, 1-1-87; Ord. No. (1986) 810-TC-268, §15, TC-6-86, 6-22-86; Ord. No. 133-TC-305, §10, TC-27-87; Ord. No. (1987) 29-TC-294, §18, TC-1-87, 12-1-87; Ord. No. 318-TC-334, §2, TC-24-88, 2-26-89; Ord. No. 390-TC-340, §6, TC-14-88, 7-20-89; Ord. No. (1989) 474-TC-348, §12, TC-12-89, 1-2-90; Ord. No. 843-TC-374; §2, TC-10-91, 10-1-91; Ord. No. 1992-88-TC-401, §23, TC-4-92, 11-4-92; Ord. No. 1992-111-TC-42, §55, TC-19-92, 12-8-92; Ord. No. 1993-247-TC-63, §9, TC-17-93, 8-3-93; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1995-695-TC-116, § 1, TC-19-95, 8-1-95; Ord. No. 1995-760-TC-122, §42, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §§3, 27, TC-23-95, 4-2-96; Ord. No. 1996-930-TC-137, §5, TC-7-96, 7-2-96; Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §73, TC-3-99, 8-3-99; Ord. No. 2000-781-TC-193, §2, TC-3(a)-00, 4-18-00; Ord. No. 2004-676-TC-251, §1, TC-8-04, 7-20-04)

(e) Administrative Approval of ***Site Plans*** .

The*City* administration *shall* approve a final *site plan following* the approval of a preliminary *site plan* by the *City Council* or Planning Commission. All other *site plans* which do not require preliminary approval *shall* receive final *site plan* approval by the *City* administration.

Site plans not otherwise reviewed by the Planning Commission or *City Council* for the *following* developments in any zoning district *shall* require the approval by *City* administration of both a preliminary and final *site plan* .

(1) Manufactured housing parks;

(2) Group housing developments;

(3) *Site plans* located within the Downtown Overlay District which do not otherwise require Planning Commission or *City Council* preliminary *site plan* approval;

(4) *Site plans* located within a Village or Neighborhood Center as designated by the City's Comprehensive Plan; and

(5) Applicable conditional use zoning district conditions require*site plans* to comply with elements of the Urban Design Guidelines for Mixed-Use Neighborhood and Village Centers of the City's Comprehensive Plan.

For any*site plan* which falls into the category of subparagraph (4) or (5) above, *City* administration *shall* have the authority to review the *site plan* for compliance with the *City* 's Urban Design Guidelines for Mixed-Use Neighborhood and Village Centers and the *following* notification and appeals process *shall* be followed. Within three (3) days *following* submittal of the preliminary *site plan* , the applicant *shall* send notice by first class mail, registered mail, or certified mail return receipt requested to all owners of *property* as shown on the *County* tax listing at the time of filing and mailing addresses as shown on the *County* tax abstract at the time of filing within one hundred (100) feet on all sides of the *property* boundaries of the proposed preliminary *site plan* (not counting the *street* rights-of-way). In the event that any *property* within one hundred (100) feet of the subject *property* is under the same ownership as the subject *property* , the *property* under the same ownership *shall* be considered as the subject *property* and the boundaries of notification *shall* be extended accordingly, provided that no notice *shall* be required of owners of *properties* located greater than four hundred (400) feet from the preliminary *site plan* parcel. Said notice *shall* inform the neighboring *properties* that a preliminary *site plan* has been submitted to the *City* for their review staff with an outline of the approval process and explanation of the appeals process. The mailed notices in this subsection are for the convenience of *property* owners and any defect or their omission therein *shall* not impair the validity of the any action *following* therefrom. *Following* their review, *City* administration *may* approve, deny or approve with conditions the preliminary *site plan* listed in subsections (4) and (5) above. The action of the administration *shall* be set forth in written form as an administrative action, stating the findings. Within five (5) working days *following* administrative action, the *City shall* send notice by first class mail to the previously notified *property* owners and inform them of the final action and the *following* appeals process. Unless an appeal is made, the administrative action *shall* be final and effective three (3) weeks after the date of the administrative action. Within this time period, either the owner(s) of the subject *property* , or one (1) or more of the notified *property owner (s) may* file a written notice of appeal with the Planning Director to transmit the *site plan* to the Planning Commission for their consideration and action. This appeal letter *shall* provide reasons and merits as to the foundation of the appeal. During any appeals process, the *City shall* withhold the issuance of any grading or *building* permits on the *premises* .

(Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §29, TC-3-98, 7-7-98; Ord. No. 2002-204-TC-219, §5, TC-6-02, 5-7-02; Ord. No. 2004-746-TC-261, §6, TC-20-04, 12-7-04; Ord. No. 2005-782-TC-267, §1, TC-2-05, 2-15-05)

(f) Phasing of Improvements for a ***Site Plan.***

Street , sidewalks, open space, drainage, and utility dedication and improvement requirements of Part 10, chapter 3, *may* be phased for an expansion or change of use to an existing use listed in §10-2088, if the expansion or change of use singularly or collectively constitutes no more than twenty-five thousand (25,000) square feet or twenty-five (25) per cent of the *floor area gross* of the existing *building* , whichever is less. Upon approval of further expansions or changes of use which singularly or collectively exceed twenty-five thousand (25,000) square feet or twenty-five (25) per cent of the *floor area gross* of the existing *building* , the dedication

and improvement requirements for the entire site *shall* be made.

(Ord. No. (1987) 70-TC-300, §6, TC-1-87, 1-1-88; Ord. No. 1992-111-TC-42, §54, TC-19-92, 12-8-92; Ord. No. 1993-263-TC-65, §8, TC-19-93, 9-21-93; Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97)

(g) Data for a Preliminary and Final ***Site Plan.***

The applicant*shall* submit all information, maps, and data, including conditional use zoning districts ordinances, required by the Planning Director to properly review the preliminary *site plan* for conformity with all *City* regulations, ordinances, and standards. All applications *shall* be accompanied by a filing fee in accordance with the fee schedule contained in §10-2171. This fee partially defrays the *City's* expense in keeping records relating to the application and checking the specifications of the proposed *site plan* relative to all standards, regulations, and ordinances.

For preliminary*site plans* the applicant *shall* supply all of the names and addresses, and current *property* identification *numbers* of the subject *property* and of all *property owners* , as shown on the *County* real estate master file at the time of filing, within one hundred (100) feet of the lot of the proposed *site plan* (not counting *street* rights-of-way). The names of all the *property owners shall* be shown on their respective parcels on an accompanying map showing the boundary of the *site plan* and all adjoining parcels.

For final*site plans* , the applicant *shall* submit all information, maps, fees, notations, certifications, declarations, other permits or agreements, and data required by the Inspections Department to properly review the plans for conformity with all *City* regulations, ordinances, and standards.

(Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §74, TC-3-99, 8-3-99; Ord. No. 2002-309-TC-228, § 1, TC-17-02, 10-15-02; Ord. No. 2006-104-TC-293, §4, TC-18-06, 10-3-06)

(h) Submittal of ***Copies*** **of an Approved Preliminary** ***Site Plan*** .

Following approval of a preliminary *site plan* , a mylar medium type material reproduction of the preliminary *site plan* drawn to a size and scale specified by the Planning Department conforming to all the conditions of approval *shall* be submitted to the Planning Director who *shall* give copies thereof to the Inspections Department and other *City* departments. No final review of a final *site plan* *shall* occur unless this reproduction has been received by the *City* .

Editor's note:Preliminary plan approval is subject to and *may* be modified by the requirements of the **North Carolina State Building Code.**

(Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97)

(i) Final ***Site Plans*** .

(1) General.

All uses for which a*site plan* is required, including uses with an approved preliminary *site plan* or an approved *mixed use development Master Plan* , *shall* submit a final *site plan* to the Inspections Department for approval.

A final*site plan* is a plan for which a permit *may* be issued. No *site plan* will be approved unless it meets all the *following* :

a. Conforms in all respects to the provisions of this Code.

b. Complies with all*street* , sidewalk, open space, drainage, and utility dedication and improvements requirements of Part 10, chapter 3 of this Code.

c. Conforms to previously approved subdivision plans for the site.

Any required dedication*shall* be platted and recorded prior to the issuance of any building permit or if no building permit is required before the issuance of any other *City* permit.

No building permits or grading permits*shall* be issued except in conformity with the final *site plan* . But nothing herein *shall* prevent the otherwise lawful grading of *street* , utility, or other improvements shown on subdivisions approved pursuant to Part 10, chapter 3.

If a final*site plan* is disapproved, the applicant *shall* be notified *in writing* of the reasons for the disapproval. An applicant *may* appeal from such decision *in writing* .

(Ord. No. 70-TC-300, §7, TC-21-87, 1-1-88)

(2) Changes to existing uses and structures; revisions from preliminary plan or ***Master Plan*** .

Changes, alterations, repairs, improvements or expansions that do not qualify as*plot plans, may* be made to uses or structures existing on a parcel without approval of a preliminary *site plan* when subsections a. thru g. listed below are met and the findings of subsection (3) below are made. Whenever a preliminary *site plan* is required or whenever a *Master Plan* is submitted, the final *site plan* *may* vary from the approved preliminary *site plan* or *Master Plan* if all the *following* are met:

a. The singular or collective expansion(s) of a*building,* structure or use or the addition of an *accessory building,* structure or use is ten thousand (10,000) square feet or less, provided that subparagraphs 1. through 3. below are met. In addition, the singular or collective expansion(s) of a *building,* structure or use or the addition of an *accessory building,* structure or use greater than ten thousand (10,000) square feet in size *shall* not require a preliminary *site plan* when the expansion is twenty-five (25) per cent or less of the *floor area gross,* or area of use, provided that all of the *following* are met:

1. Improvements, if located within a*protective yard* or *natural resource buffer yard,* comply with §10-2075(e), §10-9040 and §10-9042.

2. The improvements are located outside any natural area or buffer area shown on a*City Council* -approved preliminary *site plan* or *Master Plan,* Planning Commission-approved preliminary *site plan* , Conservation Management District, or *City* easement.

3. The maximum square footage for an approved*Master Plan* is not exceeded by more than five (5) per cent.

4. The*floor area gross* of the expansion, or the area of the use, does not exceed twenty-five thousand (25,000) square feet.

5. The expansion when added to the area of the existing*building* or use does not exceed a size threshold requiring Planning Commission or *City Council* approval under §§10-2132.2(b) or (c).

6. The use, when listed in §10-2132.2(b)(2), is not located within a city or community focus area, as designated in the Comprehensive Plan, for which a finding has been made by the*City Council* that the amount of existing retail uses exceeds the guidelines in the Comprehensive Plan, and for which a small area or corridor plan has been approved.

7. The use is not located within a Village or Neighborhood Center, as designated by the*City* 's Comprehensive Plan, or required to comply with the Urban Design Guidelines for Mixed Use Neighborhood and Village

Centers of the *City* 's Comprehensive Plan as required by a conditional use zoning district.

b. The singular or collective increase(s) represents ten (10) per cent or less in the number of*dwelling units* , *rooming units* , *hotel* rooms, or seats in principal places of assembly.

c. The singular or collective enlargement(s) of a*building* or structure is no greater than ten (10) per cent of the maximum height as shown on a *City Council* -approved preliminary *site plan* or *Master Plan* , or Planning Commission-approved preliminary *site plan* . Provided, however, if the *building* will exceed eighty (80) feet in height due to the enlargement, then *City Council* approval is required in accordance with §10-2132.2(b).

d. The minor alteration of other features, including relocation of*buildings* or uses, represent the same orientation, general *building* relationships, topography, setback patterns, landscaping, and minimum utility standards. Minor alterations include, but are not limited, to the *following* :

1. Location or elimination of*buildings* , *accessory uses* , and active recreation areas;

2. Reducing, relocating or removing parking spaces, the number of spaces per bay, the addition or removal of compact spaces;

3. Relocation or reduction of driveways and*access points* with the concurrence of the *City* Transportation Department; except that relocation into Conservation Management Districts, *protective yards* , *city* easements, *natural resource buffer yards* , natural areas or other buffer areas shown on a preliminary plan or *Master Plan shall* first be approved by the *City Council* , or by the Planning Commission if the Commission approved the preliminary *site plan* . No additional driveway can be added to a preliminary *site plan* or *Master Plan* development unless approved by *City Council* , or by the Planning Commission if the Commission approved the preliminary *site plan* , in accordance with §10-7002(b).

4. Change in the edge or the curb treatment of private*streets* and parking areas, or paving materials;

5. Relocating private sidewalks or handicap facilities for the purpose of accommodating a physical condition on the site;

6. Relocating walls, fences or stairs;

7. Relocating hydrants, meter vaults, fire lines, standpipes;

8. Relocation, addition or removal of outdoor lighting;

9. Change in*exterior features* of *buildings* ;

10. Relocation of public utility line easements; except that relocations into Conservation Management Districts,*protecttive yards* , *City* easements, *natural resource buffer yards* , natural areas or other buffer areas shown on a preliminary plan or *Master Plan shall* first be approved by the *City Council* , or by the Planning Commission if the Commission approved the preliminary *site plan* .

e. Changes are allowed to, including deletion, of any item, except natural areas, shown on a preliminary*site plan* or *Master Plan* development but not related to a specific Code standard nor specifically required as part of a *site plan* or

Master Plan development approval process such as recreational facilities, materials of a private sidewalks and ornamental plantings;

f. Alterations are allowed to*signs* which conform with §10-2083 and §10-2084 et seq.

g. If a change of use, the new use does not otherwise require preliminary*site plan* approval by the *City Council* or Planning Commission.

h. For any use listed in §10-2132.2(b)(2) or §10-2132.2(c)(1)b. and located within a*city* or community focus area, as designated in the Comprehensive Plan, for which a finding has been made by the *City Council* that the amount of existing retail uses exceeds the guidelines in the Comprehensive Plan, and for which a small area or corridor plan has been approved, a preliminary *site plan* shall have been approved in accordance with §10-2132.2(d).

(Ord. No. 70-TC-300, §§8-10, TC-21-87, 1-1-88; Ord. No. 474-TC-348, §14, TC-12-89, 1-2-90; Ord. No. 1994-483-TC-90, §§2, 3, TC-16-94, 9-20-94; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §§94--98, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §§75--78, TC-3-99, 8-3-99; Ord. No. 2000-781-TC-193, TC-3(a)-00, §§3, 4, 4-18-00; Ord. No. 2001-991-TC-206, §10, TC-8-00, 5-1-01; Ord. No. 2005-782-TC-267, §2, TC-2-05, 2-15-05)

(3) Required findings for revisions.

All the*following* determinations must be made by the Inspections Department before any preliminary plan, *Master Plan* or a final *site plan* can be revised.

a. The landscaping or screening on the approved preliminary*site plan* is not diminished, and equal protection is afforded to adjoining *properties* .

b. The changes do not infringe on any area to be protected in the preliminary*site plan* or *Master Plan* including areas shown not to be graded, natural areas, and protected vegetation.

c. The off-*street* parking is not reduced below the minimum required in §10-2081.

d. The changes do not incorporate the original creation of a*display area* and the circulation pattern provides for a safe, controlled and orderly flow of pedestrians and vehicles.

e. Private sidewalks and pedestrian access provide a similar degree of access to*buildings* and uses on the site and to adjoining public facilities.

f. The changes meet all*City* standards with regard to both stormwater drainage and soil erosion and sediment control.

g. If applicable, changes to*exterior features* provide the same or similar *unity of development* as shown on the preliminary *site plan* and are consistent with multi-establishment *sign* criteria. But no revision *shall* be permitted unless the change is applied throughout the development and existing features are made to conform to the revisions.

h. The changes or additions do not require subdivision approval, nor contradict any specified*City Council* , Board of Adjustment, Planning Commission, Historic *Properties* or Historic District Commission condition or directive, mandated *City* legal document, or dedication.

i. The maximum and minimum dimensions and distances indicated on a*City Council* -approved *site plan* or *Master Plan* , or the Planning Commission-approved *site plan* , are not violated.

j. The change does not increase off-site land area or off-site*buildings* which will be served by any *access point* .

k. All provisions of this Code and*City Council* adopted plans and standards are met for the existing and proposed use.

l. All conditions of applicable special use exceptions are met.

m. The general approval standards for all final*site plans* contained in §10-2132.2(f)(1) are met.

n. No variance on the site has been approved by the Board of Adjustment*following* the approval of the preliminary *site plan* by the *City Council* or Planning Commission without the reapproval of the preliminary plan by the *Council* or Planning Commission.

State law reference: Ch. 498, Session Laws 1985 and Ch. 514, Session Laws 1987.

(Ord. No. 723-TC-262, §4, TC-1-86, 2-9-86; Ord. No. 70-TC-300, §10, TC-21-87, 1-1-88; Ord. No. 474-TC-348, §15, TC-12-89, 1-2-90; Ord. No. 1997-137-TC-153, §§97, 98, TC-18-96, 6-17-97; Ord. No. 1999-616-TC-181, §79, TC-3-99, 8-3-99; Ord. No. 2006-952-TC-278, §3, TC-18-05, 1-3-06)

(Ord. No. 474-TC-348, §13, TC-12-89, 1-2-90; Ord. No. 1992-111-TC-42, §56, TC-19-92, 12-8-92; Ord. No. 1995-760-TC-122, §43, TC-20B-95, 11-21-95; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96; Ord. No. 1997-137-TC-153, §§97, 98, TC-18-96, 6-17-97)

(j) Sunset Clause.

Unless the landowner has been granted vested rights or a*townhouse development* has been approved in accordance with Part 10, chapter 3, the provisions of this subsection *shall* apply. Within two (2) *years* after the approval of any preliminary *site plan* (not a *Master Plan*), a final *site plan* and a valid building permit application of the total area of any section or phase of the approved preliminary *site plan shall* be submitted to the Department of Inspections. Failure to submit final *site plans* within the specified time period *shall* automatically void the approved preliminary *site plan* .

Within five (5)*years* after approval of the preliminary *site plan* , the construction on the entire *site plan shall* be completed. Failure to complete construction required herein *shall* automatically void the unconstructed portions of the approved *site plan* unless the Planning Director finds all the *following* are met:

(1) A*written* request for an extension has been made to the Planning Director prior to the expiration period.

(2) Unconstructed portions of the preliminary plat conform to all ordinances, laws,*City* policies, and provisions of the Comprehensive Plan and other *City Council* plans in effect at the time of the requested extension.

(3) Adjacent*streets* have not been reclassified by either the Comprehensive Plan or the adopted Thoroughfare Plan.

(4) The plan considers and respects the practical limits of public facilities and services such as stormwater, water and sewer lines,*streets* , fire, public safety, and trash collection.

(5) There has not been a zoning change or Comprehensive Plan amendment in the immediate vicinity such that continued development will exceed intensity levels set by the Comprehensive Plan.

(6) There has not been significant development in the immediate vicinity such that continued development will exceed intensity levels set by the Comprehensive Plan.

(7) There*shall* only be one (1) extension permitted, not to exceed a time period of three (3) *years* , from the date of receipt by the Planning Director of the original *written* request for extension.

In the case that requirements (2)--(7) are not met, the*City Council* , following a recommendation by the Planning Commission, or by the Planning Commission if the Commission approved the development, *shall* determine whether the unconstructed portion of any development is allowed to continue.

Code obligations acquired prior to sunset expiration*shall* not be terminated by this provision.

(Ord. No. 407-TC-222, TC-268, 9-30-84; Ord. No. 600-TC-242, §9, TC-13-85, 7-2-85; Ord. No. 29-TC-294, §1, TC-14-87, 12-1-87; Ord. No. 849-TC-375, §1, TC-15-91, 9-30-91; Ord. No. 1992-111-TC-42, §57, TC-19-92, 12-8-92; Ord. No. 1993-246-TC-62, §1, TC-16-93, 8-3-93; Ord. No. 1997-137-TC-153, §§ 93, 99, TC-18-96, 6-17-97)

Editor's note: §16 of Ord. No. 1984-407-TC-222 stated that the time periods specified in subsection g. were applicable to preexisting*site plans* as if they were approved on September 30, 1984, the effective date of Ord. No.1984-407-TC-222, TC-268.

(k) Vested Rights.

Those landowners desiring the protections granted by*G.S.* 160A-385.1 *may* , at their own option, request the *City Council* to hold a public hearing on any of their preliminary *site plans* . Preliminary *site plans* which otherwise are required to be approved by the *City Council* and vested rights hearings *shall* be held at the same *Council* meeting. All requests for a vested rights public hearing *shall* be on forms provided by the *City* and *shall* be accompanied by a filing fee in accordance with the fee schedule contained in §10-2171 which partially defrays the *City's* expense in conducting the hearing, advertising a public hearing, keeping records and performing other services for processing the request. A notice of the time and place of such hearings *shall* be published in a paper of general circulation in the *City* not less than seven (7) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of hearing *shall* be included.

The*City* will make a reasonable attempt to notify by general mail all *owner* s of *property* which is the subject of the action, the applicant, and all *property owner* s immediately adjacent to or directly opposite the *street* from the subject *property* . All such notices *shall* state the location of the *building* or *lot* , the general nature of the question involved, and the time and place of the hearing. Any defective notification *shall* not invalidate the proceeding. The *City* will also make a reasonable attempt to post a *sign* or *signs* on the subject *property* when possible or will place a *sign* or *signs* at convenient locations. Any defective posting *shall* not invalidate the proceeding.

The*City Council* *may* impose conditions and terms on any preliminary *site plan* for which a vested rights hearing has been requested by the landowner, including those preliminary *site plans* which in the absence of such a request from the landowner would not have been reviewed otherwise by the *Council* . The review of and conditions imposed upon such preliminary *site plans* *shall* be the same as those currently made for those preliminary *site plans* which the *City Council* is required to review under §10-2132.2(c).

Approval of a preliminary*site plan* with the condition that a variance or special use permit be obtained *shall* not confer a vested right unless and until the necessary variance or special use permit is obtained. In all other instances, a *site plan* *shall* be deemed vested upon its approval by the *City Council* . The *City Council* *shall* not require landowners to waive their vested rights as a condition of approval of the preliminary *site plan* .

Following the vesting of a *site plan* , and not withstanding the provisions of subsection (g) above, landowners and their successors *shall* be entitled to submit to the Department of

Inspections a final *site plan* , together with any valid *building* permit applications of the total area of any section or phase of the approved preliminary *site plan* , within a period of not more than two (2) *years* after the approval of any preliminary *site plan* . Failure to make these submissions *shall* subject the *property* to the provisions of subsection (g) above. If submissions were timely made and if within three (3) *years* after approval of *building* permit applications, at least one-half (1/2) of the total *floor area gross* shown on the *site plan* is completed, *building* permit applications for the remaining portions of the preliminary *site plan* for which no previous valid *building* permit applications has been filed, *shall* be processed by the *City* for an additional period not exceeding five (5) *years* from the approval date of the preliminary *site plan* .

Following the approval or conditional approval of a vested *site plan* , nothing in this subsection *shall* exempt such plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval and this Code. If noncompliance is discovered, revocation of the *site plan* and remedies authorized by §10-2152 *may* be undertaken by the *City* , notwithstanding the vesting of the *site plan* . *Site plans* which are vested under this subsection *shall* be subject to new or amended zoning regulations as allowed by State law, and such vested rights *shall* terminate for any of the reasons stated in *G.S.* 160A-385.1(e).

State law references:*G.S.* 160A-385.1 and 160A-385(b).

(*Code 1959* , §24-26; Ord. No. 1979-982-TC-96, §26, 1-2-79; Ord. No. 1983-245-TC-205, §§55, 12-6-83; Ord. No. 1985-600-TC-242, §§7, 8, 7-2-85; Ord. No. 1985-662-TC-253, §4, 11-5-85; Ord. No. 1986-799-TC-267, §46, 6-3-86; Ord. No. 1987-29-TC-294, 12-1-87, TC-14-87; Ord. No. 849-TC-375, §2, TC-15-91, 9-30-91; Ord. No. 1997-137-TC-153, §93, TC-18-96, 6-17-97; Ord. No. 2006-104-TC-293, §5, TC-18-06, 10-3-06)

Sec. 10-2133. CERTIFICATE OF OCCUPANCY.

(a) It*shall* be unlawful to use or permit the use of any *building* or land or part thereof hereafter created, erected, altered, changed or converted wholly or partly in its use or structure until a Certificate of Occupancy to the effect that the *building* or land or part thereof conforms to the provisions of this chapter, *shall* have been issued by the Department of Inspections.

(b) It*shall* be the duty of the Department of Inspections to issue a Certificate of Occupancy within ten (10) days after a request is filed in the office by any *owner* of a *building* or land affected by this chapter, provided such *buildings* or land, or the part thereof so created, erected, altered, changed or converted, and the proposed use thereof conforms with all the requirements of this chapter. A temporary Certificate of Occupancy for a part of a *building* *may* be issued by the Department of Inspections. Upon *written* request of the *owner* , the Department of Inspections *shall* issue a Certificate of Occupancy for any *building* or land existing at the time of the application of the ordinance from which this chapter is derived, certifying, after inspection, the use of the *building* or land, and whether such use conforms to the provisions of this chapter.

(c) If, on any inspection, the conditions of a*building* or land or its *use or occupancy* are found not to conform to the requirements of this chapter or the conditions of an existing Certificate of Occupancy, the Department of Inspections *shall* at once issue *written* notice to the *owner* specifying the manner in which the *buildings* or land or its *use or occupancy* fails to conform, and the *owner* *shall* at once take steps to make it so conform, as directed by the Department of Inspections; and the Department of Inspections *shall* order the *use or the occupancy* of the *building* or land modified or the *building* or land vacated until its condition is made to conform with the requirements of this chapter, at which time a Certificate of Occupancy *shall* be issued as here in provided.

