Chapter 1. General Provisions

155.101. Introduction

155.101.1 Purpose of this Combined Document

The Town of Matthews adopted long range growth plans and land development regulations several decades ago, and continues to update these plans, policies and ordinances as community needs change, as new land uses emerge, as legal precedents are set for certain land use provisions, and as state or federal laws are revised. This Unified Development Ordinance combines regulations previously established as various separate ordinances in order to better coordinate local land development regulations. Additional illustrations, charts, and cross referencing are included to assist in ease of understanding in how these provisions may be applied. Performance standards are incorporated to allow a more consistent application of community standards. It is expected that specific provisions may require modification over time, which may in turn impact other sections of the document. By combining all aspects of land development activities under a single comprehensive set of local regulations, all users of this document can locate the relevant codes for any land development activity.

155.101.2. General Community Development Objectives

The objective of the Unified Development Ordinance is to carry out and achieve the goals and objectives of the Town of Matthews Land Use Plan as it may be amended from time to time. The Land Use Plan provides a clear vision of the community's expectations and aspirations, and strategies for community character and orderly development in the Town.

155.101.3. Organization of this Document

The Unified Development Ordinance approaches regulations from the most general to the most specific across the document and within each Chapter and within each Section. The document is organized into ten Chapters: 1) General Provisions; 2) Decision-Making, Administration and Enforcement Responsibilities; 3) Nonconformities; 4) Development Review Procedures; 5) Use Districts; 6) Land Use and Development Standards; 7) Public Improvement Standards; 8) Post Construction Regulations; 9) Floodplain Regulations; and, 10) Housing Code, and summarized as follows:

Chapter 1, General Provisions, sets forth all of the regulations affecting the entire Title, including definitions and legal foundations, and is the most general of all the Chapters of the Unified Development Ordinance.

Chapter 2, Decision-Making, Administration and Enforcement Responsibilities, establishes the roles and responsibilities for administering and enforcing the regulations in the Unified Development Ordinance.

Chapter 3, Nonconformities, addresses the issue of nonconformities in the Town and how to deal with their eventual elimination.

In Chapter 4, Application Requirements and Review Procedures, establishes the processes, procedures, and application requirements for Land Use Plan amendments to this Title, site plan review, subdivision plats, rezoning, zoning variances, appeals and interpretations.

Chapter 5, Use Districts, establishes all of the various zoning districts in the Town and the conditions for establishing uses in each district and, in some instances, for specific uses. The uses

permitted in each District may be found in this Chapter.

In Chapter 6, General Development Standards, are found all of the regulations governing the use and development of buildings and structures, signs, landscaping, parking, and outdoor illumination in the Town.

In Chapter 7, Public Improvement Standards, are found all of the regulations and specifications related to the construction of public utilities, streets, sidewalks, and other public improvements in the Town. This Chapter also includes all of the regulations pertaining to the physical design, improvement and development of land and public improvements in the Town.

Chapter 8, Post Construction Storm Water Regulations, establishes the minimum requirements and procedures to control the adverse effects of increased post construction storm water runoff and non-point source pollution associated with new development and redevelopment.

Chapter 9, Floodplain Regulations, establishes regulations intended to minimize public and private losses due to flood conditions in specific areas.

Finally, in Chapter 10, Housing Code, are found the minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation.

155.102. Purpose and General Rules

A. ADOPTION AND ENACTMENT CLAUSE. The Town Board of Commissioners, under the authority granted to the Board by G.S. 160A, Article 19, adopts this Title 155 as the Unified Development Ordinance for the Town of Matthews on December 9, 2013. These regulations may be cited as the Unified Development Ordinance, or UDO, of the Town. The established Enactment Date of April 1, 2014. ('72 Code, § 24-1001) (Ord. 477, passed 2-8-88) **[formerly known as and/or replaces §§ 153.001, 151.01, 154.02, 149.01, 150.15, 150.31, 150.50 and 152.20, 153.002, and 153.098]**

B. SEPARABILITY. If any section or specific provisions or standard of this Title or any zoning district boundary that now exists or may exist in the future is found by a court to be unconstitutional or invalid for any reasons, the decision shall not affect the validity of this Title except the part in question. The other portions of the Title not affected by the decision of the court shall remain in full force and be enforceable by any and all means authorized by law. **[formerly known as § 153.097 and replaces § 149.23, § 152.03, and § 154.009]**

C. PURPOSE. In an era of increasing complexity in urban life, the subdivision and development of private land can have a profound impact upon the cost and efficiency of providing public services such as police and fire protection, sanitary sewer and water service, vehicular and pedestrian circulation systems, storm water runoff control and educational and recreational facilities, and upon environmental qualities conducive to the well being of citizens. While no set of standards can assure complete and perfect public health and safety conditions in all circumstances, the adoption of carefully considered standards are intended to create a consistent and desirable quality of life environment for the community as a whole. The following regulations are adopted to apply to the subdivision, development, and/or improvement of land within the jurisdiction of the Town of Matthews.