(*Code 1959* , §§24-44, 24-47)

Secs. 10-2134--10-2140. RESERVED.

ARTICLE I. APPEALS, VARIANCES, SPECIAL USE PERMITS, NON-CONFORMITIES.

Sec. 10-2141. QUASI-JUDICIAL EVIDENTIARY HEARINGS CONDUCTED BY THE BOARD OF ADJUSTMENT AND THE CITY COUNCIL.

All quasi-judicial evidentiary hearings conducted by the Board of Adjustment and the*City Council shall* be subject to the *following* provisions:

(a) Procedures.

(1) All applications, including applications for rehearing,*shall* be accompanied by a filing fee in accordance with the fee schedule contained in §10-2171. This fee partially defrays the *City's* expense in keeping records relating to the application, verifying the application, advertising a public hearing on the application, and performing other services required by statute or ordinance in processing the application to its conclusion. No refund of the fee or any part thereof *shall* be made unless the application is withdrawn prior to hearing. However, in the case of applications brought challenging the decision, determination, order, requirements or interpretation of the administrative official pursuant to §10-2142, this filing fee and any civil penalty will be returned to the applicant if the Board of Adjustment decides that the position of the *City* official is erroneous; except as stated herein no civil penalty *shall* be reduced by the Board. A fee *shall* not be required if the application is made by the *City* or any agency created and appointed by the Raleigh *City Council* to perform governmental functions.

To the extent not in conflict with the provisions of this Code, applications to the Board of Adjustments*shall* be in accordance with the rules of procedure adopted by the Board of Adjustment.

(2) No application *shall* be heard until at least seven (7) days prior to the hearing notice of the time, place, and subject of the hearing is published in a newspaper of general circulation in the *City* . No publication *shall* be made more than twenty-five (25) days before the date fixed for the hearing.

(3) The*City* will post a *sign* or *signs* either upon the subject *property* or at convenient locations as it deems appropriate. Such posting *shall* advise that a proceeding has been filed and direct further inquiry to a listed telephone number. All postings are for the convenience of the public and any defective posting *shall* not invalidate the proceeding.

(4) The*City* will make a reasonable attempt to notify, by first class mail, the applicant and all *persons* shown on the *county* tax abstract at the time of filing, as the *property owner* s of:

a. the subject*property* ; and

b. *properties* immediately adjacent to or directly opposite across the *street* from the subject *property* .

Such mailings*shall* advise that a petition has been filed affecting the subject *property* , the general nature of the question involved, and the time and place of the hearing. All notices made by mail *shall* be deemed completed upon mailing. All mailings are for the convenience of the public and any defective mailing *shall* not invalidate the proceeding.

(5) All parties in interest*shall* have the right to present evidence and cross-examine witnesses, as to any competent, material, and relevant facts, inspect documents, and make oral argument.

(6) The review body*shall* act as an impartial decision-maker. No member *shall* participate in or vote on any quasi-judicial matter on a matter that would violate affected persons' constitutional rights. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to the hearing of the matter that is not susceptible to change, undisclosed ex-parte communication, a close financial business or other occasional relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participationand that member does not excuse himself or herself, the remaining members of the board *shall* by majority vote rule on the objection.

(7) The reviewing body*shall* act as a fact-finding body and *shall* approve or disapprove the application in accordance with the evidence presented before it which is competent, relevant, and material. Every decision *shall* include the vote, abstention from voting, or absence of each member.

(8) The burden of proof is upon the party who files the application, and if the party fails to meet its burden, the reviewing body*shall* deny the request.

(9) The decision of the quasi-judicial proceeding, including findings of fact and conclusions of law,*shall* be filed in the Office of the *City* Clerk. A *written* copy *shall* be delivered to the applicant and to any *person* who has filed a request for such copy with the Office of the *City* Clerk or chairperson of the review board at the time of its hearing of the case. Delivery *shall* be by any of the *following* means: personal service, registered mail, or certified mail, return receipt requested.

(Ord. No. 509-TC-230, §§6-8, TC-278, 9-5-88, Ord. No. 662-TC-253, §§5-9, 11-5-85; Ord. No. 783-TC-153, §1, 11-3-81; Ord. No. 519-TC-132, §§3-5, TC-E-80, 11-4-80; Ord. No. 705-TC-78, TC-112, §§1, 2, 7-7-78; Ord. No. 239-TC-322, §§1, 2, TC-19-88, 10-25-88; Ord. No. 1995-695-TC-116, §2, TC-19-95, 8-1-95; Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97; Ord. No. 1999-536-TC-177, §§1, 2, 4-6-99; Ord. No. 2005-939-TC-276, §1, 12-6-05; Ord. No. 2006-104-TC-293, §3, TC-18-06, 10-3-06)

(b) General Facts To Be Considered.

Uniform rules and standards are set forth in this chapter, which regulate the interpretation of the text of this chapter and the Official Zoning Maps, §§10-2002(a), 10-2163, the appeal from administrative decisions §10-2142, the issuance of variances §10-2043, and the issuance of special use permits approved by Board of Adjustment (§§10-2144, 10-2146.3) or approved by*City Council* §10-2145. Under this authority, the reviewing body is required to determine the applicability of facts to a particular case. It is recognized that the required facts are not reducible to any precise formula, but rather they must be gathered from the varying circumstances of the actual cases as they arise.

In passing on any case the reviewing body*shall* determine that the request meets all applicable requirements of this Code, and if there are conflicts between the Code provisions, the more restrictive *shall* apply unless a lesser standard is authorized by an overlay district.

In passing on any case, and as a further guide to its decision-making, the reviewing body*may* also consider, among other things the *following* , if relevant to the requested interpretation, appeal, variance, and special use permit:

(1) The character and use of*buildings* and structures adjoining or in the vicinity of the *property* mentioned in the application.

(2) The number of*persons* residing, studying, working in or otherwise occupying *buildings* adjoining or in the vicinity of the *property* mentioned in the application.

(3) Traffic conditions in the area and accessibility of the*building* for fire and police protection.

(4) Accessibility of light and air to the *premises* and to the *property* in the vicinity.

(5) The location, kind and size of surface and subsurface structures in the vicinity of the*property* mentioned in the application, such as water mains, sewers and other utilities.

(6) Materials of combustible, hazardous, explosive, or inflammable nature to be sold, stored, or kept on the*premises* .

(7) Protection of occupants of the*building* from stormwater, noise, dust, on- *street* parking, odor, vibration, and gases.

(8) The type of electric illumination for the proposed use, with special reference to its effect on nearby structures and the glare, if any, from such illumination in surrounding sleeping quarters.

(9) The public records and other competent testimony concerning the location of the zoning district boundary lines.

(10) The relation of the proposed application to conditions in the vicinity which have changed since the zoning district was originally determined.

(Ord. No. 1992-111-TC-42, §58, TC-19-92, 12-8-92)

(c) General Conditions and Limitations.

When passing on any case authorized in this chapter, the reviewing body is authorized to impose conditions and safeguards that limit the request as*may* be necessary or appropriate. Such limitations and conditions and safeguards *may* include, but are not limited to, the *following* :

(1) Access with respect to pedestrian and automotive safety, traffic flow, emergency service.

(2) Appearance including architecture, fenestration and materials.

(3) Dedication of*street* and utility rights-of-way to the public, and facility improvements.

(4) Drainage with respect to erosion, siltation, pollution, flooding.

(5) Duration of the variance or special use for either a limited or an indefinite period of time.

(6) Intensity including such considerations as size, location, hours and/or conditions of operation, and number of participants.

(7) Landscaping, screening, fencing with respect to protecting affected*properties* from anticipated noise, loss of privacy, and glare; preserving of important natural features; or harmonizing the request with affected *properties* .

(8) Location and character.

(9) Control or elimination of noise, dust, vibration, and lighting.

(10) Off-*street* parking.

(11) Provision of recreational space and facilities.

(12) Signage, if any, with respect to type, size, placement, illumination, compatibility, *property* values of the *affected area* .

(13) Use restrictions.

(Ord. No. 684-TC-257, §§1, 2, TC-31-85, 12-3-85)

(d) Review Proceedings by the ***City Council*** **or the Board of Adjustment.**

All quasi-judicial decisions of the Board of Adjustment and the*City Council* , whether or not such decision contain limiting conditions, may be set aside or modified upon a finding that:

(1) Fraud, material, misrepresentation or other misconduct occurred at the proceeding before the*City Council* or Board of Adjustment; or

(2) Violation of any limiting condition imposed in accordance with subsection (c) above or violation of any provision of this chapter exists on the subject*property* .

No decision*shall* be set aside or modified until the landowner and tenant is sent *written* notice and a hearing on the matter is first held.

If a review proceeding is held to determine that the applicable conditions and provisions of this chapter are being met, special attention to the impact of the original action on adjoining*properties* and the extent financial investments were made in reliance of the decision, particularly for decisions made prior to the application of this provision. After the hearing the prior decision *may* be reversed, modified, or affirmed.

After the application of this provision, all quasi-judicial decisions of the Board of Adjustment and of the*City Council shall* include a statement that its decision is subject to review for fraud, material misrepresentation, or other misconduct at the proceeding or for violations on the subject *property* of either any provision of this chapter or an imposed limiting condition, and upon such a determination the decision *may* be reversed, modified, or affirmed. The warning statement *shall* also contain the *following* : "If any of the conditions affixed hereto or any part thereof *shall* be held invalid or void, then this decision *shall* be void and of no effect".

Editor's note: This subsection was first applied to special use permits issued by the Board of Adjustment on December 3, 1985, and all other quasi decisions on January 1, 1992.

Note: Judicial review of decision of administrative agencies, Local Rules of Court, 10th Judicial District.

Sec. 10-2142. APPEALS.

(a) Right of Appeal.

Any*person* aggrieved or any agency or *officer* , department, board, including the governing board of the *City* of Raleigh affected by any decision, order, requirement, or determination relating to the interpretation, compliance, or application of chapters 1 and 2 of this Part and made by an administrative official charged with the enforcement of these chapters *may* file an appeal to the Board of Adjustment. If an administrative official charged with enforcement of chapter 1 and 2 of this part is unable to make a decision because of vagueness or ambiguity in the meaning or application of these chapters or the zoning map, determine a *lot* or zoning district boundary line, determine whether a proposed use is allowed within a zoning district, or resolve similar questions or uncertainties, the official is hereby authorized to bring an appeal to the Board of Adjustment.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

(b) Filing of Appeal.

Appeals*shall* be taken within times prescribed by the Board of Adjustment rules by filing with the Sessions Reporter, Office of the City Clerk, 222 West Hargett Street a notice of appeal and by specifying the grounds therefor on forms provided by the *City* . The official from whom the appeal is taken *shall* forthwith transmit to the Board all papers constituting the record on which

the decision appealed from was taken.

(c) [Basis of Appeals.]

All appeals*shall* be subject to the provisions of §10-2141.

Cross references: Interpretation of the Zoning Code §10-2002(a); interpretation of the Official Zoning Maps, §10-2163; refund of filing fees, §10-2141(a)(1).

Sec. 10-2143. VARIANCE.

(a) In accordance with §10-2141, the Board of Adjustment will hear and decide requests for variances from the requirements of Part 10 chapter 2. Before a variance request is granted the Board must find all of the*following* :

(1) That practical difficulties or unnecessary hardship would result if the strict letter of the zoning law were followed.

(2) That the variance is in accordance with the general purpose and intent of the ordinance.

(3) That public safety and welfare have been secured and that substantial justice done.

(4) No change in permitted uses*may* be authorized by variance.

(5) Appropriate conditions, which must be reasonably related to the conditions or circumstances that give rise to the need for a variance,*may* be imposed on any approval issued by the board.

The Board*may* not grant a variance which is not in accordance with the statutory and decisional law of *this state* .

The Board*may* not, absent specific authority, grant a variance which would modify, alter, change, or suspend the requirements of §§10-2144 and 10-2145, and §10-2146.3, or would change the district boundary or zoning classification of the *property* in question.

In granting a variance, the Board of Adjustment is authorized to attach safeguards and conditions to the approval as is necessary and appropriate in order to protect established*property* values in the *affected area* or to promote the public safety and general welfare. Those conditions *may* include limitations listed in §10-2141(c).

Cross reference: Variances to preliminary*site plans* approved by the *City Council* in accordance with §10-2132.2(c) require the reapproval of the *City Council* , §10-2132.2(f)(3)p.

(Ord. No. 194-TC-312, §4, TC-7-88, 6-26-88; Ord. No. 2005-939-TC-276, §2, 12-6-05)

Sec. 10-2144. SPECIAL USE PERMITS APPROVED BY THE BOARD OF ADJUSTMENT.

Special use permits - alphabetical listing:

-*Adult establishment* .

- Airfield, landing strip and heliport.

-*Bed and breakfast inn* .

-*Day care facility* (child or adult).

- Garage for five (5) or more motorized vehicles*accessory* to a *single-family* detached or *duplex dwelling* .

(Ord. No. 1997-137-TC-153, §100, TC-18-96, 6-17-97)

-*Ground signs* for double *frontage lots* with parallel opposite one-way *streets* , or *lots* with *frontage* on two (2) or more median-divided *thoroughfares.*

- Guest house.

- Kennel and cattery.

-*Limited home business* .

-*Manufacturing - specialized* .

- Other professional or service offices, studios, or agencies not otherwise listed as permitted in the*office and institution* and Residential Business Districts.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Outdoor storage of*recyclable material* .

(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)

- Outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles.

(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)

- Parking (off-street) reduction for conversions or alteration of a*building* .

- Plant nursery, and fruit and vegetable stand.

-*Recreational outdoor use - commercial.*

(Ord. No. 1996-877-TC-130, §5, TC-2-96, 5-7-96)

-*Recreational use restricted to membership - not for profit* .

-*Retail sales* not otherwise listed as permitted in the Residential Business and Buffer Commercial Districts.

- Riding stable.

-*Rooming house* , *boarding house* , *lodging house* , *tourist home* .

- School, church or government*building* adaptively reused as an office or studio, operating on a not for profit basis, for a professional, business, political, or labor association or agency.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

- Schools - private/parochial.

-*Special care facility* .

(Ord. No. 2004-647-TC-248, §11, TC-4-04, 6-1-04)

-*Specialty school* as a *limited home business* .

-*Veterinary hospital* in conjunction with a kennel/cattery.

- Yard encroachments.

- Yard reductions.

(Ord. No. 1993-134-TC-47, §4, TC-1-93, 2-2-93; Ord. No. 1993-247-TC-63, §10, TC-17-93, 8-3-93; Ord. No. 1993-248-TC-64, §6, TC-18-93, 8-3-93; Ord. No. 1994-365-TC-71, §19, TC-22-93, 4-5-94; Ord. No. 1994-408-TC-75, §7, TC-9-94, 6-7-94; Ord. No. 1996-855-TC-129, §5, TC-4-96, 4-2-96; Ord. No. 1999-616-TC-181, §81, TC-3-99, 8-3-99; Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

Editor's note: Ord. No. 1993-248-TC-64, §6, TC-18-93, adopted Aug. 8, 1993, repealed the special use permit alphabetical listing for "*Dish antenna* " and, in subsection 10-2144(b), repealed the *dish antenna* category, which had derived from Ord. No. 349-TC-217, §4, TC-264, 5-20-84. Additionally, Ord. No. 669-TC-142, TC-6-81, adopted May 19, 1981, permitted a group care facility, but this land use was removed by Ord. No. 1994-365-TC-71, §§19, 20, TC-22-93, adopted April 5, 1994. [Prior to its repeal, the category "group care facility" had been amended by Ord. No. 622-TC-245, §5, TC-16-85, adopted Aug. 6, 1985; Ord. No. 600-TC-242, §4, TC-13-85, adopted July 2, 1985; Ord. No. 220-TC-201, §1, TC-216, adopted Nov.3, 1983; Ord. No. 438-TC-226, §7, TC-275, adopted Nov. 12, 1984; Ord. No. 810-TC-268, §17, TC-6-86, adopted June 22, 1986; Ord. No. 500-TC-350, §3, TC-1-90, adopted April 2, 1990; Ord. No. 1991-868-TC-378, §7, TC-9-91, adopted March 1, 1992; Ord. No. 1993-206-TC-58, §3, adopted June 1, 1993.] Ord. No. 1997-137-TC-153, §104, TC-18-96, adopted June 17, 1997, repealed the special use permit alphabetical listing for "trade show and temporary retail activity within a *hotel* or *motel* " and, in subsection 10-2144(b), repealed the "trade show..." category. Ord. No. 1999-616-TC-181, §81, TC-3-99, adopted Aug. 3, 1999, repealed the special use permit alphabetical listing for "Nonresidential related service (general)" and in subsection 10-2144(b) repealed the "Nonresidential..." category.

(a) Special Use Permits Approved.

In performing its functions and duties under this chapter, the Board of Adjustment*following* the submittal of a plan containing the information required in §10-2132.1(b) and after making the necessary findings is authorized to issue special use permits to allow the enumerated *buildings* , uses, and designs in the districts specified in subsection (b) below. The districts referred to herein apply to general use and conditional use districts unless the applicable conditional use district ordinance specifically states otherwise.

(Ord. No. 600-TC-242, §6, TC-13-85, 7-2-85; Ord. No. 029-TC-294, §2, TC-14-87, 12-1-87)

(b) Special Use Permits Enumerated.

Adult establishment .

To permit an*adult establishment* in industrial districts, Shopping Center, Neighborhood Business, Business Zone, and Thoroughfare Districts after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) Off-street parking.

Each facility*shall* provide off-street parking in accordance with §10-2081.

(2) Advertisements.

Except for*on-premise* and *off-premise signs* permitted under this chapter, advertisements, displays or other promotional materials *shall* not be visible to the public from pedestrian sidewalks or walkways.

(3) Overconcentration.

No more than one (1)*adult establishment* is located in any two thousand (2,000) foot radius (determined by a straight line and not *street* distance). *Adult establishments* which, because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods, particularly when they are concentrated. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. To prevent an overconcentration of *adult establishments* and the creation of a de facto downgrading or blighting of surrounding neighborhoods; this radius requirement is necessary, unless otherwise determined under subparagraph (5) below.

(4) Residential proximity.

No*adult establishment* is located within a two thousand (2,000) foot radius (determined by a straight line and not *street* distance) of any place of worship, school (public or private), *specialty school* , day-care facility, or any residential, O&I-1, O&I-2 and Buffer Commercial zoning districts. *Adult establishments* , because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when they are located near a *residential zoning district* or certain other districts which permit residential uses. Special regulation of these establishments is necessary to insure that these adverse effects will not contribute to a downgrading or blighting of surrounding *residential districts* or certain other districts which permit residential uses, unless otherwise, determined by subparagraph (5) below.

(5) Variances.

The Board of Adjustment*shall* vary the radius requirements in subparagraphs (3) and (4) above when it finds that:

a. Practical difficulties or unnecessary hardships would result from the strict enforcement of the radius requirements.

b. The proposed use will not be injurious to*property* or improvements in the *affected area* .

c. The proposed use will not enlarge or encourage the development of a "skid row" area.

d. The permitting of an*adult establishment* in the area will not be contrary to any governmental program of neighborhood conservation, rehabilitation, improvement, or revitalization.

e. All other applicable provisions of this chapter will be observed.

(6) The proposed use will not adversely impact public services and facilities such as parking, traffic, police, etc., and that the secondary effects of such uses will not adversely impact on adjacent*properties* . The secondary effects would include but not be limited to noise, light, stormwater runoff, parking, pedestrian circulation and safety.

When determining preponderance of adult materials, only those objects which have equal access and visibility*shall* be considered.

Annotation:*Adult establishment* . When computing distances the term " *adult establishment* " includes the entire *property* such as parking area *used for* required off-street parking. A-73-82 Murray, Board of Adjustment (May 10, 1982).

(Ord. No. 153-TC-190, §10, 7-29-83, TC-233; Ord. No. 647-TC-7, TC-104, 12-1-77; Ord. No. 1992-15-TC, §§1, 2, TC-393, 2-4-92; Ord. No. 1996-793-TC-125, §§3, 4, TC-28-95, 12-5-95)

Airfield, landing strip, and heliport.

To permit a government or nongovernment air field or landing strip in all zoning districts other than Conservation Management, and except in a*primary reservoir watershed protection area* , after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use is not injurious to surrounding*properties* .

(2) For airplane use:

a. Proof of air space clearance from F.A.A. is required.

b. The minimum landing strip length is one thousand eight hundred (1,800) feet.

The length*shall* be increased twenty (20) per cent for each one (1) per cent gradient. The minimum width is one hundred fifty (150) feet.

c. The minimum runway length is one thousand six hundred (1,600) feet, and the minimum width is seventy-five (75) feet for sod, forty (40) feet for a paved surface.

d. The maximum gradient for a runway is two (2) per cent.

e. The approach slope*shall* begin at least two hundred (200) feet beyond end of runway, and be at least a 20:1 slope.

f. The length of the clear zone to be controlled and maintained by the airfield developer (no*buildings* allowed) such that future construction is prohibited (*streets* , lakes, etc.), is one thousand (1,000) feet.

g. There*shall* be a planted area at least twenty-five (25) feet wide on both sides of the landing strip, provided and maintained by the airfield *owner* (s) in such a manner as to minimize noise, dust and hazard from the field, in areas where in the opinion of the Board such protection is found to be desirable.

h. Except in areas properly zoned for such uses there*shall* be no prima facie business, repair, or advertisement, except for the sale of gasoline to the planes based at the field.

i. Any structures must be so designed and placed that they will not be detrimental to adjoining*properties* .

j. The area*shall* be so fenced as to prevent trespassing by animals or unauthorized *persons* .

(3) For heliports:

a. Proof of air space clearance from the Federal Aviation Agency is required.

b. Paragraphs h. and i. in the*preceding* subsection (2) above are met.

Cross reference: Helicopter operations inside the*City* , §13-2005.

(Ord. No. 105-TC-304, §10, TC-24-87, 1-10-88; Ord. No. 1996-851-TC-128, §3, TC-23-95, 4-2-96)

Bed and breakfast inn .

To permit a*bed and breakfast inn* in Residential-10, Residential-15, Residential-20, Special Residential-30, Residential-30, Residential Business, Office and Institution-1 Districts, and the Planned Development Conditional Use Overlay District, after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The inn is located within one (1) or more of the*following* :

a. An Historic Overlay District.

b. A*property* designated in accordance with §10-1053 as a *historic landmark.*

c. A*property* listed on the National Register of Historic Places.

d. A*property* identified as a contributing structure within a National Register Historic District, as defined in the Code of Federal Regulations, as amended.

(2) The inn is located in a structure which was originally constructed as a*single-family dwelling* or otherwise lawfully constructed for a use permitted within the zoning district.

(3) The total number of*persons* occupying the inn does not exceed the maximum residential density permitted in the district.

(4) There is no exterior advertising in a*residential districts* except a small unlighted announcement *sign* not to exceed two (2) square feet in area and three and one-half (3 1/2) feet in height. In the Residential Business and Office and Institution-1 District, the inn is permitted all signage allowed other uses in the District, consistent with any limitations imposed by this special use permit or any other permit issued by the *City* .

(5) There is no*rooming house* , *boarding house* , *tourist home* , or *bed and breakfast inn* located within four hundred (400) feet (determined by a straight line and not *street* distance) of the facility.

(6) The*owner* of the inn or a resident manager is domiciled on the *premise* .

(7) Breakfasts served on the*premise* are only for guests of the inn, and no other meals are provided on the *premise* .

(8) Off-street parking for the use will be provided in accordance with §10-2081.

(9) Any prohibited exterior element as provided by §10-2052(e)(4)*shall* be removed from the structure prior to its use as a *bed and breakfast inn* .

(10) Any interior modifications*shall* be described in the application and *shall* not be injurious to the historic character of the structure, woodwork, stairways, fireplaces, windows and doors, cornices, festoons, moldings, chairrails, or light fixtures.

Cross references:*Equivalent dwelling units* , §10-2073. Special use permit issued by the *City Council* in accordance with §10-2145(b) is required when a given number/density of *equivalent dwelling units* is exceeded in Special Residential-30 District, §10-2024 and Office and Institution-1 District, §10-2035. Minimum housing standards, §10-6123(b).

(Ord. No. 320-TC-213, TC-262, 4-3-84; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 1991-868-TC-378, §7, TC-9-91, 3-1-92; Ord. No. 1992-29-TC-395, §5, TC-12-92, 8-4-92; Ord. No. 1992-30-TC-396, §3, TC-13-92, 8-4-92; Ord. No. 1995-760-TC-122, §44, TC-20B-95, 11-21-95; Ord. No. 2001-26-TC-208, §10, TC-5-01, 6-19-01)

Day care facility (child or adult).

To permit a*day care facility* in any *residential district* except in an Airport Overlay District or *primary reservoir watershed protection area* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use will not be injurious to*property* or improvements in the *affected area* .

(2) The*following* minimum land areas per enrollee *shall* apply:

a. Rural Residential, Residential-2, and Residential-4 Districts - one thousand three hundred (1,300) square feet.

b. Residential-6, Manufactured Home, Special Residential-6 Districts - eight hundred (800) square feet.

c. Residential-10 and districts of lower residential classification - three hundred (300) square feet.

Notwithstanding the requirements in the*preceding* sentences, each facility *may* increase enrollment twenty (20) per cent to provide for absenteeism of enrollees of a *day care facility* .

(3) In the case of a*day care facility* for children, there *shall* be a minimum of seventy-five (75) square feet of fenced outdoor play area per child older than eighteen (18) *months* of age. When a *day care facility* is approved for thirty (30) or more children, there *shall* be provided seventy-five (75) square feet per child of fenced outdoor play

area for at least one-half (1/2) of the total number children for which the facility is approved; provided that, the minimum amount of space on the outdoor play area must be enough to accommodate at least thirty (30) children, and the total number of children using the area at any one (1) time does not exceed the number the outdoor space will accommodate at seventy-five (75) square feet per child.

(4) The structure housing the secular facility is similar in appearance to the area.

(5) Off-street parking*shall* be provided in accordance with §10-2081.

(6) Access to the facility from nearby*streets* will be adequate based upon the projected number of participants to attend the facility.

Cross reference: Residential*street* and *collector streets* , **Street, Sidewalk and Driveway Access Handbook** , on file with the *City* Clerk.

(7) The landscaping of the facility will adequately blend it into the area, screen its purely functional aspects from the*street* and absorb and deflect any excessive noise.

(8) No excessive light will be generated at the facility in any manner which will annoy residents of the surrounding structures.

(9) The Board of Adjustment*may* allow in any *residential district* one (1) unlighted announcement *sign* not to exceed two (2) square feet in area and three and one-half (3 1/2) feet in height and an equivalent-sized permanent vehicular *sign* .

(10) Only one (1) vehicle used in connection with the*day care facility* in *residential zoning districts* will be parked or stored on the *premises* , or residential *street* .

This special use permit*shall* not be required for the *day care facility* in a *residential zoning district* if the facility is approved by the Planning Commission or *City Council* in accordance with all the provisions of §10-2072, *Residential Institution* in a *residential zoning district,* and the Planning Commission or *City Council* find that standards (2) through (10) above are met.

Cross reference:*Site plan* requirements for *residential institutions* , §10-2132.2(b)(5).

(Ord. No. 671-TC-359, TC-9-90, 11-11-90; Ord. No. 230-TC-202, TC-247B, 11-15-83; Ord. No. 230-TC-202, TC-247A, 11-15-83; Ord. No.622-TC-245, §4, TC-16-85, 8-6-85; Ord. No. 946-TC-86, §47, TC-29-86, 7-1-87; Ord. No. 105-TC-304, §9, TC-24-87, 1-10-88; Ord. No. 870-TC-86, TC-121, 9-12-78; Ord. No. 279-TC-113, TC-149, 12-18-79; Ord. No. 1992-43-TC-397, §60, TC-10-92, 9-1-92; Ord. No. 1995-760-TC-122, §45, TC-20B-95, 11-21-95; Ord. No. 1999-570-TC-178, § 1, TC-5-99, 6-1-99; Ord. No. 1999-616-TC-181, §80, TC-3-99, 8-3-99; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00; Ord. No. 2004-647-TC-248, §12, TC-4-04, 6-1-04)

Garage for five (5) or more motorized vehicles accessory **to a *single-family* detached or *duplex dwelling*** .

To permit a garage for five (5) or more motorized vehicles in*residential zoning districts* , if the Board finds that the evidence presented at the hearing establishes that such a facility will not be injurious to *property* or improvements in the *affected area* and *street* traffic.

(Ord. No. 1994-408-TC-75, §7, TC-9-94, 6-7-94; Ord. No. 1997-137-TC-153, §100, TC-18-96, 6-17-97)

Ground signs for double ***frontage lots*** **with parallel opposite one-way *streets, or lots* with *frontage* on two (2) or more median-divided *thoroughfares*** .

To permit a*premise* to contain one (1) additional *ground sign* , after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The*premise* fronts on parallel *streets* which are one-way in opposite directions, or

the *premise* fronts on two (2) or more median-divided *thoroughfares.*

(2) The*premise* does not have and will not have any tract identification *signs* .

(3) The sum of the area of both*ground signs* does not exceed one hundred (100) square feet.

(4) The combined height of both*ground signs* does not exceed either fifteen (15) feet if the *premise* has a total *street* frontage from all *streets* of one hundred (100) or more feet, or seven (7) feet if the *premise* has a total *street* frontage from all *streets* of less than one hundred (100) feet.

(5) If it is zoned an*office and institution zoning district* , the total height of each *ground sign* does not exceed three and one-half (3 1/2) feet.

(6) In the case of parallel one-way*streets,* each *ground sign* must generally face one (1) of the *streets* such that both *signs* are generally not simultaneously visible to motorists. In the case of two (2) or more intersecting median-divided *thoroughfares,* each *ground sign* must generally face one (1) of the *thoroughfares* and be spaced as far apart on the *premise* as possible to reduce the possibility of both *signs* being seen simultaneously.

(7) Each*ground sign* conforms with all provisions of this Code.

(8) In the case of median-divided*thoroughfares,* an additional *ground sign* is warranted due to the difficulty of seeing the *premise* caused by the *thoroughfare* width and speeds permitted.

Cross reference: Signs to comply with sight triangles, §10-2086.

(Ord. No. 152-TC-189, §3, TC-238, 7-19-83; Ord. No. 217-TC-200, TC-252, 11-3-83; Ord. No. 946-TC-286, §48, TC-29-85, 4-7-87; Ord. No. 1993-247-TC-63, §§ 10, 11, TC-17-93, 8-3-93; Ord. No. 1995-760-TC-122, §46, TC-20B-95, 11-21-95)

Guest house .

To permit a*guest house* in Residential-10, Residential-15, Residential-20, Special Residential-30, and Residential-30, and Office and Institution-1 District, and Planned Development Conditional Use Overlay District, except in any Airport Overlay District, after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) All portions of*buildings* housing a *dwelling unit* *shall* be located within two hundred (200) feet from the closest *vehicular surface area* which is accessible by fire truck, as measured around both sides of the *building* and not through the *building* ; or, that an alternate plan for fire truck access, or *building* construction methods for fire control, or any combination thereof *shall* be approved by the *City* 's Fire Chief and Transportation Director.

(2) The number of*dwelling units* in the *guest house* conforms to the density requirements permitted by the zoning district.

(3) Off-street parking is provided in accordance with §10-2081.

(4) Any*apartment house* complex containing two (2) or more *guest homes* in two (2) separate *dwelling* structures on a single *property* conforms to the requirements of §10-2103.

(5) No more than the lesser of sixty (60) units or twenty-five (25) per cent of the total number of units contained in the apartment complex*may* be devoted to *guest house* apartments.

(6) There will be no external advertising or identification of the*guest house* in a *residential zoning district* visible from the right-of-way except for a tract identification *sign* which is a portion of the tract identification signage for the apartment complex allowed in §10-2083.2. In the Office and Institution-1 District, the *guest house* is permitted signage that is allowed for other uses in that zone.

Cross reference: Special use permit issued by the*City Council* in accordance with §10-2145(b) is required when a given number/density of *dwelling units* is exceeded in Special Residential-30, §10-2024 and Office and Institution-1 District, §10-2035.

(Ord. No. 913-TC-163, §2, TC-210, 6-1-82; Ord. No. 622-TC-245, §5, TC-16-85, 8-6-85; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 1991-868-TC-478, §7, TC-9-91, 3-1-92; Ord. No. 1995-673-TC-111, §3, TC-12-95, 7-5-95; Ord. No. 1998-370-TC-167, §30, TC-3-98, 7-7-98)

Kennel and cattery.

To permit a cattery or kennel, as those terms are defined in §12-3004, in Agricultural Productive, Rural Residential, Shopping Center, Neighborhood Business, Business Zone, and Thoroughfare Districts, after the Board finds that the evidence presented at the hearing establishes each of the*following* :

(1) The use will not be detrimental or injurious to*property* or improvements in the *affected area* .

(2) No part of any*building* , structure or run in which animals are housed *shall* be closer than one hundred fifty (150) feet from any *property* line, except *property* owned or *occupied* by an *owner* or operator of the kennel or cattery; provided, that the minimum distance referred to above *shall* not apply if all portions of the facility in which animals are enclosed is located wholly within a *building* .

(3) Any kennel or cattery which is not wholly enclosed within a*building shall* be enclosed by a security fence at least six (6) feet in height, which *shall* be in addition to the primary enclosures or runs.

Cross reference: Fences and walls, §10-2085. Sight triangles for fences, §10-2086.

(4) Off-street parking*shall* be provided in accordance with §10-2081.

(5) The principal function of the operation is to board animals and not to provide services such as grooming or the sale of merchandise.

(6) There*shall* be no on-premise external advertising or identification in any manner in a Rural Residential and Agricultural Productive Districts, except for one (1) unlighted announcement *sign* not exceeding nine (9) square feet in area and three and one-half (3 1/2) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign* .

Cross reference: Kennels and catteries inside the*City* , Part 12, chapter 3, Article D.

(Ord. No. 946-TC-286, §22, TC-29-85, 4-7-87; Ord. No. 153-TC-190, §11, TC-233, 7-29-83; Ord. No. 647-TC-70, TC-103, 12-1-77)

Limited home business .

To permit, except in Conservation Management Districts, a*limited home business* carried on by a *resident* in his *dwelling* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) It will not be injurious to*property* or improvements in the *affected area* .

(2) No display of goods, products or services will be visible from outside of the*dwelling* .

(3) There will be no external advertising or identification of the occupation displayed in any manner on the*premises* except for one (1) unlighted announcement *sign* not to exceed two (2) square feet in area and three and one-half (3 1/2) feet in height or in lieu thereof an equivalent sized permanent vehicular *sign* .

(4) Such use will not exceed twenty-five (25) per cent of the livable portion of the*dwelling* or five hundred (500) square feet, whichever is less.

(5) Internal or external alterations will not substantially deviate from construction features customarily found in*dwellings* .

(6) Resale of items, such as, but not limited to, antiques, jewelry and clothing*may* be permitted in addition to handmade items produced in the home.

(7) No equipment or process will be used in connection with the*limited home business* which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the *premises* . In the case of electrical interference, no equipment or process *shall* be used which creates visual or audible interference in any radio, *dish antenna* , computer, or television receivers off the *premises* .

(8) Automobile parking*shall* be provided in accordance with the Schedule of Off-street Parking Standards, §10-2081 for the type of *limited home business* maintained; provided however, no parking areas other than driveways *may* be located in the required *front yard* setback, and the off-street spaces required for the *limited home business* *shall* be maintained in addition to the space or spaces required for the *residence* itself.

(9) Only one (1) vehicle used in connection with the*limited home business* will be parked or stored on the *premises* ; provided however, the vehicle will not be a truck, such as, but not limited to, a dump truck, a fuel oil delivery truck or a wrecker.

(10) A maximum of two (2) outside employees will be employed.

(11) Except within the*primary reservoir watershed protection area* , *specialty school* services, such as, but not limited to, dance instructions, crafts or music lessons *may* be provided for a group no larger than twenty-five (25) *persons* .

(12) If within an industrial district, Office and Institution-3 District, and Airport Overlay District, the business is located in an existing *dwelling* .

(13) The requirements for shipping and receiving of materials in connection with the business does not create excessive noise or adversely affect residential traffic, especially with regard to the size of commercial vehicles involved and frequency of deliveries.

(14) No*person* *shall* be allowed to operate a *limited home business* for the purpose of conducting a business as a gun or firearms dealer. Any *limited home business* permitted by the Raleigh Board of Adjustment for the purpose of conducting a business as a gun or firearms dealer which have been made a *nonconforming use* by this section *shall* be discontinued no later than May 1, 1999.

Annotation: Employees. In approving a*limited home business* , any partner is an outside employee. A-131-81 Keane, Board of Adjustment (Aug. 10, 1981).

(Ord. No. 528-TC-353, §4, TC-3-90, 4-22-90; Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 1994-484-TC-91, §1, TC-23-94, 9-20-94)

Manufacturing - specialized .

To permit facilities for the design, assembly, testing, or repair of: scientific measuring or analyzing instruments; semiconductor and related solid state devices including but not limited to integrated microcircuits; jewelry, medical, musical instruments, photographic or optical instruments; and timing instruments, watches, in*office and institution districts* and the Buffer Commercial District after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The facility (including storage of materials, components, or products) occupies no more than ten (10) per cent of the*floor area gross* in the *building* in which it is located, or fifteen hundred (1,500) square feet, whichever is greater. Storage of materials, components, or products *shall* not exceed ten (10) per cent of the *floor area gross* allowed above.

(2) In*office and institution districts* , shipping and receiving demands and space requirements do not exceed those normally found in office uses and are not detrimental to surrounding uses.

(3) No machines are used which*may* create noises, odors or noxious fumes or vapors or in any other way be detrimental to surrounding office and institution operations.

(4) In*office and institution districts* , no *retail sales* take place on the *premises* and no retail or other showroom *display areas* or displays exist.

(5) No manufacturing is performed other than assemblage of components, repair work, and testing.

(6) No undue impact to adjoining uses is caused by noise, dirt, dust, vibration, heat, fumes, or odors.

(7) Off-street parking*shall* be provided in accordance with §10-2081.

(Ord. No. 884-TC-278, §§3, 4, TC-17-86, 11-4-86; Ord. No. 847- TC-155, §1, TC-204, 2-16-82; Ord. No. 2002-265-TC-224, §1, TC-13-02, 8-6-02)

Other professional or service offices, studios, or agencies not otherwise permitted in the office and institution and Residential Business Districts.

To permit professional or service offices, studios, or agencies in any Residential Business and*office and institution zoning districts* , not otherwise listed as allowable as a general or conditional use, after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) No sales floor spaces, show-rooms, or display windows are open for or visible from the*street* .

(2) No such use*shall* be permitted in an *office and institution district* if prohibited in that office district listing in Article C, nor *shall* such use be permitted in any Residential Business District if prohibited in the Residential Business District listing in Article C.

(3) In the Residential Business District, the services are destined for consumption by pedestrian trade existing in the area, and the operation is not injurious to affected *residences* because of noise, traffic, or other conditions.

(4) In the Residential Business District the maximum*floor area gross* requirement is met.

(5) In the*office and institutional districts* , the *floor area ratio* and *building lot coverage* requirements are met; see: office, agency or studio of a professional or business agent, or political, labor or service association, §10-2072.

(6) In the*office and institution zones* , the operation is not injurious to *properties* in

the *affected area* because of noise, traffic and other conditions, such as *floor area ratio* .

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 6-17-97)

Outdoor storage of ***recyclable material.***

To permit in the Industrial-1 and Industrial-2 Districts,except in any Airport Overlay District, an outdoor storageyard for*recyclable materials* which are to be reprocessed on-site or transported to other locations for recycling andreclamation, after the Board of Adjustment finds that the evidence presented at the hearing establishes each of the *following* :

(1) There is a plan for shipping or reprocessing each class of*recyclable material* regularly, such that the size of the storage yard is minimized in relationship to the amount of *recyclable material* estimated to be received. In no event *shall* any *recyclable material* remain on-site for a period exceeding one (1) *year* .

(2) No pile of stored materials*shall* exceed twelve (12) feet in height. Height is to be calculated in the same manner as §10-2076(b).

(3) The storage area is enclosed by a twelve-foot high*closed fence* or solid wall except along that portion of a *lot* boundary adjacent to railway tracks where a *loading area* exists. A *closed fence* or solid wall less than twelve (12) feet high *shall* be permitted if the Board of Adjustment determines that a lesser height will not have an adverse effect in the *affected area* . The *closed fence* or solid wall *shall* comply with the requirements of §10-2082.3(f).

Cross references: Fences and walls, §10-2085; sight triangles for fences, §10-2086.

(4) The facility contains adequate measures to control windblown stored material.

(5) No part of the storage yard is located within four hundred (400) feet of a*residential zoning district* , or the *lot* line of any *lot* containing any *dwelling, congregate care or congregate living structure* , or the right-of-way line of an existing or proposed *thoroughfare* or *major access corridor* .

(6) A plan is approved by the*City* for permanent soil erosion control devices.

(7) Off-street parking *shall* be provided in accordance with §10-2081.

(8) The outdoor storage yard*shall* comply with all applicable State and Federal regulations.

(9) The impact of the storage yard, including its size, equipment and machinery used, hours of operation, and appearance, will not be injurious to*property* or improvements in the *affected* area.

Cross reference: Reapproval for changes to a special usepermit, §10-2144(c)(2). (Ord. No. 1992-87-TC-400, §7, TC-6-92, 11-4-92)

(Ord. No. 1997-137-TC-153, §101, TC-18-96, 6-17-97)

Outdoor storage yard for unlicensed, uninspected, wrecked,crushed, dismantled, or partially dismantled vehicles.

To permit in Industrial-1 and Industrial-2 Districts astorage yard for unlicensed, uninspected, wrecked, crushed,dismantled or partially dismantled vehicles after the Boardof Adjustment finds that the evidence presented at the hearing establishes each of the*following* :

(1) The maximum storage pile heights*hall* not exceed twelve (12) feet. Height *shall* be

calculated in the same manner as set forth in §10-2076(b).

(2) The yard is operated by someone engaged in the wrecker or towing business.

(3) The storage area, except along that portion of a *lot* boundary adjacent to railway tracks where a *loading area* exists, is enclosed by a *closed fence* or solid wall which *shall* be at least twelve (12) feet tall, unless the Board of Adjustment determines that a lesser height will not be adverse to *property* or improvements in the *affected area* .

Cross reference: Fences and walls, §10-2085. Sighttriangles for fences, §10-2086.

(4) Off-street parking*shall* be provided in accordance with §10-2081.

(5) The storage yard is*used* exclusively for vehicle storage and that no parts from stored vehicles are sold at wholesale or retail on that site.

(6) The proposed storage yard is not closer than one (1) mile (determined by straight line and not*street* distances) from another storage yard.

(7) The impact of the storage yard, including its size, equipment and machinery used, hours of operation, and appearance will not be injurious to*property* or improvements in the *affected area.*

Cross reference: Reapproval for changes to a special use permit, §10-2144(c)(2). (Ord. No. 1986 837-TC-271, §§ 1, 2, TC-5-86, 9-5-96; Ord. No. 1986 799-TC-267, §§28, 29, TC-21-85, 1-1-87; Ord. No.1993-134-TC-47, §§5--7 TC-1-93, 2-2-93)

(Ord. No. 1997-137-TC-153, §102, TC-18-96, 6-17-97)

Parking (off-street) reduction for conversion or alteration of a ***building*** .

To permit reduction in the number of required off-street parking spaces for the alteration or conversion of an existing*building* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The proposed use is directed primarily toward pedestrian trade existing in the area.

(2) The character of existing development of*properties* within four hundred (400) feet prohibit the acquisition of land for parking.

(Ord. No. 1992-43-TC-397, §59, TC-10-92, 9-1-92)

Plant nursery, and fruit and vegetable stand.

To permit in the Rural Residential District, except in*primary reservoir watershed protection areas* , plant nurseries, fruit and vegetable stands, and related sales offices (wholesale or retail), after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) Sales offices*shall* be limited to one hundred (100) square feet of floor area per acre of land area, not to exceed one thousand (1,000) square feet of floor area.

(2) Sales*shall* be limited to:

a. Plants produced or nurtured on the*premises* ;

b. Hand-held nonmotorized garden tools;

c. Fertilizer, mulch, and similar items normally associated with nursery or gardening operations.

(3) Signing *shall* be limited to one (1) unlighted announcement *sign* not to exceed twelve (12) square feet in area, or be higher than three and one-half (3 1/2) feet above

the ground elevation or in lieu thereof an equivalent-sized permanent vehicular *sign* .

(4) No*building* *shall* be located nearer than fifty (50) feet from any *property* line.

(5) Off-street parking*shall* be provided in accordance with §10-2081; provided that, a minimum of five (5) off-street parking places *shall* be provided.

(6) No illumination when measured off the site,*shall* exceed four-tenths (0.4) maintained footcandle of lighting.

(7) The use will not be injurious to*property* or improvements in the *affected area* .

(Ord. No. 105-TC-304, §10, TC-24-87, 1-10-88; Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 820-TC-84, TC-117, 7-20-78; Ord. No. 1997-137-TC-153, §103, TC-18-96, 6-17-97)

Recreational outdoor use - commercial.

To permit in*residential districts* , except in the *primary reservoir watershed protection area* , *recreational outdoor use - commercial* after the board finds that the evidence presented at the hearing establishes each of the *following:*

(1) Recreation is limited to the*following* uses: driving ranges and golf courses; and *accessory uses* of miniature golf, putt-courses, swimming pools, tennis courts and associated buildings.

(2) The use will not be injurious to*property* or improvements in the *affected area.*

(3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.

(4) The street capacity adjacent to the property to be so used is sufficient to safeguard the public health, comfort and convenience as may be required for the preservation of the general character of the neighborhood in which such use is to be conducted.

(5) Off-street parking*shall* be provided in accordance with §10-2081.

(6) No illumination, when measured off the recreation site,*shall* exceed four-tenths (0.4) maintained footcandle of lighting. All lighting *shall* be shielded from direct exposure to adjoining residential zones.

(7) Only the sale of merchandise associated with the recreational use is permitted. No merchandise or advertisement thereof will be visible from the public right-of-way.

(8) There*shall* be no *on-premise* external advertising or identification in any manner in a *residential district* , except for tract identification *sign* (s) approved by the Board of Adjustment that do(es) not exceed the standards of §10-2083.2, Tract Identification *Signs* .

(9) The board*shall* set the time of operation.

(Ord. No. 1996-877-TC-130, §6, TC-2-96, 5-7-96; Ord. No. 2005-869-TC-268, §2, TC-11-05, 7-5-05)

Recreational use restricted to membership - not for profit .

To permit in Agricultural Productive, Residential Business, and*residential districts* , except in the *primary reservoir watershed protection area* , *recreation uses restricted to membership* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) Recreation is limited to the*following* uses: athletic league fields, campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball,

and tennis courts, golf courses, driving ranges, *play fields* , playgrounds, swimming pools, tanning facilities, weight and exercise rooms.

(2) The use will not be injurious to*property* or improvements in the *affected area* .

(3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.

(4) The*street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort, convenience as *may* be required for the preservation of the general character of the neighborhood in which such *building* is to be placed or such use is to be conducted.

(5) No swimming pool or wading pool, diving area, outdoor*play court* such as a tennis or basketball court, *play field* , play or equipment area, or other active recreational use nor any driveway or parking area for such facilities *shall* be established without first providing *transitional protective yards* which conform to §10-2082.9 for medium impact uses.

Cross reference: Fencing of outdoor swimming pools inside the*City* limits, §13-2028.

(6) Off-street parking*shall* be provided in accordance with §10-2081.

(7) No illumination, when measured off the recreation site, *shall* exceed four-tenths (0.4) maintained footcandle of lighting.

(8) The land area of the use is not needed to satisfy the minimum site size of a development according to §10-2073.

(9) Payments, if any, for the use of recreational facilities are made on an installment basis of not less than monthly, rather than on any pay for use, hourly, daily, or weekly basis.

(10) The sale of merchandise is allowed as a*residential related service* restricted to members.

Recreational use restricted to membership - not for profit , is permitted in a *primary reservoir watershed protection area* in accordance with a special use permitted issued by the *City Council* , §10-2145.

Cross reference: Tract identification*signs* permitted, §10-2083.2. Recreational uses of the *City* of Raleigh in a *primary reservoir watershed protection area* are required to obtain a special use permit from the Board of Adjustment in accordance with §10-2145, standards for recreational use of a governmental entity in a *primary reservoir watershed projection area* .

(Ord. No. 779-TC-83, TC-118, 6-2-78; Ord. No. 272-TC-111, TC-146, 12-4-79; Ord. No. 799-TC-267, §38, TC-21-85, 1-1-87; Ord. No. 415-TC-343, TC-1-89, §7, 8-1-89; Ord. No. 105-TC-304, §12, TC-24-87, 1-10-88; Ord. No. 1993-207-TC-59, §18, TC-12-93, 6-1-93; Ord. No. 1996-877-TC-130, §7, TC-2-96, 5-7-96; Ord. No. 1996-901-TC-131, §17, TC-3-96, 5-21-96)

Retail sales not otherwise listed as permitted in the Residential Business and Buffer Commercial Districts.

To permit*retail sales* not otherwise allowed as a general or conditional use in the Residential Business and Buffer Commercial Districts, after the Board finds that evidence presented at the hearing establishes each of the *following* :

(1) The business is retail.

(2) In the Residential Business District, the business handles sales of goods or services customarily destined for consumption by pedestrian trade existing in the area.

(3) In the Buffer Commercial District, the business handles sales of goods customarily destined for family consumption.

(4) The use will not be injurious to*property* or improvements in the *affected area* .

Riding stable.

To permit a horse riding stable including the boarding of horses in Rural Residential, Agricultural Productive, Shopping Center, Neighborhood Business, and Business Zone Districts, except in Primary Reservoir Watershed Protection Overlay Districts, after the Board finds that the evidence presented at the hearing establishes each of the*following* :

(1) The use will not be injurious or*unhealthy* to *property* or improvements in the *affected area* .

(2) No part of any *building* or structure in which animals are housed *shall* be closer than two hundred (200) feet from any existing *residence* , except for *property* owned or *occupied* by an *owner* or operator of the riding stable.

(3) All horses connected with the riding stable*shall* be enclosed by appropriate fencing so that horses *shall* not be permitted to run at large.

(4) Off-*street* parking *shall* be provided in accordance with §10-2081.

(5) Only one (1) mature horse*may* be kept on a *lot* less than one (1) acre. For *lots* from one (1) to five (5) acres in size, a maximum of three (3) mature horses per acre *may* be kept. For *lots* greater than five (5) acres, up to ten (10) horses per acre *may* be boarded if the setbacks as listed in subparagraph (6) below are increased to two hundred (200) feet from the *property* line.

(6) *Buildings* , stables and riding rings *may* not be placed closer than fifty (50) feet to any *property* line. However, the main manure storage area *shall* be no closer than one hundred fifty (150) feet to any *property* line.

(7) Lighting*shall* be shaded or directed so that light intensity will not disturb surrounding *dwelling* or *congregate living* or *congregate care structures* .

(8) There*shall* be no on-premise external advertising or identification in any manner in a Rural Residential and Agricultural Productive District, except for one (1) unlighted announcement *sign* not exceeding nine (9) square feet in area and three and one-half (3 1/2) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign* .

(9) The board*may* require a setback for the grazing area from the *property* line to assure that such areas do not pose a nuisance or give rise to unsanitary or unsafe conditions with regard to adjacent *properties* .

Cross reference: Stables and holding facilities inside the*City* , §12-3031 et seq. Horse stables as an accessory to a *dwelling(s)* , §10-2071, **Schedule of Permitted Land Uses in Zoning Districts.**

(Ord. No. 46-TC-172, §2, TC-220, 12-21-82; Ord. No. 781-TC-151, §4, TC-198, 11-3-81; Ord. No. 230-TC-202, §1, TC-247A, 11-15- 83; Ord. No. 153-TC-190, §9, TC-233, 7-29-83; Ord. No. 105-TC- 304, §10, TC-24-87, 1-10-88)

Rooming house, boardinghouse, lodging house, tourist home .

To permit a*rooming house* , *boardinghouse* , *lodging house* or *tourist home* in Residential-10, Residential-15, Residential-20, Special Residential-30, Residential-30, Residential Business, and Office and Institution-1 Districts after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The*dwelling unit* was constructed originally as a *single-family dwelling* .

(2) The total number of*persons* occupying the *dwelling* does not exceed the residential density permitted by this Code, §10-2073.

(3) There is no exterior advertising except one (1) unlighted announcement*sign* not to exceed two (2) square feet in area.

(4) No more than one (1) *rooming house* , *boardinghouse* , *lodging house* or *tourist home* in any one thousand two hundred (1,200) foot radius (determined by a straight line and not *street* distance) *shall* be permitted.

(5) Off-*street* parking *shall* be provided in accordance with §10-2081.

(6) The*rooming house* , *boarding house* , *lodging house* , or *tourist home* will not or is not injurious to *property* or improvements in the *affected area* .

(7) That*rooming houses* , *boarding houses* , *lodging houses* or *tourist homes* approved after December 1, 1991, are required to apply for renewal of the special use permit by the Board of Adjustment within twelve (12) *months* *following* the date of approval. Failure to apply within the specified time period *shall* render the special use permit null and void.

Cross references: Special use permit issued by the*City* *Council* required when a given number/density of *dwelling units* is exceeded in Special Residential-30 District, §10-2145; minimum housing standards for *rooming houses* , §10-6123(b); *equivalent dwelling unit* , §10-2073.

Editor's note: This regulation first became applicable on December 1, 1991 (Ord. No. (1991) 876-TC-377)

(*Code 1959* , §24-9(c); Ord. No. 523-TC-61, TC-92, 5-3-77; Ord. No. 438-TC-226, §7, TC-275, 11-12-84; Ord. No. 600-TC-242, §4, TC-13-85, 7-2-85; Ord. No. 867-TC-377, TC-14-91, 12-1-91)

School, church, or government ***building*** **adaptively reused as an office, agency or studio, operating on a not for profit basis, for a professional, business agent, political, labor or service association.**

To permit the office(s), agencies, or studio of a professional or business, political, labor or service association, such as a business or trade organization, chamber of commerce, elected political subdivision, political, religious, social service, or youth organization, operating on a not for profit basis in an existing community facility*building* located in any *residential district* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The community facility*building* was originally constructed and *occupied* by one (1) of the *following* specified uses: school; church; federal, state or local government.

(2) The*building* is a permanent structure which cannot economically or reasonably be converted to residential uses or moved to an alternate site.

(3) The use will not be injurious to*property* or improvements in the *affected area* .

(4) There*shall* be no advertisement in a *residential district* except for one (1) unlighted announcement *sign* not to exceed six (6) square feet in area and three and one-half (3 1/2) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign* .

(5) There*shall* be no flood lighting which beams directly into nearby residential areas.

(6) Off-*street* parking *shall* be provided in accordance with §10-2081.

(7) *Transitional protective yards* which conform to §10-2082.9 for low impact uses *shall* be installed.

(8) When located within a Reservoir Watershed Protection Overlay District other possible impacts upon that watershed are no greater than those of the previous use.

(Ord. No. 230-TC-202, §1, TC-247A, 11-15-83; Ord. No. 318-TC-211, TC-257, 4-8-84; Ord. No. 318-TC-211, §§2, 3, TC-257, 4-8- 84; Ord. No. 105-TC-304; §11, TC-27-87, 1-10-88; Ord. No.799-TC-267, §37, TC-21-85, 1-1-87)

Schools - private/parochial.

To permit a nongovernmental school or parochial school meeting the curricular teaching certification of instruction approved by*the State* Board of Education, in *residential districts* , except in an Airport Overlay District or *primary reservoir watershed protection area* , after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use will not be injurious to*property* or improvements in the *affected area* .

(2) There*shall* be a minimum of five hundred (500) square feet of total land area per enrolled pupil.

This special use permit*shall* not be required if the school is approved by the Planning Commission or *City Council* in accordance with the provisions of §10-2072, *Residential Institution* in a *residential zoning district,* and the Planning Commission or *City Council* finds that there is a minimum of five hundred (500) square feet of total land area per enrolled pupil.

Cross reference:*Site plan* requirements for *residential institutions* , §10-2132.2(b)(5).

(Ord. No. 105-TC-304, §9, TC-24-87, 1-10-88; Ord. No. 622-TC- 245, §4, TC-16-85, 8-6-85; Ord. No. 1992-43-TC-397, §60, TC-10-92, 9-1-92; Ord. No. 1999-616-TC-181, §82, TC-3-99, 8-3-99)

Special care facility.

To permit a*special care facility* in any *residential district* except in an Airport Overlay District or *primary reservoir watershed protection area* after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use will not be injurious to*property* or improvements in the *affected area* .

(2) The*following* minimum land areas per enrollee *shall* apply:

a. Rural Residential, Residential-2, and Residential-4 Districts - one thousand three hundred (1,300) square feet.

b. Residential-6, Manufactured Home, Special Residential-6 Districts - eight hundred (800) square feet.

c. Residential-10 and districts of lower residential classification - three hundred (300) square feet.

Notwithstanding the requirements in the*preceding* sentences, each facility *may* increase enrollment twenty (20) per cent to provide for absenteeism of enrollees of a *special care facility* .

(3) The structure housing the secular facility is similar in appearance to the area.

(4) Off-*street* parking *shall* be provided in accordance with §10-2081.

(5) Access to the facility from nearby*streets* will be adequate based upon the projected number of participants to attend the facility.

Cross reference: Residential*street* and *collector streets* , Street, Sidewalk and Driveway Access Handbook, on file with the *City* Clerk.

(6) The landscaping of the facility will adequately blend it into the area, screen its purely functional aspects from the*street* and absorb and deflect any excessive noise.

(7) No excessive light will be generated at the facility in any manner which will annoy residents of the surrounding structures.

(8) The Board of Adjustment*may* allow in any *residential district* one (1) unlighted announcement *sign* not to exceed two (2) square feet in area and three and one-half (3 1/2) feet in height and an equivalent-sized permanent vehicular *sign* .

(9) Only one (1) vehicle used in connection with the*special care facility* in *residential zoning districts* will be parked or stored on the *premises* , or residential *street* .

(10) No*special care facility shall* be located within one thousand two hundred (1,200) feet (determined by straight line from *property* line to *property* line) of any other *special care facility* .

This special use permit*shall* not be required for the *special care facility* in a *residential zoning district* if the facility is approved by the Planning Commission or *City Council* in accordance with all the provisions of §10-2072, *Residential Institution* in a *residential zoning district* , and the Planning Commission or *City Council* find that standards (2) through (10) above are met.

(Ord. No. 2004-647-TC-248, §13, TC-4-04, 6-1-04; Ord. No. 2004-721-TC-260, §6, TC-16-04, 10-5-04)

Cross reference:*Site plan* requirements for *residential institutions* , §10-2132.2(b)(5).

Specialty school as a ***limited home business*** .

Except within an Airport Overlay District or*primary reservoir watershed protection area* , a specialty school is permitted in *residential districts* in accordance with a special use permit for a *limited home business* , issued under this section, §10-2144(b).

Veterinary hospital in conjunction with a kennel/cattery.

To permit a*veterinary hospital* , as an adjunct use to a kennel/cattery in the Rural Residential and Agricultural Productive District, after the Board finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use will not be detrimental or injurious to*property* or improvements in the *affected area.*

(2) The use is not noxious or offensive by reason of emission of odors and noise.

(3) Off-street parking *shall* be provided in accordance with §10-2081.

(4) The*street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort and convenience as *may* be required for the preservation of the general character of the neighborhood in which such a use is to be conducted.

(5) No part of any*building* , structure or run in which animals are housed *shall* be closer than one hundred fifty (150) feet from any *property* line, except *property* owned or *occupied* by an *owner* or operator of the veterinary hospital; provided, that the minimum distance referred to above *shall* not apply if all portions of the facility in which animals are enclosed is located wholly within a *building.*

(6) Only the sale of merchandise associated with the*veterinary hospital* is permitted. No merchandise will be visible from the public right-of-way. The principal function of the operation is the rendering of medical services and not the sale of merchandise.

(7) There*shall* be no on-premise external advertising or identification in any manner in

a Rural Residential and Agricultural Productive Districts, except for one (1) unlighted announcement sign not exceeding nine (9) square feet in area and three and one-half (3 1/2) feet in height or in lieu thereof an equivalent-sized permanent vehicular *sign.*

(8) No illumination, when measured off the site*shall* exceed four-tenths (0.4) maintained footcandle of lighting.

(9) A special use permit from the Board of Adjustment has been obtained for a kennel/cattery for the*property* .

(Ord. No. 1996-855-TC-129, §6, TC-4-96, 4-2-96)

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Yard encroachments.

(1) Encroachments over*front* and *rear yard areas* .

a. To permit encroachments in any zoning district over*front* and *rear yard areas* as determined by §10-2075(b), for the *following* types of structures:

1. awnings,*marquees* , *projecting signs* , porches, decks, *eaves* , stairways and carports, completely open except for reasonable supports, to extend into or over more than twenty (20) per cent of the required district *front yard* or *rear yard* setback; and

2. canopies no higher than fifteen (15) feet, and which are completely open except for reasonable supports, to extend into or over more than twenty (20) per cent of the required district*front* yard or rear yard setback.

Cross reference: Open structures allowed to extend into up to twenty (20) per cent of the*front* or *rear yard* setbacks; see **Schedule of Permitted Land Uses Within Types of Yard Areas** , §10-2075(e), note m.

b. These encroachments are to be permitted only after the Board finds that the evidence presented at the hearing establishes each of the*following* :

1. Special conditions and/or circumstances exist on the same block or nearest block adjacent thereto or across the same*street* therefrom.

2. The special conditions and/or circumstances do not result from actions of the applicant, and therefore, strict application of the yard setbacks provisions would deprive the applicant of rights commonly enjoyed by other*properties* in the immediate vicinity and in the same zoning district.

3. Granting the reduction is the minimum exception that will make possible the reasonable use on the land,*building* , or structure.

4. Granting the reduction will not be injurious to*property* on improvements in the *affected area* .

5. The encroachment is not into a minimum*yard area* established for a *lot* on a new *block face* , platted after application of this regulation*, in the Special Residential-6, Residential-6, Residential-10, Residential-15, Residential-20, and Residential-30.

*Editor's note: This regulation first became applicable on July 21, 1991 (Ord. No. 823-TC-371, §12, TC-11-91).

6. If the canopy is within thirty (30) feet of an adjacent*street* , highway, or expressway right-of-way, no *ground sign shall* be permitted on the

premise .

7. The canopy, awning,*marquee* , *projecting sign* , deck or porch, if part of a planned nonresidential development, is consistent with approved *unity of development* guidelines, as required in §10-2132.2(d)(5).

Yard reductions.

As a prerequisite to the approval of a special use permit allowing any of the *following* district yard setback reductions the Board *shall* first find that the evidence submitted at the hearing establishes that such reductions will not be injurious to *property* or improvements in the *affected area* .

(1) Yard reductions at corners and next to open spaces.

To permit yard reductions on*corner lots* or *lots* opposite or adjoining permanent open spaces, including parks and playgrounds.

(2) Front ***yard*** **reduction.**

To permit reductions in*front yard* setbacks where there are irregularities in depths of existing *front yard* setbacks on a *block face* provided the reduction equals any one (1) of the depths of the existing *front yard* setbacks on that side of the *street* .

(3) Yard reductions for topography or solar access.

To permit reductions in*front* , *side* and *rear yard* setbacks if necessary because of topography or solar access.

(Ord. No. 348-TC-216, TC-261, 5-20-84)

Editor's note: The provisions of former §10-2073(c)(4), which pertained to special exceptions for residential parking in redevelopment areas, included an expiration date of*May* 20, 1989. The subsection has been deleted at the direction of the *City* . Ord. No. 146-TC-107 (TC-3-79) removed §24-49(c)(3), which permitted, where a zoning boundary split a *lot* , a use from either district on the *lot* . In addition, the *following* special use permits were discontinued as part of Ordinance No. (1991) 869-TC-379: §10-2073(c) (1), (5), (10) and (11). The *following* special use permit was relocated to §10-2146.3(3)b.: §10-2073(c)(2).

(*Code 1959* , §§24-49(1)(B)-(E); Ord. No. 348-TC-216, TC-261, 5-20-84; Ord. No. 2003-373-TC-231, §11, TC-23-02, 2-4-03)

(c) Limits on use classification, changes to approved special uses, and abandonment.

(1) Whenever the Board of Adjustment approves a special use permit, such approval*shall* not change the use classification of the *property* nor give it any status as a *zoning nonconformity* , such as is referred to in §10-2146.

(2) Whenever the Board of Adjustment approves a special use permit, such approved special use*shall* not without the prior approval of the Board:

a. Change to another use for more than thirty (30) days; or

b. Increase its density or intensity; or

c. Enlarge, expand, or increase its size; or

d. Increase the requirements for off-*street* parking spaces; or

e. Substantially change the exterior appearance of the*building* ; or

f. Add new outdoor equipment and machinery.

(3) Any special use permit approved by the Board of Adjustment, including special use

permits approved prior to the application of this subsection, that are either changed to another use for more than thirty (30) days, other than that for which the special use permit was issued, or discontinued or ceased for a continuous period of three hundred sixty-five (365) days or more is null and void and*may* not resume without the reapproval of the Board of Adjustment.

(Ord. No. 1992-87-TC-400, §8, TC-6-92, 11-4-92)

(d) All special use permits approved by the Board of Adjustments*shall* contain a statement that such special use is contingent upon the payment of any applicable facility fees and the approval of either a *site plan* or *plot plan* , if required by this Code.

Editor's note: This provision was first applied to special use permits issued by Board of Adjustment on December 5, 1985.

(Ord. No. 684-TC-257, §4, TC-31-85, 12-3-85; Ord. No. 31- TC-296, §81, TC-16-87, 12-1-87)

Sec. 10-2145. SPECIAL USE PERMITS APPROVED BY CITY COUNCIL.

Special use permits - alphabetical listing:

- Commercial surface parking lot as a principal use located within a Transit Oriented Development Overlay District.

- Correctional/penal facility (governmental and nongovernmental).

- Outdoor stadium, outdoor theater, outdoor race tract, of more than two hundred and fifty (250) seats, and outdoor movie theaters.

- Parking facility - off-site, for a*residential institution* in *residential zoning districts* .

- Recreational use of a governmental entity and not for profit private recreational camp, in a*primary reservoir watershed protection area* .

-*Recreational use restricted to membership - not for profit, in a primary reservoir watershed protection area.*

-*Retail sales* exceeding fifty thousand (50,000) square feet of *floor area gross* in a single establishment located within a Transit Oriented Development Overlay District.

-*Retail sales - highway* located within a Transit Oriented Development Overlay District.

- Telecommunication tower.

(Ord. No. 1992-87-TC-400, §7, TC-6-92, 11-4-92; Ord. No. 1992-88-TC-401, §25, TC-4-92, 11-4-92; Ord. No. 1993-133-TC-46, §16, TC-11-92, 2-2-93; Ord. No. 1993-134-TC-47, §8, TC-1-93, 2-2-93; Ord. No. 1993-187-TC-56, §12, TC-13B-93, 5-4-93; Ord. No. 1995-673-TC-111, §4, TC-12-95, 7-5-95; Ord. No. 1997-137-TC-153, §105, TC-18-96, 6-17-97; Ord. No. 1998-370-TC-167, §31, TC-3-98, 7-7-98; Ord. No. 2004-596-TC-245, §11, TC-14-03, 4-6-04)

Editor's note: Ord. No. 1995-673-TC-111, §§4, 5, adopted July 5, 1995, set out provisions repealing "More than eight (8)*dwelling* or *rooming units* per floor for *multi-family* and *group housing* structures, *townhouse* , *congregate care* and *congregate living structures* , *life care communities* and condominium developments" from the listing of special use permits and also from §10-2145(b). "More than eight (8)..." as set out in §10-2145(b) derived from Ord. No. 319-TC-335, TC-29-88, adopted Jan. 26, 1989; Ord. No. 1997-137-TC-153, §105, TC-18-96, adopted June 17, 1997, set out provisions repealing the *following* special uses (derivation of same in parentheses): "Additional *floor area ratio (F.A.R.)* allowances for office *buildings* in Office and Institution-1 and -2 Districts" (Ord. No. 942-TC-283, TC-1-87; Ord. No. 1991-868-TC-378, §5, TC-9-91, adopted March 1, 1992; Ord. No. 1992-43-TC-397, §61, TC-10-92, Sept. 1, 1992; Ord. No. 1997-137-TC-153, §2, TC-18-96, June 17, 1997); "Downtown Residential Housing and Pedestrian Business Overlay Districts - additional density,

conversions of *buildings* to *dwellings* , *net lot area* reduction for *dwellings* , and housing within underlying industrial zoning districts" (Ord. No. 366-TC-218, §5, TC-265, June 24, 1984; Ord. No. 509-TC-230, §4, TC-278, Sept. 5, 1985; Ord. No. 880-TC-277, §§1--4, 8, TC-18-86, Oct. 27, 1986; Ord. No. 76-TC-302, §1, TC-23-87, Nov. 9, 1987; Ord. No. 310-TC-331, §§1--3, TC-30-88, Feb. 12, 1989; Ord. No. 1992-88-TC-401, §27, TC-4-92, Nov. 4, 1992; Ord. No. 1996-931-TC-138, §9, TC-27-95, July 2, 1996); " *Hotel* and *motel* in Office and Institution-2 District" (Ord. 867-TC-276, §1, 5, TC-14-86, adopted Jan. 1, 1987; Ord. No. 691- TC-360, §1, TC-12-90, adopted Dec. 16, 1990; Ord. No. 1996-931-TC-138, §10, TC-27-95, adopted July 2, 1996); "Interim uses in Residential Business Districts within redevelopment areas" (Ord. No. 735-TC-364, TC-2-91, adopted Feb. 24, 1991); "Outdoor storage of *recyclable material* " (Ord. No. 1992-87-TC-400, §7, TC-6-92, adopted Nov. 4, 1992); "Outdoor storage yard for unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled vehicles" (Ord. No. 837-TC-271, §§1, 2, TC-5-86, Sept. 5, 1986; Ord. No. 799-TC-267, §§27, 28, TC-21-85, adopted Jan. 1, 1987; Ord. No. 1993-134-TC-47, §§5--7, TC-1-93, adopted Feb. 2, 1993); "Parking facility, off-site, in a Residential Business District for special use residential housing projects" (Ord. No. 166-TC-308, TC-2-88, adopted May 5, 1988; Ord. No. 1992-88-TC-401, §28, TC-4-92, adopted Nov. 4, 1992; Ord. No. 1994-520-TC-96, §4, TC-12-94, adopted Dec. 13, 1994); " *Shopping centers* and *shopping areas* in Thoroughfare and Industrial-1 and 2 Districts that are located within four hundred (400) feet of any major *thoroughfare* or *major access corridor* " (Ord. No. 869-TC-379, §7, TC-16-91, adopted Dec. 1, 1991); "Special Highway Overlay Districts - alternative designs" (Ord. No. 847-TC-273, §5, TC-16-86, adopted Sept. 2, 1987; Ord. No. 1993-133-TC-46, §§16, 28, 29, TC-11-92, adopted Feb. 2, 1993; Ord. No. 1995-760-TC-122, §47, TC-20B-95, adopted Nov. 21, 1995); "Special Residential-30, residential density greater than twenty (20) *dwelling units* per net acre or three (3) or more *dwelling units* on a *lot* " (Ord. No. 438-TC-226, TC-275, adopted Dec. 11, 1984; Ord. No. 600-TC-242, §4, TC-13-85, adopted July 2, 1985; Ord. No. 799-TC-267, §36, TC-21-85, adopted Jan. 1, 1987); "Thoroughfare District - alternative designs" (Ord. No. 799-TC-267, §21, TC-21-85, adopted Jan. 1, 1987; Ord. No. 1995-760-TC-122, §48, TC-20B-95, adopted Nov. 21, 1995); " *Thoroughfare protective yard* reductions for projects in Thoroughfare Districts traversed by more than one (1) mile of continuous public *thoroughfare* "; Ord. No. 1998-370-TC-167, §31, TC-3-98, adopted July 7, 1998, set out provisions repealing the special use "Additional residential density in Office and Institution-2, Shopping Center, and Thoroughfare Districts," which derived from Ord. No. 1985-509-TC-230, TC-278; Ord. No. (1985) 675-TC-254; Ord. No. 675-TC-254, §§5, 6, 7, TC-17-85, adopted May 1, 1986; Ord. No. 133-TC-305, §9, TC-27-87; Ord. No. 1991-868-TC-378, §5, TC-9-91, adopted March 1, 1992.

(a) Special Use Permits Approved.

In performing its functions and duties under this chapter, the*City Council* , after making the necessary findings, is authorized to issue special use permits to allow the enumerated *buildings* , uses and designs in the districts specified in subsection (b) below. The districts referred to herein apply to general use and conditional use districts unless the applicable conditional use district ordinance specifically states otherwise. The Planning Director *shall* determine the information required to be submitted for application for a special use permit. If the proposed *buildings* or uses require a preliminary *site plan* to be submitted for approval, the Planning Director *may* require submittal of a preliminary *site plan* , meeting the standards of §10-2132.2(d), prior to accepting a special use permit application.

(b) Special Use Permits Enumerated.

Commercial surface parking lot as a principal use located within a Transit Oriented Development Overlay District.

To permit a commercial surface parking lot as a principal use within a Transit Oriented Development Overlay District after the*City Council* finds that the evidence presented at the hearing establishes each of the *following* :

1. The parking lot must be necessary to provide parking for specified projects that are located within and in conformance with the adopted transit station area plan, or for the*passenger transit station or stop* .

2. The parking lot is on an interim basis, not to exceed a period of five (5)*years* , and that more permanent parking supplies in the form of a parking deck, structure or garage are anticipated for later development which would offer replacement when the use approved herein is discontinued and a replacement use in conformance with the transit station area plan is erected on the site.

3. No parking lighting*shall* exceed twenty (20) feet in height.

4. All*vehicular surface area* is paved and is in conformance with §10-2081 unless specified otherwise by the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

5. All vehicular surface area is landscaped in conformance with §10-2082.6 unless specified otherwise by the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

6. The design and screening of the proposed surface parking lot, as viewed from adjacent*streets* and properties, is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

7. The proposed surface parking lot and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

8. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.

9. Such parking lot*shall* not be injurious to property or improvements in the *affected area* .

(Ord. No. 2004-596-TC-245, §12, TC-14-03, 4-6-04)

Correctional/penal facility (Governmental and Nongovernmental).

To permit a correctional/penal facility (governmental) in Office & Institutional, Buffer Commercial, Shopping Center, Neighborhood Business, Thoroughfare, and Industrial Districts, and a correctional/penal facility (nongovernmental) in Industrial Districts, if the Councilfinds that the evidence presented at the hearing establishes each of the *following* :

(1) There*shall* be no flood lighting which beams directly into nearby residential areas.

(2) The*street* capacity adjacent to the site is sufficient to safeguard the public health, especially with regard to the size and frequency of commercial vehicles involved with the transportation of inmates and for the shipping and receiving of materials in connection with the facility.

(3) *Transitional protective yards* which conform to §10-2082.9 for high impact uses *shall* be installed.

(4) The use is in accord with development criteria established by*City Council* - adopted plans and policies such as the Comprehensive Plan and redevelopment plans, and if there is a conflict between plans and Code provisions, the more restrictive *shall* apply.

(5) The use will not be injurious to*property* or improvements in the *affected area* .

(Ord. No. 1993-187-TC-56, §13, TC-13B-93, 5-4-93)

Outdoor stadium, outdoor theater, outdoor amphitheatre, outdoor race track, of more than two hundred and fifty (250) seats, and outdoor movie theatres.

To permit outdoor stadiums, outdoor theaters, outdoor race tracks, and outdoor amphitheaters of more than two hundred fifty (250) seats, and outdoor movie theatres, in any*residential, office and institution* , Residential Business, Buffer Commercial, Shopping Center, Neighborhood Business, Planned Development Conditional Use Overlay District, and Business Zone, Thoroughfare, Industrial-1 and Industrial-2 Districts after the *City Council* finds that the evidence presented at the hearing establishes each of the *following* :

1. The facility and activities requested to be conducted therein will not have a substantial adverse impact on surrounding*properties* including without limitation, stormwater, dust, smoke or vibration.

2. The practical limits of public facilities and services such as stormwater, water and sewer lines,*streets* , fire, public safety, and trash collection are considered and respected.

3. The traffic generated to and from the site will not create unsafe or inefficient parking, loading, vehicular and pedestrian circulation patterns with consideration, among other things, to: the physical character of roads, the classification of roads, accident experience near the site, traffic volumes existing and projected from approved*site plans* and subdivisions, interference with any other driveway, and response time of nearby emergency services such as fire and hospital.

4. The visual separation of buffers are provided which lessen the perceived height and bulk of proposed structures as seen from nearby residential neighborhoods.

5. The nearby*properties* are protected from sound amplification and lighting.

6. The facility and activities conducted therein will not be injurious to*property* or improvements in the *affected area* .

7. The off-*street* parking in accordance with §10-2081 is provided in the amount of one (1) space for every five (5) seats or every five (5) *persons* of the designated capacity of the assembly place.

8. The site is not located in a*primary watershed protection area* .

Stadiums, theaters, race tracks, and amphitheaters which were already in existence prior to application of this special use provision which otherwise conform to this chapter are not made nonconforming by this provision. Events and activities conducted in these existing facilities are likewise grandfathered from the effects of this ordinance; provided, the*property owner* can prove that the event and activity occurred within three (3) *years* immediately prior to application of this provision. However, any expansion of such facility which singularly or collectively exceeds five (5) per cent of the seating capacity existing at the time of application of the ordinance or the holding of any event or activity not conducted in the facility three (3) *years* immediately *preceding* application of this ordinance *shall* not be lawful unless and until this special use permit is issued for the expansion or new activity.

Editor's note: This special use permit was first made applicable on June 19, 1990 (Ord. No.(1990) - 607-TC-356, TC-8-90)

(Ord. No. 1991-868-TC-378, §6, TC-9-91, 3-1-92; Ord. No. 1997-137-TC-153, §105, TC-18-96, 6-17-97)

Parking facility, off-site, in a Residential Business District for special use residential housing projects.

To permit in a Residential Business District parking spaces, off-site, on a different*lot* as the *principal building(s)* after the *City Council* finds that the evidence presented at the hearing

establishes each of the *following* :

(1) Such parking facilities support a residential housing project approved by the*City Council* as part of a special use permit in the Downtown Residential Housing Overlay District.

(2) Legal assurances are made that such parking facilities will be used solely for the specified*dwelling units* and that maintenance responsibilities for the parking facilities are clearly assigned.

(3) Such parking facilities provide for safe traffic movements and safe pedestrian access to and from the*dwelling units* .

(4) The project will not be injurious to*property* or improvements in the *affected area* .

(5) The parking facilities meet all applicable requirements of this Code.

(6) Such parking facility will tend to relieve traffic congestion on the*streets* at or near the *premises* in question or reduce the number of parked vehicles on residential *streets* .

Cross references: In the Residential Business District, off-*street* parking can also be permitted as a special use for interim uses within a redevelopment area, §10-2145; impact classification for required landscaping, transitional protective yard, §10-2082.9.

(Ord. No. 166-TC-308, TC-2-88, 5-5-88; Ord. No. 1992-88-TC-401, §28, TC-4-92, 11-4-92; Ord. No. 1994-520-TC-96, §4, TC-12-94, 12-13-94)

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Parking facility - off-site, for a ***residential institution*** **in** ***residential zoning districts*** .

To permit in all*residential zoning districts* off-site, off- *street* parking spaces on a *lot* different from the *principal building* of a *residential institution* , after the *City Council* finds that the evidence presented at the hearing establishes each of the *following* :

(1) Such parking facility is located on a*lot* contiguous with that of the *principal building* or on a *lot* opposite the principal site, unless it can be demonstrated that other existing permanent parking arrangements in nonresidential districts are available and that such parking will be utilized.

(2) Such parking facility is for a use permitted in the zoning district.

(3) Such parking facility will tend to relieve traffic congestion on the*streets* at or near the *premises* in question or reduce the number of parked vehicles on residential *streets* .

(4) Points of egress from such parking facility will not adversely affect any use.

(5) Such parking facility will not be injurious to*property* or improvements in the *affected area* .

(6) Such parking facilities provide for safe traffic movements and safe pedestrian access to and from the*principal use* .

(7) Legal assurances are made that such parking facilities will be used solely for the specified*buildings* and that maintenance responsibilities for the parking facilities are clearly assigned.

Cross reference: Impact classification for required landscaping, transitional protective yard, §10-2082.9

(Ord. No. 415-TC-343, TC-1-89, §6, 8-1-89; Ord. No. 1994-520-TC-96, §4, TC-12-94, 12-13-94)

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Recreational use of a governmental entity and not for profit private recreational camp, in a ***primary reservoir watershed protection area*** .

To permit governmental recreation uses and not-for-profit, nongovernmental recreation camps to be located within the*primary reservoir watershed protection areas* after the *City Council* finds that the evidence presented at the hearing establishes each of the *following* :

(1) The use will not be injurious to*property* or improvements in the *affected area* .

(2) The use does not pose direct or indirect adverse impact on the reservoir watershed by reason of location, arrangement, utilization of chemicals, stormwater runoff, or other considerations affecting the ability of the reservoir to meet its purposes as established by §10-2011(b)(3), Reservoir Watershed Protection Area Overlay District.

If the *City* is the applicant, the Board of Adjustment rather than the *City Council shall* make these findings.

(Ord. No. 105-TC-304, §13, TC-24-87, 1-10-88)

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Recreational use restricted to membership - not for profit, in a primary reservoir watershed protection area .

To permit in Agricultural Productive, Residential Business, and*residential districts* , located in a *primary reservoir watershed protection area* , *recreation uses restricted to membership not for profit* after the *City Council* finds that the evidence presented at the hearing establishes each of the *following* :

(1) Recreation is limited to the*following* uses: Athletic league fields, campgrounds, country clubs, docks, gymnasiums, health clubs and health spas, including clubhouse facilities, pedestrian and equestrian trails, *play courts* such as basketball, racquetball, and tennis courts, unlighted golf courses (including driving ranges as an accessory use), *play fields* , playgrounds, swimming pools, tanning facilities, weight and exercise rooms.

(2) The use will not be injurious to*property* or improvements in the *affected area* .

(3) The use is not noxious or offensive by reason of emission of odors, gas, fumes, vibration or noise.

(4) The*street* capacity adjacent to the *property* to be so used is sufficient to safeguard the public health, comfort, convenience as *may* be required for the preservation of the general character of the neighborhood in which such *building* is to be placed or such use is to be conducted.

(5) No swimming pool or wading pool, diving area, outdoor*play court* such as a tennis or basketball court, *play field* , play or equipment area, or other active recreational use nor any driveway or parking area for such facilities *shall* be established without first providing *transitional protective yards* which conform to §10-2082.9 for medium impact uses.

Cross reference: Fencing of outdoor swimming pools inside the*City* Limits, §13-2028.

(6) Off-*street* parking *shall* be provided in accordance with §10-2081.

(7) No illumination, when measured off the recreation site,*shall* exceed four-tenths (0.4) maintained footcandle of lighting.

(8) The recreational facility in a watershed protection area, will:

a. Not adversely impact the reservoir watershed by reason of location, arrangement, utilization of chemicals, stormwater runoff, or other considerations

affecting the ability of the reservoir to meet its purposes as established by §10-2011(b)(3), Reservoir Watershed Protection Overlay District.

b. Conform to all applicable provisions of §10-2056 of this Code.

(9) The sale of merchandise is allowed as a residential related service restricted to members.

Cross references: Tract identification*signs* permitted §10-2083.2; *recreational uses restricted to membership - not for profit* outside a *primary reservoir watershed protection area* is permitted in *residential districts* , Agricultural Productive and Residential Business Districts in accordance with a special use permit, §10-2144.

(Ord. No. 105-TC-304, §12, 1-10-88, TC-24-87; Ord. No. 1993-207-TC-59, §19, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §18, TC-3-96, 5-21-96)

Retail sales exceeding fifty thousand (50,000) square feet of ***floor area gross*** **in a single establishment located within a Transit Oriented Development Overlay District.**

To permit*retail sales* exceeding fifty thousand (50,000) square feet of *floor area gross* in a single establishment in a Transit Oriented Development Overlay District after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. The use is located within a station area core, as defined by the applicable adopted transit station area plan.

2. The architecture and design enhances the image of the transit station area as a unique and pedestrian-oriented development.

3. The use is located within a multi-story building with no single floor devoted to the use exceeding fifty thousand (50,000) square feet.

4. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.

5. The proposed use and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

6. The business and activities conducted therein will not be injurious to*property* or improvements in the *affected area* .

(Ord. No. 2004-596-TC-245, §14, TC-14-03, 4-6-04)

Retail sales - highway located within a Transit Oriented Development Overlay District.

To permit a*retail sales - highway* use within a Transit Oriented Development Overlay District after the *City Council* finds that the evidence presented at the hearing establishes each of the following:

1. No*retail sales - highway* use *shall* be located within any *station area core* , as defined by the applicable adopted transit station area plan.

2. The design is in conformance with the transit station area plan and provides a necessary service to employees and residents within the transit station area plan due to the lack of such services in the surrounding area.

3. The architecture and design enhances the image of the transit station area as a unique and pedestrian-oriented development.

4. With the exception of petroleum product sales, no portion of the business*shall* be

conducted outside of the building.

5. The outdoor service area for petroleum sales*shall* be as small as practical.

6. The design complies with all requirements of the transit station area plan with the exception of the requirement that*vehicular surface areas shall* not occupy more than the equivalent of one-third (1/3) of the linear frontage of the adjacent *building* or no more than sixty-four (64) linear feet of frontage, whichever is less.

7. The total*floor area gross* on the lot does not exceed five thousand (5,000) square feet.

8. The proposed use and site design is in accordance with the regulations of the applicable adopted transit station area plan and Transit Oriented Development Overlay District.

9. The site plan protects the public from unsafe and inefficient vehicular, pedestrian and bicycle circulation, parking, and loading/unloading operations.

10. The facility and activities conducted therein will not be injurious to*property* or improvements in the *affected area* .

(Ord. No. 2004-596-TC-245, §13, TC-14-03, 4-6-04)

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Telecommunication tower.

To permit in all zoning districts, except Conservation [Management], telecommunication towers not otherwise meeting the standards of a general use or a conditional use; including relay stations, for commercial operations such as cablevision, radio telephones, radio and television stations after the*City Council* finds that the evidence presented at the hearing establishes each of the *following* :

(1) Radio or television or similar reception for adjoining *properties* will not be disturbed or diminished.

(2) The height of the tower does not exceed five hundred ten (510) feet

(3) The lighting of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 70/7460-IF dated 27 September, 1978, as the same*may* be amended.

(4) The minimum yard setback from the outside dimensions of the tower, not from guy anchors, are as follows:

a. Twenty (20) feet from the*property* line of any adjoining *lot* or *lot* across a public *street* which is vacant and zoned a *nonresidential district* or any adjoining *lot* or *lot* across a public *street* which is developed without a *dwelling* , *congregate care* or *congregate living structure,* unless increased by subparagraph b. or c. below.

b. One hundred (100) per cent of the tower height, but no less than fifty (50) feet, from the*property* line of either any *lot* which is developed at an average residential density of less than fifteen (15) *dwelling units* per acre or vacant *lot* located in a *residential zoning district.*

c. Fifty (50) per cent of the tower height from the*property* line of any *lot* which is developed at an average residential density equal to or greater than fifteen (15) *dwelling units* per acre.

The setbacks required by subsections b. and c. above*shall* not be applicable to any residential *dwelling(s)* that is not a permitted use in the zoning district, or the

residence of a caretaker or watchman accessory to a permitted industrial use.

If one or more existing telecommunications towers is to be removed concurrently and replaced by a new tower, then that portion of the required setback exceeding one hundred (100) feet in subsections b. and c. above*may* be reduced by fifteen (15) per cent for each additional telecommunication user in excess of the existing tower.

For towers exceeding a height of two hundred and fifty (250) feet, or where one or more existing telecommunications towers is concurrently being removed and replaced with a new tower containing additional telecommunication users, this setback*may* be reduced by the *City Council* . In the case of a replacement tower, the *City Council shall* make a finding that the lesser setback will reduce the number of towers in the area. In all cases, *City Council shall* also make a finding that the lesser setback will not be injurious to *property* or improvements in the *affected area.* In no case *shall* the setback be reduced to less than fifty (50) per cent of the tower height.

The provisions in this subsection are supplemental to the yard regulations in §10-2075 and do not lessen or diminish those regulations.

(5) The base of the tower and each guy anchor are surrounded by a 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. Except for fence and wall entrances, all fences and walls *shall* be screened with plant material so that no more than two-thirds (2/3) of the surface of the fence or wall is visible, within three (3) *years* after erection of the structure, from a public *street* or from any adjoining *lot* which contains a *dwelling* , *congregate care* or *congregate living structure* , or is zoned a *residential district* .

Cross reference: Fences and walls, §§10-2085 and 10-2086.

(6) The area adjoining*street* rights-of-way *shall* contain a minimum *street protective yard* of twenty (20) feet wide as measured perpendicular to the public *street* rights-of-way. This *street protective yard* *shall* comply with the requirements of §10-2082.5. No *street yard shall* be required along *street* frontage located a distance from the tower of more than twice the height of the tower.

In addition to this*street protective yard* , a *transitional protective yard* which contains the same plantings required in §10-2082.9 for low impact uses *shall* be installed within all the *yard areas* required in subparagraph (4) above, which adjoin a *lot* containing a *dwelling* , *congregate care* , or *congregate living structure* , or zoned a *residential district* . The installation of any fence, wall, planting or *earthen berm* *shall* not reduce or lessen this requirement.

In instances where a telecommunication tower is locating on a developed *lot* in accordance with §10-2088 of this Code, and the existing physical development on the *lot* precludes the full installation of the aforementioned *protective yards* , the *City Council may* approve an alternate method of compliance as set forth under the conditions of §10-2082.4 of this Code.

(7) The output power from the tower*shall* not exceed federally approved levels for exposure to electronic magnetic force (EMF).

(8) If determined by the*City* that the proposed tower is situated in a location which will benefit the *City's* telecommunication systems, then, the tower *shall* be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.

(9) If the proposed tower is located on*property* that is zoned a *residential district* at the time of the special use hearing, the tower *shall* be either less than seventy-five (75) feet in height or located no closer than one thousand and five hundred (1,500) feet (determined by straight line and not *street* distance) to a tower greater than seventy-

five (75) feet in height which was constructed after the effective date of this ordinance.

If the proposed tower is located on*property* that is zoned a *nonresidential district* at the time of the special use hearing, the tower *shall* be either less than one hundred (100) feet in height or located no closer than one thousand (1,000) feet to a tower greater than one hundred (100) feet in height which was constructed after the effective date of this ordinance.

The*City Council* *may* approve the construction of a tower which does not meet the above standards if evidence is provided which demonstrates that reasonable effort has been made to lease space on an existing tower or that no existing tower will technically satisfy the applicant's specific needs.

Editor's note: This ordinance first became effective on August 6, 1995.

(10) If the tower is located within an Historic Overlay District or Metro Park Protection Overlay District, the tower does not exceed the maximum*building* height allowed within the underlying zoning district.

(11) No tower*shall* be approved unless evidence is presented that at least one telecommunication user will occupy the tower. If the tower is between one hundred (100) feet and one hundred fifty (150) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of two telecommunication users. If the tower equals or exceeds one hundred fifty (150) feet in height but is less than one hundred eighty (180) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of three telecommunication users. If the tower equals or exceeds one hundred eighty (180) feet in height, but is less than 200 feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of four telecommunication users. If the tower equals or exceeds two hundred (200) feet in height, the tower *shall* be engineered and constructed to accommodate a minimum of five telecommunication users.

(12) Unless enclosed by a*closed fence* at least eight (8) feet in height, the exterior appearance of all *buildings,* located in a *residential district* look like a residential *dwelling,* including without limitation, pitched roof(s) and frame or brick veneer construction. For each potential telecommunication user to occupy the tower, there *shall* be a minimum of six hundred (600) square feet reserved on the plans for associated building(s) and equipment, unless the applicant provides evidence that less space is necessary.

(13) That the applicant has provided evidence that the proposed tower meets FAA requirements, and is in accordance with all the tower requirements and standards of the Raleigh Durham Airport Authority.

(14) Associated*buildings* located in any *residential district* *may* not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.

(15) The use will not be injurious to*property* or improvements in the *affected area* .

(16) Unless otherwise specified by this permit, that within six (6) months of approval of this special use permit, a grading permit, building permit, or zoning permit is obtained, and within one year of approval of this special use permit the tower is installed and operational, or the special use permit*shall* be void.

For any telecommunication tower approved after application of this regulation* , which is discontinued, unused, or unoccupied by the telecommunication user for a continuous period of three hundred and sixty-five (365) days or more, the tower*shall* be removed within thirty (30) days of notification by the Chief Zoning Inspector.

* Editor's note: This regulation first became applicable on February 15, 2000 (Ord. No. 2000-732-TC-

188, TC-17-99).

Cross reference: Discontinuance or nonuse of a telecommunication tower for three hundred sixty-five (365) days or more, §10-2145(c)(3).

(Ord. No. 724-TC-263, §1, TC-4-86, 2-4-86; Ord. No. 75-TC- 177, §§2, 3, TC-228, 3-1-83; Ord. No. 664-TC-358, TC-10-90, 10-16-90; Ord. No. 1994-372-TC-72, §3, TC-3-94, 4-19-94; Ord. No. 1994-427-TC-76, §1, TC-6-94, 6-21-94; Ord. No. 1995-692-TC-113, §§6, 7, TC-15-95, 8-1-95; Ord. No. 2000-732-TC-188, TC-17-99, §§10--15, 2-15-00)

(c) Limits on use classification, changes to approved special uses and abandonment.

(1) Whenever the*City Council* approves a special use permit, such approval *shall* not change the use classification of the *property* nor give it any status as a *zoning nonconformity* , such as is referred to in §10-2146.

(2) Whenever the*City Council* approves a special use permit, such approved special use *shall* not without the prior approval of the *City Council* :

a. Change to another use for more than thirty (30) days; or

b. Increase its density or intensity; or

c. Enlarge, expand, or increase its size; or

d. Increase the requirements for off-*street* parking spaces; or

e. Substantially change the exterior appearance of the*building* ; or

f. Add new outdoor equipment and machinery.

(3) Any special use permit approved by the*City Council* , including special use permits approved prior to the application of this subsection, that are either changed to another use for more than thirty (30) days, other than that for which the special use permit was issued, or discontinued or ceased for a continuous period of three hundred sixty-five (365) days or more is null and void and *may* not resume without the reapproval of the *City Council* .

(d) All special use permits approved by the*City Council* *shall* contain a statement that such special use is contingent upon the payment of any applicable facility fees and the approval of either a *site plan* or *plot plan* , if required by this Code.

Editor's note: This provision was first applied to special use permits issued by the*City Council* on January 1, 1992.

(Ord. No. 684-TC-257, §4, TC-31-85, 12-3-85; Ord. No. 31- TC-296, §81, TC-26-87, 12-1-87; Ord. No. 1992-87-TC-410, §8, TC-6-92, 11-4-92)

Sec. 10-2146. NONCONFORMITIES.

Sec. 10-2146.1. INTRODUCTION AND DEFINITIONS.

The policy of this chapter is to allow the continuation of*zoning nonconformities* except those covered by an amortization period and to allow ordinary maintenance, repair and *renovations of zoning nonconformities* . However, any alteration; expansion; and extraordinary renovations, maintenance and repair; rebuilding, reconstruction, extensions, resumption, or change of use or relocation of a nonconformity will need a special use permit.

Activities which are allowed without a special use permit are listed in §§10-2146.2 or 10-2146.5. Activities not in §§10-2146.2 or 10-2146.5, if allowed at all, require a special use permit from the Board

of Adjustment. See §10-2026.3. If an activity is not listed in §§10-2146.2 through 10-2146.5 it is not allowed. Before any special use permit is processed, the Board of Adjustment will determine whether the activity will be injurious to*property* or improvement in the *affected areas* . §10-2146.4 describes how the Board of Adjustment makes its determination. If a proposal will have an injurious impact, it will be denied. If it will not, a special use permit will be issued to allow it. However, conditions and safeguards *may* be attached to the special use permit to require that the nonconformity be brought into compliance with the regulations of this chapter or that any potential hazards or problems be mitigated.

Procedures and standards are established to insure that the rights and interests of the*owner* of the *zoning nonconformity* , of the *owner* s of *properties* in the *affected area* , and of the public will be weighed in making these determinations.

Unless specifically stated otherwise, §10-2146.2 through §10-2146.4 are inapplicable to nonconforming*accessory uses or structures* , fences, *signs* , *vehicular surface areas* , private accessory points, and outdoor lighting which are regulated by §10-2146.5.

Certain terms used in §10-2146et seq. are defined in §10-2002. The terms "altering", "expanding" and "changes" are not defined; as used in §10-2146 et seq. these terms *shall* be liberally construed. Other terms used in §10-2146 et seq. are defined as follows:

Casualty . A *casualty* is damage or destruction which is caused by the exercise of the power of eminent domain; man-made acts, such as riot, fire, accident, explosion; or flood, lightning, wind, or other calamity or act of nature.

Expansion of a zoning nonconformity . *Expansion of a zoning nonconformity* is any improvement that alters or expands or enlarges the land area, extent or intensity of a *zoning nonconformity* . *Expansions of a zoning nonconformity* include: the addition to, construction of, or enlargement of bay windows, attic or basement spaces, attached carports or storage buildings, canopies, *marquees* , exterior chimneys, decks, patios, porches, and exterior facilities or structures not otherwise allowed as renovations; the enclosing of decks, porches, and patios; or the installing of additional vehicular surfaces to serve a zoning *nonconforming use* , including nonconforming *principal use* parking facilities, or illuminating a *nonconforming sign* .

Nonconforming structure . A *nonconforming structure* is a type of *zoning nonconformity* . All *zoning nonconformities* not otherwise defined as a *nonconforming use* are zoning *nonconforming structures* . A structure not in compliance with setbacks, height, or other design standards is an example of a *nonconforming structure* . A *nonconforming structure* can also be a *nonconforming use* .

Nonconforming use . A *nonconforming use* is a type of *zoning nonconformity* whereby a prior lawful use, residential density, *building lot coverage* , *impervious surface* coverage, or *floor area ratio* is not currently permitted by this chapter. A lawful use for which a special use permit is now required but has not been obtained is a zoning *nonconforming use* , unless the provision establishing the special use permit requirement states otherwise. In addition, whenever the minimum area or dimension of the *lot* , or the number of *principal buildings or uses* placed on the *lot* , or *lot frontage* fails to conform to the requirements of this chapter, any activity or *building* located on that *lot* is a zoning *nonconforming use* unless the nonconformity is solely created by *lot* regulations of a Neighborhood Conservation Overlay Zoning District. A *nonconforming use* can also be a *nonconforming structure* .

Renovations of zoning nonconformity . *A renovation of a zoning nonconformity* any lawful improvement that does not replace, reestablish, expand or enlarge the land area, extent, or intensity of a *zoning nonconformity* . Renovations include: painting, *building* material replacement or repair, landscaping; adding facilities to improve handicapped accessibility, lighting (except adding of illumination to a *nonconforming sign*), removing interior walls; fencing; adding movable awnings; adding new *access points* , *dish antennas* , *signs* , fountains, ornamentation; or adding residential detached *accessory structures* , such as swimming pools, garages, gazebos, and *buildings* to store household items or expansions of a *vehicular surface area* beyond that necessary to meet the

minimum standards to serve a *nonconforming structure* .

Zoning nonconformity . A *zoning nonconformity* is any use, facility, *building* , *lot* , *sign* , structure, outdoor lighting, fence, landscaping, *access point* , *impervious surface area* , off- *street* parking lot, or vehicular surfaces which lawfully existed at the time the action making them nonconforming takes effect and which currently fails to comply with one (1) or more applicable regulations, restrictions, or standards of this chapter. *Zoning nonconformities* are created by one (1) or more of the *following* : extensions of the zoning jurisdiction of the *City* ; amendment to Part 10 chapter 2 the Code; amendment to the Official Zoning Map; or acquisitions initiated by entities with the power of eminent domain.

There are two (2) types of*zoning nonconformities* : *nonconforming uses* and *nonconforming structures* .

An improvement or use that lawfully existed prior to the application of a*site plan* approval requirement under §10-2132.2, is not made a *zoning nonconformity* by the imposition of such *site plan* approval requirement. No *principal use* or *building* is made a *zoning nonconformity* by the presence on the same *lot* as the *principal use* or *building* of any nonconforming accessory *building* , *accessory structure* , fence, *sign* , or *accessory use* , including: off- *street* parking; *vehicular surface area* ; landscaping; *access point* ; or outdoor lighting. The provisions of the Comprehensive Plan and amendments thereto do not create *zoning nonconformities* .

Sometimes the text of the Zoning Code, Part 10 chapter 2, contains saving clauses that retain the conforming status of prior lawful uses,*buildings* , structures, landscaping, *access points* , *impervious surfaces* , off- *street* parking, fences, outdoor lighting, *signs* , or vehicular surfaces. See the cross references below:

Cross references:

I. Special use permit or conditional use provisions which contain special provisions about ***zoning nonconformities:***

- *Emergency shelters type A or B* §10-2072.
- Outdoor stadium, outdoor theater, outdoor amphitheatre, outdoor racetrack of more than two-hundred and fifty (250) seats and outdoor movie theatre, §10-2145.
- *Shopping centers* and *shopping areas* in Thoroughfare and Industrial-1 and -2 Districts that are located within four hundred (400) feet of any major *thoroughfare* or *major access corridor* .
- Carwash facility located within one hundred (100) feet from ..., §10-2072(b).

II. Zoning districts which contain special provisions about zoning nonconformities:

- Residential Business District-size of commercial*buildings* §10-2032(d)(1)c.
- Metro-Park Overlay District - watercourse buffers,*impervious surfaces* , and existing *buildings* and uses §10-2053(d)(2)b.,(e)(4), and (e)(6).
- Neighborhood Conservation Overlay District existing*lots* and *buildings* §10-2054(e)(4).
- Pedestrian Business Overlay District-existing*buildings* §10-2055(e)(10).
- Reservoir Watershed Protection Area Overlay District-watercourse buffers and*impervious surface* coverage in §10-2056(e)(2)b and (f)(3).
- Special Highway Overlay District-1-minimum*lot* size §10-2058(d)(1)c.

III. Special provisions about nonconforming*access points* , landscaping, vehicular surfaces, outdoor lighting and outdoor service facilities:

- *Access points* in Thoroughfare and Special Highway Overlay Districts §10-2045
(e)(5); §10-2058(e)(5); §10-2059(e)(5); §10-2060(e); §10-2061(e)(5).

- Fences and walls landscaping §10-2085(b)(3).

- Landscaping and vehicular surfaces §10-2082et seq.

- Landscaping in Special Highway Overlay Districts §10-2058(e)(2)c.1, §10-2059
(e)(2)c.1, §10-2060(e)(2) c.1, and §10-2061(e)(2)c.1.

- Outdoor service facilities in Thoroughfare and Special Highway Overlay Districts §10-2045(e)(7), §10-2058(e)(7), §10-2059
(e)(7), §10-2060(e)(7), and §10-2061(e)(7).

- Outdoor lighting, §10-2089.

IV. Special conditions about height limits, §10-2076, Schedule of Height Standards in Zoning Districts.

(Ord. No. 799-TC-267, §35, TC-21-85, 1-1-87; Ord. No. 278-TC-112, §3, 11-20-79; Ord. No. 1993-133-TC-46, §§30, 31, TC-11-92, 2-2-93; Ord. No. 1998-370-TC-167, §32, TC-3-98, 7-7-98; Ord. No. 2001-123-TC-210, §2, TC-3-01, 11-20-01; Ord. No. 2003-490-TC-238, §5, TC-6-03, 8-5-03)

Sec. 10-2146.2. IMPROVEMENTS AND CHANGES TO ZONING NONCONFORMITIES THAT DO NOT REQUIRE A SPECIAL USE PERMIT FROM THE BOARD OF ADJUSTMENT.

(a) Subject to the provisions contained in this section and all other applicable provisions of this Code, one (1) or more of the*following* improvements can be made to a *zoning nonconformity* without a special use permit being issued by the Board of Adjustment pursuant to §§10-2146.3 and 10-2146.4.

(1) Ordinary renovation, maintenance and repair.

a. The cost of ordinary renovation, maintenance and repairs to any:

-*nonconforming use*

- nonresidential nonconforming*principal structure*

- residential nonconforming*principal structure* not used exclusively for a *dwelling* purpose

Ordinary renovation, maintenance and repair work which during any one (1) calendar*year* does not exceed fifteen (15) per cent of the listed Wake County tax value of the *zoning nonconformity* . The limitation on expenditures established herein *shall* not apply to activities undertaken pursuant to any other provision of §10-2146 et seq. Ordinary maintenance and repair *shall* be limited to work necessary to maintain and correct any damage, other than caused by *casualty* , or deterioration to the structural soundness or features of a *building* or structure. Such work must not expand, increase, or extend any *zoning nonconformity* nor *may* it alter any nonconforming *building* or structure. For damage caused by any *casualty* , the provisions of §§10-2146.2(a)(2) or 10-2146.3(a)(2) *shall* apply in lieu of this provision.

b. Renovation and maintenance, and repairs to a residential*nonconforming structure* that is used exclusively for *dwelling* purposes *may* be made in any amount and for any purpose except for either expansions, which *shall* comply

with §§10-2146.2(a)(3) or 10-2146.3(a)(3) or for work caused by a *casualty* , in which case the provisions of §§10-2146.2(a)(2) or 10-2146.3(a)(2) *shall* apply in lieu of this provision.

Renovation and maintenance and repairs not permitted in this section*may* be allowed as a special use permit by the Board of Adjustment if the provisions of §§10-2146.3(a)(1) and 10-2146.4 are met.

(Ord. No. 194-TC-312, §1, TC-9-88, 6-26-88)

(2) ***Casualties*** .

The rebuilding, reconstruction, or restoration of any*zoning nonconformity* which was damaged or partially destroyed by: the exercise of eminent domain; man-made acts, such as riot, fire, accident, explosion; or flood, lightning, wind, or other calamity or natural act, does not require a special use permit if all of the *following* are met:

a. The cost of rebuilding, reconstructing, or restoring is less than fifty (50) per cent of the replacement cost of the original nonconformity as determined at the time such damage or destruction occurred.

b. The nature and degree of the*nonconforming use* or *structure* is not expanded, changed, or increased from that which existed prior to the damage or destruction. See §10-2146.2(a)(3) and §10-2146.3(a)(3) for expansions.

c. A completed application for a construction permit to substantially rebuild, reconstruct, or restore the nonconformity is submitted to the Inspections Department within one (1)*year* of the occurrence of the *casualty* .

d. The rebuilding, reconstruction, or restoration is located outside an Airport Overlay District.

Rebuilding, reconstruction, or restoration resulting from a*casualty* which is not permitted in this subsection *may* be allowed by the Board of Adjustment as a special use permit if the provisions of §10-2146.3(a)(2) and §10-2146.4 are met.

Nothing herein*shall* prevent the rebuilding, reconstruction, or restoration of a structure with a similar structure because such structure fails to conform to the standards of the Neighborhood Conservation Overlay District.

(3) Expansions.

Expand or enlarge the size of residential*nonconforming structures* that are *used* exclusively for *dwelling* purposes without a special use permit provided the *floor area gross* of the addition, singularly or collectively, is limited to twenty-five (25) per cent of the *floor area gross* of the original *nonconforming structure* . The addition *shall* conform to all requirements of this Code, including but not limited to: height, bulk, setback, off- *street* parking, *impervious coverage* , and access.

Expansions not permitted in this subsection*may* be allowed by the Board of Adjustment as a special use permit if the provisions of §10-2146.3(a)(3) and §10-2146.4 are met.

(4) Resumption.

Reusing, restarting, or reoccupying a zoning*nonconforming use* or *structure* or facility which was discontinued, unused, or unoccupied for a continuous period of less than three hundred and sixty-five (365) days, is allowed provided that the nature and degree of the *zoning nonconformity* will not be changed or increased from that which existed before the nonconformity became discontinued, unused, or unoccupied.

Resumptions not permitted in this subsection*may* be allowed by the Board of Adjustment as a special use permit if the provisions of §10-2146.3(a)(4) and §10-2146.4

are met.

Cross reference: Discontinuation of special use §§10-2144(c)(3) and 10-2145(c)(3).

(5) Substitution of ***impervious surfaces*** .

Substitution of*impervious surfaces* for one (1) use, facility, *building* , or structure, *vehicular surface area* , *access point* for another is permitted without a special use permit provided all of the *following* are met:

a. The amount and extent of*impervious surfaces* is not increased.

b. The placement of those new*impervious surfaces* conforms to the locational requirements of this Code.

c. The new*impervious surface* is for a lawful activity.

d. The substitution of*impervious surfaces* occurs on the same *lot* .

Cross reference:*Impervious surface* limitations §§10-2053(e)(4) and 10-2056(f)(3).

(6) Replacement of zoning nonconforming manufactured homes **that fail to meet National standards.**

Replacement of zoning nonconforming*manufactured homes* that fail to meet the minimum standards of the National Manufactured Home Construction and Safety Standards *shall* be permitted without a special use permit, provided that all of the *following* are met:

a. The replacement*manufactured home* meets the current minimum required standards as prescribed by the United States Department of Housing and Urban Development.

b. The newly installed*manufactured home* , if located in a flood prone area, complies with the provisions of §10-6172.

c. That the period of time between the time the nonconforming*manufactured home* is removed and the time it is replaced with a standard *manufactured home* is less than three hundred and sixty-five (365).

d. The number of*manufactured homes* is not increased.

e. The*floor area gross* of the new *manufactured home* does not exceed the *floor area gross* of the *manufactured home* it replaced by more than twenty-five (25) per cent.

Cross reference:*Manufactured homes* that conform to the Zoning Code but do not conform to the National Manufactured Home Construction and Safety Standards, are not affected by this provision and can be brought into compliance with the federal standards, §10-6171.

(Ord. No. 932-TC-282, §12, TC-2-87, 2-17-87; Ord. No. 1992-920-TC-389, §2, TC-1-92, 2-4-92; Ord. No. 2000-734-TC-189, TC-2-00, §§1, 2, 2-15-00)

(7) ***Zoning nonconformities*** **brought into compliance.**

Expenditures to bring any*nonconforming use* or *structure* into full compliance with this Code are allowed in any amount. The *owner may* secure any permit or approval and make any alteration that will bring the *zoning nonconformity* into full compliance.

(8) Amortizing a nonconformity.

Expenditures required by this Code to amortize a nonconformity are permitted in any amount and without a special use permit.

(Ord. No. 799-TC-267, §44, TC-21-85, 1-1-87)

(9) Public safety.

Repairs which are required for public safety because of unsafe conditions or by either the Housing Codeor **North Carolina State Building Code, *may* be made in any amount and without a special use permit unless the repairs are caused by a *casualty* , in which case the provisions of §§10-2146.2(a)(2) or 10-2146.3(a)(2) *shall* apply in lieu of this provision.**

(10) ***Single-family dwelling*** **on a nonconforming *lot*** .

On any lawfully created*lot* , including the recombination of such a *lot* in accordance with §§10-3005(a)(1) or (b)(1) which currently fails to meet the *net lot area* , dimensional, or *lot frontage* requirements of this chapter (a nonconforming *lot*), one (1) *building* *may* be constructed without a special use permit and *occupied* by one (1) *family* in any zoning district. The *dwelling* will be a *nonconforming use* .

(Ord. No. 278-TC-112, 11-20-79; Ord. No. 436-TC-125, §1, TC-J-80, 8-5-80)

(11) Non-illuminated ***wall signs in residential districts.***

Owners of *nonconforming uses* in *residential districts may* erect non-illuminated *wall signs* if such a *sign* conforms to §§10-2083.1 and 10-2083.2.

(Ord. No. 1987 946-TC-286, §50, TC-29-85, 4-7-87; Ord. No. 1993-207-TC-59, §20, TC-1-93, 6-1-93; Ord. No. 1996-901-TC-131, §19, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §106, TC-18-96, 6-17-97)

Nothing herein*shall* prevent the construction, rebuilding, reconstruction, or restoration of a structure on a *lot* which fails to conform to the standards of the Neighborhood Conservation Overlay District.

Sec. 10-2146.3. IMPROVEMENTS AND CHANGES TO ZONING NONCONFORMITIES THAT REQUIRE A SPECIAL USE PERMIT FROM THE BOARD OF ADJUSTMENT.

(a) Subject to the provisions contained in this section and all other applicable provisions of this Code, one (1) or more of the*following* improvements can be made to a *zoning nonconformity* , only after the issuance of a special use permit by the Board of Adjustment in accordance with §10-2146.4.

(1) Extraordinary renovations maintenance and repair.

The issuance of a special use permit by the Board of Adjustment is required for extraordinary renovations, maintenance, and repair work to any;

-*nonconforming use*

- nonresidential nonconforming*principal structure*

- residential nonconforming*principal structure* not used exclusively for a *dwelling* purpose

Extraordinary renovations, maintenance, and repair work is work which during any one (1) calendar*year* exceeds fifteen (15) per cent of the Wake County listed tax value of the *zoning nonconformity* . If the work is caused by a *casualty* , the provisions of §10-2146.2(a)(2) or 10-2146.3(a)(2) *shall* apply in lieu of this provision.

The Board of Adjustment*shall* not issue a special use permit for the renovation, maintenance, or repair of a *nonconforming use* , residential *principal nonconforming structure* , or residential *principal nonconforming structure* not *used* exclusively for a *dwelling* purpose if it is both located within an Airport Overlay District and is deteriorated or damaged by more than

eighty (80) per cent of its replacement cost, as determined at the time such damage or destruction occurred, unless the nonconformity is brought into compliance with this Code.

No work authorized by this subsection*shall* expand or alter a nonconformity. See the provisions of §§10-2146.2(a)(3) and 10-2146.3(a)(3) for expansions.

Renovation and ordinary maintenance and repair work is allowed without a special use permit if all the provisions of §10-2146.2(a)(1) are met.

State law reference: **Model Airport Zoning Act, Article 4 Chapter 63 North Carolina General Statutes.**

(2) ***Casualties*** .

The rebuilding, reconstruction, or restoration of any*zoning nonconformity* , which was damaged or partially destroyed by: the exercise of eminent domain; man-made acts, such as riot, fire, accident, explosion; or lightning, flood, wind, or other calamity or natural act, requires a special use permit from the Board of Adjustment if one (1) or more of the *following* are met:

a. The cost of rebuilding, reconstructing, and restoring is fifty (50) per cent or more of the replacement cost of the original nonconformity as determined at the time such damage or destruction occurred.

b. No completed application for a construction permit to substantially rebuild, reconstruct, or restore the nonconformity is submitted to the Inspections Department within one (1)*year* of the occurrence of the *casualty* .

c. The nonconformity is located inside an Airport Overlay District.

If a*nonconforming use* or *nonconforming structure* is located within an Airport Overlay District, all of the *following* additional standards *shall* apply:

a. The Board of Adjustment must find that the rebuilding, reconstructing, and restoring of the nonconformity does not create a greater hazard to navigation than the previously existing nonconformity.

b. The Board of Adjustment*shall* not issue a special use permit to rebuild, reconstruct or restore a nonconformity that is destroyed, demolished or deteriorated by more than eighty (80) per cent of its replacement cost as determined at the time such damage or destruction occurred unless the Board of Adjustment finds that the nonconformity is brought into compliance with this Code.

State law reference: **Model Airport Zoning Act, Article 4 Chapter 63 North Carolina General Statutes.**

Work authorized by this subsection, §10-2146.3(a)(2),*shall* not alter or change the degree or nature of the nonconformity from that which existed prior to the *casualty* . If the degree and nature of the nonconformity is altered or changed from that which existed prior to the *casualty* , the provisions of §§10-2146.3(a)(3) or 10-2146.3(a)(6), or both *shall* apply in addition to this subsection.

Nothing herein*shall* prevent the rebuilding, reconstructing, or restoring of a structure with a similar structure because such structure fails to conform to the standards of the Neighborhood Conservation Overlay District.

Rebuilding, reconstruction, or restoration of a*zoning nonconformity* *may* be permitted without a special use permit from the Board of Adjustment if all the provisions of §10-2146.2(a)(2) are met.

(Ord. No. 292-TC-328, §4, TC-22-88, 1-5-89; Ord. No. 194-TC-312, §2, TC-9-88, 6-26-88; Ord. No.

622-TC-245, §6, TC-16-85, 8-6-85)

(3) Expansions, extensions, or alterations.

The expansion, extension, or alteration of a*nonconforming use* , nonresidential *nonconforming principal structure* , residential *nonconforming principal structure* not used exclusively for *dwelling* purposes, or vehicular surfaces serving a *nonconforming use* (including *nonconforming principal use* parking facilities) is permitted, with a special use permit from the Board of Adjustment provided that all of the *following* are met:

a. The expansion, extension, or alteration complies with all requirements of this Code, including but not limited to: height, bulk, setback, off-*street* parking, *impervious surface* coverage, access.

b. The expansion, of a*nonconforming use* does not, singularly or collectively, exceed twenty-five (25) per cent of the total gross area *occupied* by the original *nonconforming use* . If the original *nonconforming use* occupied a portion of a *building* and that *building* has not been enlarged since the establishment of the nonconformity, that original *nonconforming use may* be extended beyond twenty-five (25) per cent within the interior portions of the *building* .

c. The expansion of a*nonconforming structure* does not exceed, singularly or collectively, twenty-five (25) per cent of the *floor area gross* of the original nonconformity.

Expansions or enlargements in the size of residential nonconforming*principal structures* that are used exclusively for *dwelling* purposes *may* occur without a special use permit from the Board of Adjustment if all the provisions of §10-2146.2(a)(3) are met.

Cross reference: Landscape regulations required for expansions §10-2082.10.

(Ord. No. 872-TC-159, §1, TC-207, 3-23-82)

(4) Resumption.

a. Reusing, restarting or reoccupying a*nonconforming structure* or facility which was unused, discontinued, or unoccupied for a continuous period of three hundred sixty-five (365) days or more requires a special use permit from the Board of Adjustment.

b. Any*nonconforming use* which has discontinued or ceased for a continuous period of three hundred sixty-five (365) days or more is not allowed thereafter to resume or restart. The only use permitted thereafter on the *property* is a use which will conform with the use regulations in the zoning district. This foregoing requirement is applied because a *nonconforming use* can be replaced by one (1) of the wide range of uses allowed in the district and the economic detriment from preventing the reuse or reoccupancy of a *nonconforming structure* is generally inapplicable to an abandoned *nonconforming use* .

A resumption of a*nonconforming use* and *structure* discontinued for less than the three hundred and sixty-five (365) day period *may* be allowed without a special use permit from the Board of Adjustment if all the provisions of §10-2146.2(a)(4) are met.

Cross reference: Discontinuation of a special use §§10-2144(c)(3) and 10-2145(c)(3)

(Ord. No. 436-TC-125-§5, 8-5-80)

(5) Change of use.

The change of an existing*nonconforming use* to another *nonconforming use* is allowed with a special use permit by the Board of Adjustment provided that all of the *following*

are met:

a. The use will have no greater adverse affect on the surrounding*property* in terms of automobile or truck traffic, on- *street* parking, noise, stormwater, vibration, and hours of nighttime operation than the existing use.

b. Any change to a conditional use or special use complies with applicable requirements of §§10-2072, 10-2144, and 10-2145 respectively.

c. The new substituted*nonconforming use* is allowed in the zoning district of the highest classification wherein the present *nonconforming use* would be a conforming use.

The determination of the classification of the use is based on the most restrictive zoning district (as determined by §10-2012) in which the*nonconforming use* would be allowed as shown on the Schedule of Permitted Land Uses in the Zoning Districts, §10-2071.

Once a*nonconforming use* is changed to a higher classification in accordance with this subsection, it *may* not thereafter be changed to a *nonconforming use* of a lower classification, including a change back to the original *nonconforming use* .

The substitution of a nonconforming*impervious surface* for another, the replacement of a substandard nonconforming *manufactured home* , and the change of use of a *nonconforming use* to a conforming use *may* all be done without a special use permit from the Board of Adjustment if the applicable provisions of subsection 10-2146.2(a)(5), (6), or (7) are met.

Cross references: Change of a special use to another use, §§10-2144(c)(2) and §10-2145(c)(2); landscaping requirements for a change of use, §10-2082.10

(Ord. No. 1997-137-TC-153, §107, TC-18-96, 6-17-97; Ord. No. 2000-734-TC-189, TC-2-00, §1, 2-15-00)

(6) Relocation on the premise of nonconformities and nonconforming ***access points*** .

The relocation onto its same*premise* of either a nonconformity or a nonconforming private *access point* , is allowed with a special use permit by the Board of Adjustment provided the relocation reduces the extent of the nonconformity and more closely conforms to the standards contained in this chapter. The relocation of a nonconforming private *access point* can also be approved without a special use permit being issued by the Board of Adjustment when the *City Council* is empowered to approve: the *principal use* , or the special use permit, or the *site plan* for which the relocation is occurring.

Cross reference:*Access points* §§10-2045(e)(5), 10-2058(e)(5), 10-2059(e)(5), 10-2060(e)(5), 10-2061(e)(5), 10-3058 and 10-7002(b).

(Ord. No. 1993-133-TC-46, §32, TC-11-92, 2-2-93; Ord. No. 1997-137-TC-153, §107, TC-18-96, 6-17-97)

(7) Transit Oriented Development Overlay District, Neighborhood Conservation Overlay District, Metro-Park Protection Overlay District, Conservation Management District or Pedestrian Business Overlay District - expansions, changes, additions and alterations not in compliance.

The expansion, change, addition, and alteration of a *building* or use which fails to comply with the regulations of the Transit Oriented Development Overlay District, Neighborhood Conservation Overlay District, Metro-Park Protection Overlay District, Conservation Management District or Streetscape Plan of the Pedestrian Business Overlay District is allowed with a special use permit by the Board of Adjustment provided all of the *following* are met:

a. The expansion does not, singularly or collectively, exceed twenty-five (25) per cent of the total gross area of the*building* or use existing at the time the overlay zoning regulations was first applied to the *property* .

b. The *building* or use existed at the time the overlay district regulations were applied to the *property* .

c. The proposed activity complies with all requirements and regulations of this Code other than the overlay district regulations.

d. The improvements or changes are not as extensive as those set forth in subsections b. and c. of §10-2055(e)(2) if the*property* is located in a Pedestrian Business Overlay District.

(Ord. No. 278-TC-112, TC-142, 11-20-79; Ord. No. 1997-137-TC-153, §§107, 108, TC-18-96, 6-17-97; Ord. No. 2004-596-TC-245, §§15, 16, TC-14-03, 4-6-04)

(Ord. No. 946-TC-286, §50, TC-29-85, 4-7-87; Ord. No. 1993-207-TC-59, §20, TC-12-93, 6-1-93; Ord. No. 1996-901-TC-131, §19, TC-3-96, 5-21-96; Ord. No. 1997-137-TC-153, §107, TC-18-96, 6-17-97)

Sec. 10-2146.4. STANDARDS FOR GRANTING A SPECIAL USE PERMIT.

The Board of Adjustments*shall* notify the public, conduct, and decide quasi-judicial evidentiary hearings for issuing special use permits for *zoning nonconformities* in accordance with the procedures established by §10-2141. Applicants for any special use permit authorized in §10-2146.3 *shall* file a *property* description form with their petition to the Board of Adjustment. This description *shall* generally contain the same information as a *plot plan* , as set forth in §10-2132.1(b) and *shall* also contain such other information as *may* be pertinent or required for appropriate action by the Board of Adjustment. The *property* description must contain a statement of the compatibility of the proposed improvements with *property* and improvements in the *affected area* .

(a) From the evidence presented at the hearing, the Board of Adjustment *shall* find that the applicable standards of §10-2146.3 have been met and whether the proposed renovation, repair, resumption of a *nonconforming structure* after three hundred and sixty-five (365) days, alteration, change, extension, expansion, signage, reconstruction, rebuilding, restoration or relocation of the *zoning nonconformity* will be injurious to *property* or improvements in the *affected area* . In the case of nonconformities located in an Airport Overlay District, the Board *shall* also determine whether the proposed alteration, change, resumption of a *nonconforming structure* after three hundred and sixty-five (365) days, expansion, rebuilding, or relocation of the *zoning nonconformity* will create a hazard to either air navigation or to the occupants or residents of the nonconformity. The Board *may* consider any relevant factor, including the extent to which *owner* s of the nonconformity already *may* have been compensated; but no petition for a special use permit *shall* be granted unless adequate provision and arrangement, where applicable, has been made or will be made concerning the *following* :

(1) Access roads or entrance or exit drives with respect to such matters as automotive and pedestrian safety and circulation, roadway capacity, traffic flow and control, and access in the case of fire and other emergency, character of the traffic generated;

(2) Off-street parking,*loading areas* , refuse collectors, and other *service areas* with respect to their impact on automotive and pedestrian safety, convenience and traffic flow, economic, noise, glare, odor, and other impacts on adjoining *properties* ;

(3) Utilities, water, sewage, schools, stormwater, fire, and police protection and other necessary public and private services and facilities with respect to their location, availability, capacity and compatibility;

(4) Landscaping, screening and fencing with respect to the effectiveness of their type,

dimensions, and character in minimizing the economic, noise, glare, odor, and other impacts on and harmonizing the nonconformity with adjoining*properties* and *property* and improvements in the *affected area* ;

(5) The type, size, architecture, and intensity of the proposed special use, including such consideration as the size of the site and the location of the use upon it and the hours of operation and numbers of people who are likely to utilize or be attracted to the use, with respect to the impact upon*property* or improvements, or on-street parking within the *affected area* and the purposes of the zoning district;

(6) Changes in surface drainage characteristics with respect to erosion, siltation, pollution, flooding, or other detrimental effects both on the site and to other*properties* .

(b) Before the Board of Adjustment finds that a petition for a special use permit will have an injurious impact, it*shall* consider all of the *following* :

(1) The possible detriment or benefit to the*owner* of the *zoning nonconformity* from refusing to issue the special use permit, from issuing it but requiring, either wholly or partially, that the *zoning nonconformity* be brought into compliance, or from issuing it as requested.

(2) The possible detriment or benefit to the*owner* s of *properties* in the *affected area* from refusing to issue the special use permit, from issuing it but requiring, either wholly or partially, that the *zoning nonconformity* be brought into compliance, or from issuing it as requested.

(3) The possible detriment or benefit to the public and to operators of similar uses from refusing to issue the special use permit, from issuing it but requiring, either wholly or partially, that the*zoning nonconformity* be brought into compliance, or from issuing it as requested.

(c) The Board*may* consider any other relevant factor, including the extent to which *owner* s of the nonconformity already *may* have been compensated. The Board *shall* not approve a petition which fails to comply with the criteria in §§10-2146.4(a) and (b). The Board *may* deny the petition or approve it in whole or in part. If the Board grants a special use permit, it *may* impose reasonable conditions and safeguards to mitigate any potential hazards or problems or to bring the nonconformity into compliance to the extent necessary to protect the rights and interests of *owner* s and tenants in the *affected area* and the public. The provisions of §10-2141(d) and §10-2144(c) are applicable to a special use permit issued in accordance with §10-2146.4.

(d) In acting upon a petition for a special use permit, the Board cannot order the discontinuance or termination of a nonconformity. If a special use petition is denied, the continuation of the nonconformity and the activities allowed in §10-2146.2 will still be allowed unless otherwise prohibited by law. This policy is adopted to encourage the*owner* s of nonconformities to apply for special use permits authorized herein to improve and bring into conformance to the extent possible their *property* without imposing any sanctions if total conformance is not possible under the regulations of this chapter.

(Ord. No. 278-TC-112, 11-20-79; Ord. No. 194-TC-312, §§3, 4, 5, TC-9-88, 6-26-88; Ord. No. 622-TC-245, §§7, 8, TC-16-85, 8-6-85; Ord. No. 799-TC-267, §45, TC-21-85, 1-1-87)

Sec. 10-2146.5. STANDARDS FOR NONCONFORMING SIGNS, ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES, FENCES, VEHICULAR SURFACE AREAS, PRIVATE ACCESS POINTS, AND OUTDOOR LIGHTING.

(a) Subject to the provisions contained in this section and all other applicable provisions of this Code one (1) or more of the *following* activities and improvements can be made to

nonconforming accessory *buildings* , *accessory structures* , fences, *signs* , off- *street* parking, *vehicular surface areas* , private *access points* and outdoor lighting. Improvements and activities that are not explicitly authorized by *following* subsections (1) through (7) herein are not allowed. The *following* allowed activities and improvements can be initiated without the issuance of a special use permit by the Board of Adjustment.

Cross reference: Special provisions about nonconforming:

TABLE INSET:

signs	§10-2083.4(c) and (d), §10-2084.1 first paragraph

_____

TABLE INSET:

off-street parking	§§10-2081(a)(2)b. and 10-2081(b)

_____

TABLE INSET:

vehicular surface areas	§10-2082.6, .7 and .10

_____

TABLE INSET:

landscaping	§10-2082 et seq.

_____

TABLE INSET:

fences and walls landscaping	§10-2085(b)(3)

_____

TABLE INSET:

access points	§10-2045(e)(5), §10-2058(e)(5), §10-2059(e)(5), §10-2060(e)(5), §10-2061(e)(5), §10-3042, §10-7002

_____

TABLE INSET:

outdoor lighting	§10-2089

_____

TABLE INSET:

permanent stormwater retention ponds and dry detention basins	§10-2082.13(b)

(1) Renovation and ordinary maintenance and repair.

The cost of renovation and ordinary maintenance and repair to any nonconforming accessory*building* , *accessory structure* , fence, *vehicular surface area* , private *access point* and outdoor lighting *shall* not during any one (1) calendar *year* exceed fifteen (15) per cent of the Wake County tax value of the *zoning nonconformity* or, if there is no listed tax value, the original cost of the nonconformity. The limitation on expenditures established herein *shall* not apply to any other subsection of §10-2146.5. Ordinary maintenance and repair *shall* be limited to work necessary to maintain and correct any damage, other than caused by *casualty* , or deterioration to the structural soundness or features of an accessory *building* , *accessory structure* , fence, *vehicular surface area* , private *access point* , or outdoor lighting.

For damage to any nonconformity that is caused by any*casualty* , the provisions of §10-2146.5(a)(2) below *shall* apply in lieu of this provision.

Cross reference: The regulations for ordinary maintenance and repair of*nonconforming signs* are set forth in §10-2083.4(c) and (d) and first paragraph of §10-2084.

(2) ***Casualties*** .

The rebuilding, reconstruction, or restoring of any nonconforming accessory*building* , *accessory structure* , fence, *vehicular surface area* , private *access point* and outdoor lighting which was damaged or partially destroyed by a *casualty* , which includes the exercise of eminent domain, man-made acts, riot, fire, accident, explosion, or lightning, flood, wind, or other calamity or natural act, is allowed provided all of the *following* conditions are met:

a. The cost of rebuilding, reconstructing, and restoring the nonconformity is less than fifty (50) per cent of either its listed Wake County*property* tax value or, if there is no listed *property* tax value, the original cost of the nonconformity, as determined at the time such damage or destruction occurred.

b. The nature and degree of the nonconformity is not expanded, extended, or increased from that which existed prior to the damage or destruction, nor is it altered or changed except as otherwise allowed as a renovation in subsection (1) above.

c. A completed application for a construction permit to substantially rebuild, reconstruct, or restore the nonconformity is submitted to the Inspections Department within one (1) *year* of the occurrence of the *casualty* .

If the cost of the rebuilding, reconstruction, or restoration will be fifty (50) per cent or more of either its Wake County listed*property* tax value or, if there is no listed *property* tax value the original cost of the nonconformity, the nonconforming accessory *building* , *accessory structure* , fence, *vehicular surface area* , private *access point* , or outdoor lighting *shall* not be rebuilt, reconstructed, or restored except in compliance with this chapter.

Cross reference: Alterations to, rebuilding, re-erecting*signs* §10-2083.4(c) and (d), §10-2084.1, first paragraph.

(3) Expansions.

Additions to the number of off-*street* parking spaces and expansions to *vehicular surface areas* *shall* be governed by §§10-2081(a)(3), §10-2081(b) and by §10-2082.10.

In addition to these provisions, expansions to *vehicular surface areas* to serve any zoning *nonconforming use* *shall* in addition to these standards be subject to all the requirements of §10-2146.3(a)(3), including the requirement for a special use permit.

Cross reference: *vehicular surface areas* in Pedestrian Business Overlay District §10-2055(e)(2).

(4) Resumptions.

Any nonconforming accessory *building* , *accessory structure* , *sign* , *vehicular surface area* , private *access point* , or outdoor lighting, which is discontinued, unused, or unoccupied for a continuous period of three hundred sixty-five (365) days or more *may* not be restarted, resumed or reoccupied.

Cross reference: Abandoned *signs* §10-2083.3(12) and §10-2084.2.

(5) Substitution of ***impervious surfaces*** .

Substitution of *impervious surfaces* for one (1) use, facility, *building* , or structure, *vehicular surface area* , or *access point* to another provided all of the *following* are met:

a. The amount and extent of *impervious surfaces* is not increased.

b. The placement of those new *impervious surfaces* conforms to the requirements of this Code.

c. The *impervious surface* is for a lawful activity.

Cross reference: *Impervious surface* limitations §§10-2053(e)(4) and 10-2056(f)(3).

(6) ***Zoning nonconformities*** **brought into compliance.**

Expenditures to bring any nonconforming accessory building, *accessory structure* , fence, *sign* , off- *street* parking, *vehicular surface areas* , private *access point* or outdoor lighting into full compliance with the *City* Code are allowed in any amount. The *owner* *may* secure any permit or approval and make any alteration that will bring the *zoning nonconformity* into full compliance.

(7) Amortizing a nonconformity.

Expenditures required by this Code to amortize a nonconformity are permitted in any amount.

Cross references: Amortization of *signs* §10-2083.4(b), §10-2084.3; amortization of *vehicular surface area* landscaping §10-2082.7.

(Ord. No. 194-TC-312, §§6, 7, TC-9-88, 6-26-88; Ord. No. 278-TC-112, §3, 11-20-79; Ord. No. 436-TC-125, §4, 8-5-80; Ord. No. 1993-133-TC-46, §33, TC-11-92, 2-2-93; Ord. No. 1995-760-TC-122, §49, TC-20B-95, 11-21-95; Ord. No. 1997-137-TC-153, §109, TC-18-96, 6-17-97; Ord. No. 2001-123-TC-210, §3, TC-3-01, 11-20-01; Ord. No. 2004-627-TC-246, §2, TC-12-03, 5-4-04)

Sec. 10-2146.6. RESERVATION OF AUTHORITY TO DEAL WITH NONCONFORMITIES UNDER OTHER POWERS.

Notwithstanding the policies and provisions of this chapter with respect to nonconformities, the governing body expressly reserves its authority to initiate criminal and civil proceedings against unlawful uses, *buildings* , structures, and *lots* , including those which unlawfully existed here before, and to control or abate noxious uses, to require the repair or demolition of unsafe *buildings* or structures, or to control or eliminate public health nuisances through the exercise of any powers authorized by this Code.

(Ord. No. 278-TC-112, §3, 11-20-79)

Secs. 10-2147--10-2150. RESERVED.

GRAPHIC LINK:CODE INSERT

GRAPHIC LINK:CODE INSERT (Cont'd.)

GRAPHIC LINK:CODE INSERT (Cont'd.)

ARTICLE J. ENFORCEMENT.

Sec. 10-2151. VIOLATIONS AND VIOLATORS.

(a) [Violations.]

Each of the *following* are declared to be violations of the Raleigh *City* Code:

(1) Any*person* , as defined in Part 14 of this Code, owning, leasing, using, managing, or occupying any *building* , *sign* , structure or land wherein or whereon there *shall* be placed, removed, altered, expanded or there now exists any thing contrary to this chapter; any regulation, rule, or order adopted pursuant thereto; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this chapter; or a "lawful plan" approved under this chapter.

(2) Any architect, designer, engineer, agent, or any other*person* who acts in concert, participates, directs, or assists in the creation or continuation of a violation of this chapter; any regulation, rule, or order adopted pursuant thereto; any certificate or appropriateness, conditional use, special use permit or variance issued pursuant to this chapter; or a "lawful plan" approved under this chapter.

(3) Any builder, contractor, or any other*person* who *shall erect* , expand, relocate, reconstruct, alter, or use any land, structure, *sign* , tree, or *building* on any part thereof contrary to this chapter; any regulation, rule, or order adopted pursuant thereto; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this chapter; or a "lawful plan" approved under this chapter.

(4) Any*person* , as defined in Part 14 of this Code, who *shall* fail, neglect, or refuse to do any act as required by this chapter; any regulation, rule, or order adopted pursuant thereto; any certificate of appropriateness, conditional use, special use permit or variance issued pursuant to this chapter; or a "lawful plan" approved under this chapter.

The term "lawful plan" as used herein*shall* mean a *plot plan* , *site plan* , *Master Plan* , Neighborhood Plan of a Neighborhood Conservation Overlay District or Streetscape Plan of a Pedestrian Business Overlay District.

The terms contrary to or violation or a "lawful plan" include the establishment, creation, expansion, alteration, relocation, occupancy or continuation of any use, *building* , or structure for which a plan is required except in accordance with the terms, conditions, and provisions of the approved "lawful plan".

The enumeration of these declared violations*shall* not be deemed exclusive or all-inclusive. All *persons* who *shall* commit violations *shall* be held responsible and *shall* be subject to the penalties and remedies provided in §10-2152. Each day's continuing violation *shall* be a separate and distinct violation or offense.

(*Code 1959* , §24-55; Ord. No. 1979-981-TC-96, §46, 1-2-79; Ord. No. 1989-346-TC-337, §5, 4-18-89; Ord. No. 1989-387- TC-339, §7, 6-20-89; Ord. No. 2005-762-TC-264, §19, TC-7-04, 1-4-05)

Sec. 10-2152. PENALTIES AND REMEDIES.

Enforcement*may* be by any one (1) or more of the *following* methods, and the institution of any action under any of these methods *shall* not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

_____

(1) Equitable remedy.

The*City* *may* apply for any appropriate equitable remedy to enforce the provisions of this chapter.

_____

(2) Injunction.

Enforcement*may* also be achieved by injunction. When a violation occurs the *City* *may* either before or after the institution of any other authorized action or proceeding, apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant, or in the case of counterclaims the plaintiff, to correct the unlawful condition or cease the unlawful use of the *property* .

_____

(3) Order of abatement.

The*City* *may* apply for and the court *may* enter an order of abatement. An order of abatement *may* direct that *buildings* or other structures on the *property* be closed, demolished, or removed; that fixtures, furniture, or other movable *property* be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the *property* into compliance with this chapter. Whenever the party is cited for contempt by the court and the *City* executed the order of abatement, the *City* *shall* have a lien, in the nature of a mechanic's and materialman's, on the *property* for the cost of executing the orderof abatement.

_____

(4) Criminal.

Violations of this chapter*shall* constitute a misdemeanor or infraction as provided by General Statutes §14-4 and the maximum fine, term or imprisonment or infraction penalty allowed by law is hereby authorized.

_____

(5) Civil penalty.

a. Generally.

Any act constituting a violation*shall* subject the offender to a civil penalty to be recovered by the *City* in a civil action in the nature of a debt or as otherwise provided herein if the offended fails to pay the penalty within forty-eight (48) hours from and after receipt of a citation of a violation. All violations *shall* be subject to a civil penalty in the amount of one hundred dollars ($100.00) unless a higher amount is otherwise specified in this chapter; continuous violations *shall* be subject to a civil penalty in the amount specified in subsection e., below.

b. Citation contents.

Such zoning violation citation*shall* , among other things:

1. State upon its face the amount of the penalty for the specific violation if the penalty is paid within forty-eight (48) hours from and after issuance of the citation.

2. Notify the offender that a failure to pay the penalty within the prescribed time*shall* subject the offender to a civil action in the nature of debt for the stated penalty plus any additional penalties, together with the cost of the action to be taxed by the court.

3. Further provide that the offender*may* answer the *City* zoning citation by mailing the citation and the stated penalty to Post Office Box 590, Raleigh, North Carolina 27602, or *may* pay the amount at the cashier's window on the fourth floor, One Exchange Plaza.

4. That the penalty must be either paid or the failure to pay must be cleared with the Inspections Department Director, One Exchange Plaza, within forty-eight (48) hours of the issuance of the citation. The notice*shall* further state that if the zoning violation citation is not cleared within forty-eight (48) hours, court action by the filing of a civil complaint for collection of the penalty *may* be taken. As used upon the zoning violation citation, the word "cleared" *shall* mean either:

(i) Payment;

(ii) Arrangement for payment to be made; or

(iii) A prima facie showing to the Inspections Department Director that the zoning citation was received as a result of mistake, inadvertence or excusable neglect.

c. Settlement of civil claim.

The Inspections Department Director is authorized to accept payment in full and final settlement of the claim or claims, right or rights of action which the*City may* have to enforce such penalty by civil action in the nature of debt. Acceptance of a penalty *shall* be deemed a full and final release of any and all claims, or right of action arising out of contended violations, only if the activities or nonactivities which gave rise to the violations are abated or otherwise made lawful.

d. Additional penalty.

A penalty of twenty-five dollars ($25.00), in addition to the one imposed for payment within forty-eight (48) hours,*shall* apply in those cases in which the penalties prescribed in this section have not been paid within the prescribed forty-eight (48) hour period and in which a civil action *shall* have been instituted.

e. Civil penalties for continuing violations.

1. No civil penalty*shall* be levied against the same *person* for the same continuing violation at the same location more than once unless and until the Inspections Department *shall* provide to the *person* to be assessed continuing civil penalties a *written* notice containing the following:

(i) The nature of the violation;

(ii) An order directing corrective action;

(iii) The date when corrective measures must be completed; and

(iv) A statement that failure to correct the violation by the specified date will result in the assessment of additional civil penalties and other enforcement action.

2. If after the allotted time period for corrective measures has expired and after the hearing of any appeal, if any, by the Board of Adjustment corrective action has not been completed, a civil penalty*shall* be assessed in the amount of five hundred dollars ($500.00) per day of continuing violation.

3. Written notices*may* be served by personal service or by registered or certified mail, return receipt requested. When service is made by registered or certified mail, a copy of the notice *may* also be sent by first class mail. Service by first class mail *shall* be deemed sufficient if:

(i) The registered or certified mail is unclaimed or refused, but the first class mail is not returned by the post office within ten (10) days after the mailing; and

(ii) The inspector has reasonable grounds to believe that the address used for the first class mailing is an address that will actually reach the*person* to be served.

If first class mail is used, a notice of the pending proceedings*shall* also be posted in a conspicuous place on the premises where the violation exists.

4. If the identities or whereabouts of*persons* are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, then the notice *may* be served by publication in a newspaper having general circulation in the *City* . The notice *shall* be published at least once and publication *shall* occur no less than thirty (30) days prior to the deadline for corrective action contained in the notice. When the notice is served by publication, a copy of the notice *shall* also be posted in a conspicuous place on the premises where the violation exists.

(Ord. No. 799-TC-267, §50, TC-21-85, 1-1-87; Ord. No. 387-TC-339, §7, TC-5-89, 6-2-89; Ord. No. 346-TC-337, §5, TC-6-89, 4-18-89; Ord. No. 1996-851-TC-128, §28, TC-23-95, 4-2-96; Ord. No. 2004-681-TC-252, §§1, 2, TC-12-04, 8-3-04; Ord. No. 2005-883-TC-271, §1, TC-13-05, 8-2-05; Ord. No. 2006-72-TC-290, §§1, 2, TC-12-06, 8-8-06)

Sec. 10-2153. ADMINISTRATIVE FEE.

Any*person* who *shall* commit a violation of Part 10, chapter 2 of this Code, receives official notice from the *City* of said violation and fails to remedy said violation within the time period specified such that a zoning violation citation is issued *shall* be subject to an administrative fee of one hundred dollars ($100.00) in addition to any other charge.

(Ord. No. 2004-718-TC-258, §1, TC-17-04, 10-5-04)

Cross reference: Administrative fees, §14-1012.

Secs. 10-2154--10-2160. RESERVED.

ARTICLE K. OFFICIAL ZONING MAP.

Sec. 10-2161. ESTABLISHMENT OF OFFICIAL ZONING MAP.

The set of maps entitled "Zoning Maps of the City of Raleigh,"dated September 1, 1996, or subsequent dates, and drawn to the scale of 1 inch = 100 feet embracing the area within the *City* limits and the area outside the *City* limits comprising the extraterritorial jurisdiction of the *City* as provided in Part 14, §14-1008 of this Code, are hereby declared to be the Official Zoning Maps of the *City* , superseding other **Official Zoning Maps heretofore adopted by the *Council* .**

All changes to the Official Zoning Mapsof the *City* which *may* be made hereafter by ordinance *shall* be identified by updating the original computer digital data of each change together with the date thereof. When the *City* 's extraterritorial jurisdiction is expanded, changes in the **Official Zoning Map *shall* be identified by updating the original computer digital data with the date thereof. A hard copy of the data and changes thereto will be kept in the *City's* Planning Department; all revisions to the hard copy will be numbered, dated, and signed by the Planning Director or his or her designee.**

(Ord. No. 703-TC-76, §§1, 2, 11-21-78; Ord. No. 62-TC-175, §1, TC-225, 2-1-83; Ord. No. 277-TC-207, §1, TC-258, 2-7-84; Ord. No. 1996-974-TC-140, §§1, 2, TC-15-96, 10-1-96)

Annotation: Raleigh vs. Morand, 247 N.C. 363 at 367, 100 S.E. 2d 870 (1957). Extraterritorial zoning jurisdiction is constitutional.

Cross reference: Districts established, Article B.

Sec. 10-2162. PLANNING DEPARTMENT TO MAINTAIN OFFICIAL ZONING MAP.

To supply the citizens and officials necessary information pertaining to the Official Zoning Maps and the location of the district boundaries, a white print or other suitable copy of the computer digital data and hard copy*shall* be kept by the Planning Department. Immediately upon the passage by the *Council* of any amendment to or change of the maps and the relocation of the boundary lines, the Planning Department *shall* forthwith add the amendments or changes to this data, so that an up-to-date record of the zoning of the *City* *shall* be established as a reference for all of those desiring to know how any *lot* or all of the land throughout the *City* is affected by this chapter.

(Ord. No. 1996-974-TC-140, §2, TC-15-96, 10-1-96)

Sec. 10-2163. INTERPRETATION OF ZONING DISTRICT BOUNDARY.

The precise location of a district boundary line is to be determined as follows:

(a) Where a boundary line is shown as binding along or superimposed upon a*lot* line, such *lot* line *shall* be deemed to be a boundary line.

(b) Where the location of a boundary line is indicated by a designated number of feet, that distance*shall* control.

(c) Where a boundary line is shown as within or binding along a*street* , alley, or stream, such boundary line *shall* be deemed to be in the center of such *street* , alley, or stream, except in the cases where the side of such *street* , alley, or stream is designated as the boundary line.

(d) Where a boundary line is shown as binding along a railroad track, or as being located a designated number of feet from a railroad track, or where the location of a boundary line*may* be scaled from a railroad track, the nearest rail of the track designated *shall* control.

(e) Where a boundary line is superimposed on a topographic elevation line, the precise location of the boundary line*shall* be determined by field survey of the topographic elevation line, unless the topographic elevation has been relocated through grading subsequent to establishment of the zoning boundary line.

(f) Where a boundary line is shown and its location is not fixed by any of the rules in (a), (b), (c), (d), or (e) of this section, its precise location*shall* be determined by scaling from fixtures, objects or other features shown on the maps.

(Code 1965, §24-51; Ord. No. 600-TC-242, §9, TC-13-85; 7-2-85)

Sec. 10-2164. INTERPRETATION AND APPLICATION OF REQUIREMENTS.

(a) Relationship to Other Regulations.

In interpreting and applying the provisions of this chapter, the provisions*shall* be held to be the minimum requirements adopted for the promotion of health, safety, comfort, convenience, prosperity, and general welfare. Except as to provisions in conflict herewith, it is not intended by this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance or any rules, regulations, or permits previously adopted or issued or which *shall* be adopted or issued pursuant to law relating to the use of *buildings* or *premises* . However, where this chapter imposes greater restrictions upon the use of *buildings* or *premises* or upon height of *buildings* , or requires larger yards or open spaces, than are imposed or required by such existing provision of law or ordinance or by such rules, regulations or permits, the provisions of this chapter *shall* control.

(Ord. No. 346-TC-337, §4, TC-6-89, 4-18-89, repealed §10-2115(b))

(b) Application of District Regulations to Both General Use and Conditional Use Districts.

(1) A district name, whether abbreviated or not, indicates that the regulations pertaining to the district apply to both the general use and the corresponding conditional use district except when the conditional use district ordinance applicable to the*property* explicitly provides otherwise or when the contrary clearly appears in the text of the Code provision.

(Code 1965, §24-51; Ord. No. 600-TC-242, §9, TC-13- 85, 7-2-85)

(2) A district name on the district map indicates that the regulations pertaining to the district designated by that name, or letter, extended throughout the whole area bounded by the district boundary lines within which such name or letter is shown, except as otherwise provided by these rules.

Sec. 10-2165. AMENDMENTS, ALTERATIONS AND CHANGES.

(a) Zoning Changes and Hearings.

The*Council* *may* , on its own motion or upon petition after public notice and hearing amend, supplement, change, modify, or repeal the regulations and the maps which are a part of this chapter. No regulation or map *shall* be amended, supplemented, changed, modified, or repealed until after a public hearing in relation thereto, at which parties in interest and citizens *shall* have an opportunity to be heard. Zoning hearings *shall* be held before joint meetings of the *Council* and the *City* Planning Commission at such times so designated by the *Council* . Special zoning hearings *may* be scheduled at the discretion of the *City* *Council* .

State law reference: Procedure for adopting or amending ordinances,*G.S.* 160A-364.

(b) Conditional Use Zoning Petition.

A conditional use zoning petition*shall* only be submitted from all the *owner* s of the *property* included in the petition. The petition must specify the use or uses allowed, including the maximum number of *dwelling* or *rooming units* , and all land development regulations which are requested for the *property* submitted for rezoning. The requested use or uses must be permitted in the corresponding general use district except for conditional use overlay districts authorized by this chapter. All those regulations which apply to the corresponding general use zoning district are the minimum requirements in the conditional use zoning district except for conditional use overlay districts authorized by this chapter. In addition, conditions which represent greater restrictions on development and use of the *property* than would apply in the corresponding general use zoning district, or which involve subdivision, flood protection, or other limitations on land which *may* be regulated by *City* and State law, *may* be specified in the petition.

At least six (6) weeks prior to the public hearing date, the applicant*shall* conduct a meeting within the zoning jurisdiction with: (1) the *owners* of *property* included in the proposed change, (2) the *owners* of *property* within one hundred (100) feet on all sides of the proposed change (not counting *street rights-of-ways*), and (3) the *owners* of *property* abutting the parcel, or lot, or tract proposed to be rezoned, but not within the one hundred (100) feet; -- the same *owners* of *property* required to be listed in the application of the petitioner as set forth in the last paragraph of section 10-2165(c). At least ten (10) days prior to the meeting date with the *owners* of *property* , the applicant *shall* notify the *owners* of *property* about the meeting; notice *shall* be by first class mail or certified mail return receipt. If notification is to be by first class mail, the applicant *shall* deliver the sealed, addressed, stamped envelopes to the Planning Department prior to the aforementioned ten-day period. If notification is to be by certified mail return receipt, copies of the return receipts *shall* be given to the Planning Department at least four (4) weeks prior to the public hearing date. The applicant *may* use the local Citizens Advisory Council meeting; provided, the meeting time and notices comply with the terms set forth herein. A report of the meeting, made by the applicant, *shall* be given to the Planning Department and mailed by first class post to the *owners* of *property* within one hundred (100) feet on all sides of the proposed change (not counting *street rights-of-ways*) four (4) weeks prior to the public hearing date. The report *shall* include, among other things: a list of those *persons* and organizations contacted about the meeting, and manner and date of contact, the date, time, and location of the meeting, a roster of the *persons* in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner *following* such meeting.

Upon delivery to the newspaper for publication of notice of a conditional use zoning district application, no amendments to the conditions specified*may* be added to the petition which are less restrictive, including but not limited to less setback, more *dwelling* or *rooming units* , greater height, more *access points* , new uses, and fewer improvements. However, more restrictive conditions or additional conditions, such as a reduction in the size of the request and a change to a higher zoning classification, *may* be added *in writing* to the signed petition by all *owners* of *property* covered by the original petition, if such changed conditions are offered prior to the Planning Commission's recommendation and the signed petition received by the Planning Director prior to the Planning Commission's Certified Recommendation being signed by the chairperson or within fifteen (15) calendar days *following* the *City Council* meeting at which the recommendation of the Planning Commission on the request is first received by the Council and not returned to the Planning Commission by the *Council* , provided that any change is submitted at least two (2) normal working days, excluding Saturday and Sunday and legal holidays, before the date of the final *City Council* action. Notwithstanding the fifteen (15) calendar day limitation above, changed conditions for a Planned Development Conditional Use Overlay District and its associated master plan document may be received by the Planning Director within forty-five (45) calendar days following the *City Council* meeting at which the Certified Recommendation of the Planning Commission on the request is first received by the

Council and not returned to the Planning Commission by the *Council* . Such signed conditions *may* be submitted by facsimile or electronic mail so long as the original signed petition is received by the Planning Director at least twenty-four (24) hours before the meeting where final *City Council* action is taken; provided that the electronic *signature* is (1) unique to the *person* using it; (2) capable of certification; (3) under the sole control of the *person* using it; (4) linked to the same page as the petition. The day of the *City Council* action *shall* not be counted as a normal workday when applying this rule. Such changed conditions *may* be referred to the Planning Commission for further review. If so, the Planning Commission *shall* report back to the *City Council* within thirty (30) days of the *City Council* referral, or it *shall* be construed that they have no comment.

No condition*may* be made part of the petition which specifies ownership status, race, religion, or character of occupant, minimum value of improvements, or any other exclusionary device. No condition *may* be made part of the petition which duplicates an existing *City* Code requirement. For any condition specified on the petition which *may* affect potential compliance with the requirements of the *Comprehensive Plan* , applicable redevelopment plans, or the Subdivision/Site Plan Standards Ordinance, or any other *City* ordinance on the *property* requested for rezoning, proper submittal of information and review *may* be requested by the Planning Department, including requirements under chapter 3 of this Part, prior to a *City Council* decision on the rezoning.

(Ord. No. 129-TC-187, §1, TC-234, 6-22-83; Ord. No. 600-TC- 242, §10, TC-13-85, 7-2-85; Ord. No. 944-TC-285, §1, TC-6- 87, 4-1-87; Ord. No. 1995-605-TC-109, §1, TC-5-95, 4-18-95; Ord. No. 1995-760-TC-122, §50, TC-20B-95, 11-21-95; Ord. No. 1999-616-TC-181, §§83--86, TC-3-99, 8-3-99; Ord. No. 2002-192-TC-517, §§1, 2, TC-4-02, 4-16-02; Ord. No. 2003-376-TC-234, §1, TC-3-03, 2-4-03; Ord. No. 2006-70-TC-288, §1, TC-9-06, 8-8-06)

State law reference: Conditional Use Zoning,*G.S.* 160A- 382, 160A-392, 1985 Session Laws, Chapter 49; Validity of Electronic Signatures, *G.S.* 66-58.5.

(c) Dates for Filing of Application and Submittal of Materials.

(1) Filing dates.

Three (3) copies of the application for change of the zoning classification of a piece of*property* or of a district must be filed in the Planning Department during the *months* of February, April, June, August, October, or December, by the third Friday of the month. This filing limitation *shall* not apply to applications made by the *City* or to any conditional use overlay authorized by this chapter.

Regular zoning hearings will be held in January, March, May, July, September, and November. Special zoning hearings will be held at any other time approved by the*City Council* .

(Ord. No. 1995-550-TC-99, §1, TC-25-94, 2-7-95; Ord. No. 1999-486-TC-176[TC-15-98], §1, 1-5-99)

(2) Submittals.

Required documents.

Every amendment proposing to change the district boundary lines*shall* be accompanied by a plat drawn to such scale as the Director of Planning *shall* require and showing the information necessary to enable him to plot the amendment on the Official Zoning Map kept in the Planning Department as a public record.

An application for a district change*shall* include: an illustration of the requested zoning change on a current copy of the *City* Official Zoning Map, and any further information which *may* be required to identify the *property* for which the zoning change is applied, such as a *property* boundary survey.

In addition to the maps and the information required in the application, the applicant

must supply: all of the names as shown on the*County* tax listing at the time of filing, mailing addresses as shown on the *County* tax abstract at the time of filing, and the current Wake County tax parcel numbers of all of the *property owner* s included in the proposed change, and of all the *property owner* s within one hundred (100) feet on all sides of the proposed change (not counting *street* rights-of-way). All *property owner* s abutting the parcel, *lot* , or tract proposed to be rezoned, but not within one hundred (100) feet, *shall* also be included in the list of adjacent *property owner* s. The names of all the above *property owner* s *shall* be shown on their respective parcels on the accompanying plat showing the proposed change.

(Ord. No. 725-TC-264, §§1, 3, 4, TC-2-86, 2-4-86; Ord. No. 944-TC-285, §§2, 3, TC-6-87, 4-1-87; Ord. No. 292-TC-328, §5, TC-22-88, 1-5-89; Ord. No. 1996-974-TC-140, §3, TC-15-96, 10-1-96)

Cross reference: Schedule of fees, §10-2171.

(3) Reserved.

(Ord. No. 129-TC-187, §2, TC-234, 6-22-83; Ord. No. 1995-695-TC-116, §3, TC-19-95, 8-1-95; Ord. No. 1997-48-TC-143, §1, TC-1-97, 2-4-97; Ord. No. 1999-486-TC-176[TC-15-98], §2, 1-5-99; Ord. No. 2002-309-TC-228, § 2, TC-17-02, 10-15-02; Ord. No. 2006-104-TC-293, §6, TC-18-06, 10-3-06)

(d) Acceptance and Withdrawal of Applications.

(1) Waiting period.

Without special waiver by the*City Council* in accordance with a. through e. below, the Planning Department is instructed not to accept an application for rezoning whenever an application for rezoning on the same *property* would be heard more than once at a public hearing within a twenty-four (24) *month* period. The increase or decrease of an area or other change in the request for rezoning does not negate this rule. However, in cases where rezoning has been applied for by a community group, the *Council* , the Planning Commission or other non *owner* s of the subject *property* , heard and acted on, applications by individual *property owner* s (for the return of their *property* to its former zoning classification) will be accepted within the twenty-four (24) *month* period without prior *Council* approval. This twenty-four (24) month period *shall* also not apply to a change in the underlying district when an application for an overlay district has been heard on the same *property* within a twenty-four (24) month period, nor to a change in the overlay district when an application of the underlying district has been heard on the same *property* within a twenty-four (24) *month* period. Provided further, this twenty-four (24) *month* waiting period *shall* not apply to any *City Council* -initiated zoning map modifications when such modifications involve: readoption of the entire Official Zoning Map, application of *City* zoning districts to new extraterritorial jurisdiction areas, or application of *City* zoning districts to annexed areas which were not subject to the *City's* zoning jurisdiction.

Special waiver of this waiting period*may* be granted by the *City Council following* a recommendation thereon from the Planning Commission for one (1) or more of the *following* grounds:

a. Materially changed conditions.

b. Clerical correction was the basis for the previous zoning change.

c. Newly discovered evidence of adverse impact of the current zoning which by due diligence could not have been discovered in time for the earlier hearing.

d. Substantially changed zoning request.

e. The petition changes from a general use district request to a conditional use district request and specific conditions are submitted by all*owners* of the *property(s)* , which represents a substantial change from the previous general

use district request.

(Ord. No. 929-TC-281, §1, TC-7-87, 2-17-87; Ord. No. 69-TC-102, TC-139-78, 5-16-79; Ord. No. 1992-43-TC-397, §62, TC-10-92, 9-1-92; Ord. No. 1999-486-TC-176[TC-15-98], §§3, 4, 1-5-99)

(2) Text changes.

The Planning Department is instructed not to accept any applications for amending the text of this Code without the prior approval by the*City Council* .

(Ord. No. 658-TC-249, §1, TC-23-85, 11-5-85)

(3) Neighborhood Conservation Overlay District.

a. Locational guidelines.

Except for applications filed by the*City* , the Planning Department is further instructed not to accept applications for zoning or rezoning *property* to a Neighborhood Conservation Overlay District unless the application meets all the *following* :

1. Is requesting that either at least fifteen (15) acres be zoned Neighborhood Conservation District or that an existing Neighborhood Conservation Overlay District be extended.

2. Is signed by a majority of the*property owner* s within the area sought to be zoned Neighborhood Conservation Overlay.

3. Is applied to*property* which is at least seventy-five (75) per cent developed.

Cross reference: Locational guidelines for designating a Neighborhood Conservation Overlay District §10-2054(f)(1).

b. Preparation and adoption of Neighborhood Plan.

No application to zone or rezone*property* to a Neighborhood Conservation Overlay District *shall* be accepted as pending unless or until the Planning Department has been directed to prepare a Neighborhood Plan by the *City Council* . Failure to adopt a Neighborhood Plan within one hundred eighty (180) days *following* the decision of the *Council* to prepare such a plan *shall* automatically void the pending request to zone or rezone the *property* a Neighborhood Conservation Overlay District unless *City Council* finds that:

1. A request for extension of the time period, not to exceed ninety (90) days, has been made by the task force or any affected*property owner* prior to the expiration date; and

2. The delay in completion of the plan has been caused by circumstances outside the control of the task force or could not have been prevented by due diligence.

(Ord. No. 292-TC-328, §6, TC-22-88, 1-5-89)

(4) Withdrawal of zoning applications.

No application for a rezoning amendment can be withdrawn after the Monday*preceding* the five (5) week period prior to the scheduled public hearing date set for the case. The zoning amendment application on file five (5) weeks prior to the public hearing *shall* be the zoning amendment *used for* notification in accordance with subsections (e) and (f) below.

(Ord. No. 1997-137-TC-153, §110, TC-18-96, 6-17-97; Ord. No. 1999-486-TC-176[TC-15-98], §5, 1-5-99; Ord. No. 2002-192-TC-517, §3, TC-4-02, 4-16-02)

(5) Planned Development Conditional Use Overlay District.

The Planning Department is instructed not to accept an application for zoning or rezoning*property* to a Planned Development Conditional Use Overlay District unless accompanied by a *Master Plan* meeting the standards of §10-2057(f)(2). The Planning Department is further instructed not to accept an application to delete any portion of a Planned Development Conditional Use Overlay District from the Official Zoning Map unless the Planning Commission has made the appropriate findings required in §10-2057(f)(5) for the termination of an existing Planned Development Conditional Use Overlay District.

(Ord. No. 1994-452-TC-84, §§11, 12, TC-17-94, 8-2-94)

(6) Pending Petition.

An application for a district boundary line amendment is considered pending when the Planning Director determines that all submittal requirements of §10-2165(b) through (d) have been met.

(Ord. No. 1999-486-TC-176[TC-15-98], §6, 1-5-99)

Cross reference: See Code §§10-2131 and 10-3006 for permit issuance and subdivision restrictions during pendency of a rezoning application.

(7) Downtown Overlay District.

The Planning Department is instructed not to accept any application for amending the official zoning map with respect to any Downtown Overlay District classification without the prior approval by the*City Council* .

(Ord. No. 2004-746-TC-261, §7, TC-20-04, 12-7-04)

(8) Concept Plans.

The Planning Department is instructed not to accept an application for rezoning to a conditional use zoning district which specifies compliance with elements of the Comprehensive Plan's Urban Design Guidelines for Mixed-Use Neighborhood and Village Centers unless accompanied by a concept plan meeting the*following* minimum standards:

a. Single sheet depicting a plan view of the site illustrating the location and arrangement of land uses and elements of the Urban Design Guidelines for Mixed-Use neighborhood and Village Centers (11" × 17" up to 18" × 24");

b. Transitions to surrounding properties including, but not limited to*transitional protective yards* , *street protective yards* and other types of buffers and *protective yards* with minimum and maximum dimensions;

c. A preliminary circulation plan showing*access point* limitations, existing *streets* within and adjoining the site, *street* connections, *street* hierarchy and declaration of public versus private *streets* ;

d. Pedestrian circulation patterns;

e. Identification of topographically, hydrologically, environmentally and historically significant areas which affect the future limitation or enhancement of development;

f. *Vehicular surface areas* including, but not limited to location of parking lots and or parking deck(s)/garage(s), *utility service areas* and emergency access areas;

g. *Building* location(s), orientation and entranceways (public and private service

entryways) and maximum *building* height measured in feet and stories for each facade;

h. *Building* facade narrative including, but not limited to *building* entranceways, window openings and pedestrian interest areas;

i. Open spaces including, but not limited to landscape screening, greenway, urban open areas, plazas and stormwater facilities;

j. Proximity to transit;

k. Phasing plan; and

l. A written narrative providing further evidence that the concept plan ensures that future development for the area requested to be rezoned will conform to the Comprehensive Plan's Urban Design Guidelines for Mixed-Use Neighborhood and Village Centers.

(Ord. No. 2005-774-TC-265, §1, TC-1-05, 2-1-05)

(9) Applicant's statement.

The Planning Department is instructed not to accept any application for amending the official zoning map without a statement prepared by the applicant analyzing the reasonableness of the rezoning request. This statement*shall* address the consistency of the proposed rezoning with the *Comprehensive Plan* and any other applicable *City* -adopted plan(s), the compatibility of the proposed rezoning with the *property* and surrounding area, and the benefits and detriments of the proposed rezoning for the landowner, the immediate neighbors and the surrounding community.

(Ord. No. 2005-939-TC-276, §3, 12-6-05)

(e) Notification of Affected Landowners.

The*City* , based on the data supplied by the applicant, *shall* notify by first class mail all *owner* s of *property* included in the proposed change, all *owner* s of the *property* within one hundred (100) feet on all sides of the proposed changes (not counting *street* rights-of-way), and the *owner* s abutting the *property* of the proposed change. The *City* will also post a *sign* or *signs* on the *property* or will place a *sign* or *signs* at a convenient location to provide visibility to *property* owners concerned with or affected by a proposed zoning classification no more than twenty-five (25) days and no less than ten (10) days prior to the hearing.

(Ord. No. 725-TC-264, §5, TC-2-86, 2-4-86; Ord. No. 1999-486-TC-176[TC-15-98], §7, 1-5-99; Ord. No. 2005-939-TC-276, §4, 12-6-05)

State law reference: Notification of the North Carolina Capital Commission of pending changes to Chapter 160A Article 19 enacted ordinances,*G.S.* 143B-373(c).

(f) Advertisement of Application.

Prior to the hearing the*City* *shall* in conformity with State law cause at least ten (10) days notice of the time and place of the zoning hearings be published in a paper of general circulation in the *City* .

(Ord. No. 1995-550-TC-99, §2, TC-25-94, 2-7-95; Ord. No. 1999-486-TC-176[TC-15-98], §7, 1-5-99)

(g) Statutory Protest Petitions Against Proposed Zoning Change.

All petitions and protests against a proposed zoning change filed pursuant to N.C.G.S. 160A-385*shall* be delivered to the *City* Clerk in sufficient time to allow the *City* at least two (2) normal work days, excluding Saturdays, Sundays, and legal holidays, before the date established for a public hearing. The day of the public hearing *shall* not be counted as a

normal work day when applying this rule. The two (2) normal work days are required to give sufficient time to check the accuracy of names and addresses and otherwise determine the sufficiency and accuracy of the protest petitions.

Such petitions*may* be submitted by facsimile or electronic mail so long as the original petition is received by the *City* Clerk at least twenty-four (24) hours before the public hearing, and provided that the electronic *signature* is (1) unique to the *person* using it; (2) capable of certification; (3) under the sole control of the *person* using it; (4) linked to the same page as the petition.

(Ord. No. 1999-486-TC-176[TC-15-98], §7, 1-5-99; Ord. No. 1999-616-TC-181, §87, TC-3-99, 8-3-99)

State law reference: Zoning changes,*G.S.* 160A-385.

(h) Procedures for Public Hearing and Deliberations.

(1) City explanation.

At the hearing the*City* will explain or identify, by maps or otherwise, the location and area involved in the requested change and the uses permitted in the proposed zoning district classification. For a conditional use zoning petition, the conditions specified in the petition *shall* be stated.

(Ord. No. 600-TC-242, §12, TC-13-85, 7-2-85)

(2) Presentation by proponents and opponents.

Proponents are entitled to open and conclude the oral presentation. Ordinarily, a maximum total of eight (8) minutes will be allowed all proponents and a maximum total of eight (8) minutes will be allowed all opponents for oral presentation. Additional time will be allowed by the*Council* if requested in advance of the hearing. After the public hearing has been completed on each case, the *Council* or Commission members *may* ask questions of the proponents or opponents.

(3) Post-hearing action and time limits.

After the hearing the matter*shall* be referred to the Planning Commission for study and recommendation. For all text changes, the Planning Commission *shall* make its recommendation to the *City Council* within one hundred and five (105) days of the public hearing. For all conditional use zoning cases, the Planning Commission *shall* make its recommendation to the *City Council* within one hundred and twenty (120) days of the public hearing. Within this time period, the Commission *may* request extensions of time which *may* be granted by the *Council* . If no recommendation is made within this time period and if no extension is granted, the *Council may* take action on the text change or conditional use zoning case without further involvement of the Planning Commission.

(Ord. No. 725-TC-264, §6, TC-2-86, 2-4-86; Ord. No. 1995-605-TC-109, §2, TC-5-95, 4-18-95; Ord. No. 1999-486-TC-176[TC-15-98], §8, 1-5-99)

(4) Facts to be considered by Planning Commission and Council for zoning amendments.

For a general use zoning district, the*Council* and the Planning Commission will not rely upon specific use or plan proposals in their consideration of rezoning proposals. For a conditional use district, the *City Council shall* approve or disapprove the petition on the basis that the specific use or uses and development regulations and conditions requested fulfills or does not fulfill the objectives of this chapter as described in §10-2001. The arguments for all requests for amending the Official Zoning Map must be based on the need to change the zoning map in accordance with the *Comprehensive Plan* or to amend the plan for the benefit of the neighborhood or *City* because of

changed conditions or other good cause, such as mistake when the initial zoning ordinance was passed. The descriptions of the various zoning districts contained in this chapter is not an argument in favor or in opposition for amending the Official Zoning Map.

(Ord. No. 600-TC-242, §§13-15, TC-13-85, 7-2-85)

(5) Planning commission recommendations.

The Planning Commission*shall* make its recommendations to the *Council in writing.* The Commission can recommend that the application be adopted in whole, or in part, or as amended, or that the application be denied in whole or in part. The Planning Commission recommendation *shall* include a written statement describing whether the proposed amendment is consistent with the *Comprehensive Plan* and any other applicable *City* -adopted plan(s).

(6) Final action by Council.

The*Council* will take final action on the application. The final action by the *Council shall* include the adoption of a statement describing whether its action is consistent with the *Comprehensive Plan* and any other applicable *City* -adopted plan(s) and explaining why the *Council* considers the action taken to be reasonable and in the public interest. All enactments, amendments, changes will be in the form of an ordinance. A copy of these ordinances is on file in the office of the *City* Clerk.

State law reference: Copies provided to the North Carolina Capital Commission of Chapter 160A Article 19 enacted ordinances,*G.S.* 143B-373(b).

(Ord. No. 944-TC-91, TC-125, §1, 11-21-78; Ord. No. 437-TC-126, TC-K-80, §1, 8-5-80; Ord. No. 1982-16-TC-170, §1, 11-2-80; Ord. No. 1983-129-TC-187, §§1, 2, 6-7-83; Ord. No. 1983-163-TC-193, §1, 8-2-83; Ord. No. 1999-486-TC-176[TC-15-98], §7, 1-5-99; Ord. No. 2005-939-TC-276, §§5, 6, 12-6-05)

Annotation: Eldridge vs. Mangum, 5 S.E. 2d 721 1939, General Statute as to changes or amendment to zoning ordinance prevailed over ordinances not in conformity therewith.

Sec. 10-2166. SEVERABILITY OF CONDITIONAL USE ZONING ORDINANCE.

If for any reason any specific condition or regulation of a conditional use zoning district ordinance is found to be invalid, it is the intent of this section that such invalidity*shall* not affect other provisions or application of the conditional use zoning district ordinance. However, if the *property owner* s, their tenants or agents challenge any specific condition or regulation of a conditional use zoning district, then the entire zoning ordinance *shall* be void and the *property shall* return to its prior zoning classification.

(Ord. No. 1985-600-TC-242, §16, 7-2-85; Ord. No. 346-TC-337, §3, TC-6-89, 4-18-89)

Editor's note: Ord. No. 346-TC-337, §3, adopted Apr. 18, 1989, TC-6-89, repealed former §10-2114, which pertained to completion and restoration of existing*buildings* and derived from the 1959 Code, §24-53, and renumbered former §10-2115.1 as §10-2114.

Secs. 10-2167--10-2170. RESERVED.

GRAPHIC LINK:Code Insert: REZONING PROCESS

ARTICLE L. FEES

Sec. 10-2171. FEE SCHEDULE.

In order to partially cover the cost to the*City* of checking the specifications of a development application, keeping records relating to the application, verifying the application, advertising a public hearing on the application, and performing other services required by statute or ordinance in processing the application to its conclusion for any proposed certificate of appropriateness, *site plan, master plan* , quasi judicial evidentiary hearing, vested rights hearing, zoning amendment or Comprehensive Plan amendment *,* relative to all standards, regulations and policies as stated in this Code, the following allocation and plan review service fees *shall* be payable to the *City* : If a development plan qualifies as a *site plan* as well as a *group housing development* , an infill project or a preliminary subdivision per §10-3013(a), only one fee *shall* be charged based on the highest applicable fee.

Certificate of Appropriateness (COA)

Minor Work . . . $ 25.00

Major Work . . . 125.00

New Building Construction/Additions greater than 25% of the building square footage . . . 250.00

Demolition of Contributing Historic Resource . . . 500.00

Post-COA Issuance, Re-review of Conditions of Approval . . . 75.00

Comprehensive Plan Amendment . . . 500.00

Historic Landmark Designation . . . 250.00

Planned Development District Master Plan per submittal

Post-approval revisions allowed by the master plan . . . 1,250.00

Post-approval name change petition . . . 50.00

Final*Site plans* on less than 2 acres . . . 250.00

Final*Site plans* between 2 and 4 acres . . . 750.00

Final*Site plans* greater than 4 acres . . . 1,500.00

Re-review fee per set of submitted plans (initial same fee as application fee includes 2 reviews) . . . Same fee as stated above

Preliminary*Site Plans*

Group housing development . . . 750.00

Site plans on less than 2 acres . . . 250.00

Site plans between 2 and 4 acres . . . 750.00

Site plans greater than 4 acres . . . 1,500.00

Re-review fee per set of submitted plans (initial same fee as application fee includes 2 reviews) . . . Same fee as stated above

Post-approval name change petition . . . 50.00

Sunset extension letter . . . 50.00

Quasi-judicial Evidentiary and Vested Rights Hearings

Board of Adjustment . . . 200.00

City Council . . . 200.00

Zoning

General use case . . . 500.00

Conditional use case . . . 1,000.00

Planned Development District Master Plan . . . 2,500.00

Text change Code amendment . . . $250.00

Waiver petition of 24-month waiting period . . . 150.00

Zoning verification . . . 25.00

Except for the fees relating to quasi-judicial evidentiary and vested rights hearings, all the fees appearing on the fee schedule above will be adjusted annually on July 4th based on the average annual prior calendar year United States Department of Labor Consumer Price Index - All Urban Consumers.

(Ord. No. 2006-104-TC-293, §8, TC-18-06, 10-3-06; Ord. No. 2007-165-TC-299, §2, TC-1-07, 2-6-07)

Editor's note: Section 15 of Ord. No. 2007-165-TC-299, TC-1-07, adopted Feb. 6, 2007, provides for an effective date of Jan. 1, 2008.

State law reference: 1997 Session laws chapter 450, the Wake County Public School System and nonpublic schools of Wake County with 20 or more students qualified under*G.S.* 115C-555 are exempt from development charges.