The purposes for the Title are further defined in order to accomplish a variety of public purposes, including:

-- to advance the public health, safety and welfare while providing appropriate provisions to guide the improvement of vacant land and redevelopment of land;
-- to encourage the use of the best practices in planning and urban design
-- to promote the growth of the Town of Matthews in a manner that will not only provide a safe, healthy and beneficial environment for those living, working, or playing within the immediate vicinity and citizens of the greater community;
-- to encourage and require appropriate development standards to preserve and protect property values which in turn will secure the fiscal base for public services;
-- to ensure adequate and economical provision of necessary public services caused by and attributable to development or redevelopment of land;
-- to preserve and enhance the character and quality of our neighborhood areas which have a discernible character or are harmonious in design;
-- to protect investments in the community;

-- to prescribe the standards for the preparation of preliminary and final subdivision plats and development plans and land use changes;
-- to specify the types of development or land use for which local review and approval shall be required; and
-- to define and establish the responsibilities and standards for processing, review and approval of plats, development plans and land use changes, and to designate the reviewing and approving authorities for the Town. **[formerly known as § 153.003]**

D. JURISDICTION. These regulations shall govern the development and use of land and structures, the subdivision of land, the provision of public improvement, and environmental protection efforts related to the subdivision or development of land in the Town. ('72 Code, § 24-1004) (Ord. 477, passed 2-8-88) **[formerly known as and/or replaces §§ 153.004, 152.20, 149.24, 151.006, and 154.005]**

E. INTERPRETATION AND APPLICATION OF REGULATIONS.

1. In the interpretation and application of this Title, the provisions of this Title will be construed to be the minimum requirements adopted to promote the public convenience, health, safety, comfort, and general welfare. ('72 Code, § 24-1015) (Ord. 477, passed 2-8-88) **[formerly known as § 153.005]**

2. Where the conditions imposed by any provision of this Title upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Title or of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive (for which impose higher standards or requirements) shall govern, except as specifically indicated in the text regarding a certain provision, such as build-to lines in the downtown area.

3. Nothing in this Title shall be deemed to be a consent, license or permit to use any property, to locate, construct, or maintain any building, structure or facility, or to carry on any business, industry, occupation or trade.

F. CONFLICTING PROVISIONS. It is not intended that this Title will in any way repeal, annul, or interfere with the existing provisions of any other law or ordinance except the zoning ordinance, the subdivision ordinance, the post construction ordinance, the minimum housing ordinance, and the floodplain ordinance which this Title replaces. In addition, it is not intended that this Title will in any way repeal, annul, or interfere with any rules, regulations, or permits which were legally adopted or issued under previous ordinances for the use or development of land or structures. Finally, it is not intended that this Title will interfere with any easements, covenants, or other agreements between parties. However, if the provisions of this Title impose greater restrictions or higher standards for the use of a building or land or size of structures than called for by other ordinances, permits, easements, or agreements, the provisions of this Title will take precedence over the others and will control the use or development. ('72 Code, § 24-1016) (Ord. 477, passed 2-8-88) **[formerly known as § 153.006]**

G. APPLICATION OF PROVISIONS WITHIN THE UNIFIED DEVELOPMENT ORDINANCE. This Title repeats, updates, revises, adds, and removes provisions found within multiple separate land development ordinances previously in effect within the Town. In certain situations, the provisions of the UDO may not be consistent with the provisions in the ordinances which it supersedes and under which prior development plans were designed and/or approved. The provisions of the UDO shall be used for any land disturbing activity commenced after the Effective Date of this Title. Exceptions to application of these standards include:

1. Where a permit has been issued prior to the Effective Date for a development site, and construction is begun within one (1) year of the Effective Date and diligently pursued to completion, then the provisions of the ordinance in effect at the time of permit issuance may be followed.

2. Any multi-building site or multi-lot development which has at least one (1) building built or under construction, or has a valid unexpired building permit issued for at least one (1) building prior to the Effective Date.

3. Any project which has an approved site plan and/or elevation plan, overlay compliance plan, and/or landscape and lighting plan such that the development project does not require any

additional Town approval, and receives a grading or building permit within six (6) months of the Effective Date.

H. ZONING MAP. The boundaries of zoning districts are established through the adoption of this Title on a map (or series of maps) entitled "Official Zoning Map, Town of Matthews, N.C. ("Zoning Maps")" which may be produced at various scales and geographic areas of the Town. The map, which may be provided in printed or electronic format, together with all amendments which may have been adopted by the Town Board of Commissioners are considered to be just as much a part of this Title as if they were fully described in the Title. ('72 Code, § 24-1005) (Ord. 477, passed 2-8-88) **[formerly known as § 153.020]**

1. INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules will be used to interpret the map.

a. In cases where a boundary line is located within a street or alley right-of-way, railroad or utility line right-of-way or easement, navigable or non-navigable stream, it will be considered to be in the center of the street or alley right-of-way, railroad or utility right-of-way or easement, or stream. If the actual location of such right-of-way, easement, or stream varies slightly from the location as shown on the map, then the actual location will control.

b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance will control. An exact description may be found in the permanent record of the zoning action.

c. Where a district boundary is shown to coincide approximately with a property line or city limit line, the property line or city limit line will be considered to be the district boundary, unless otherwise indicated.

d. In cases where a district boundary does not coincide or approximately coincide with any street or alley, railroad, stream, or property line and no dimensions are shown, the location of the boundary will be determined by the use of the scale appearing on the map. An exact description may be found in the permanent record of the zoning action. ('72 Code, § 24-1006) (Ord. 477, passed 2-8-88) **[formerly known as § 153.021]**

2. LOTS DIVIDED BY ZONING DISTRICT BOUNDARIES. In the event that a district boundary line on the zoning map divides a lot held in one (1) ownership on the date of passage of this Title, each part of the lot may only be used in conformity with the regulations established by this Title for the district in which each part is located. ('72 Code, § 24-1014) (Ord. 477, passed 2-8-88) **[formerly known as § 153.022]**

I. ILLUSTRATIONS. The illustrations used in this Title are not drawn to scale and are intended only to graphically represent the requirements and concepts contained here, and are not intended, nor should they be construed, to represent every situation or circumstance which may exist in the Town of Matthews. When there is a conflict between the text of this Title and an illustration, the text shall prevail.

J. INCORPORATION BY REFERENCE. Any and all standards and other codes, regulations and public records incorporated by reference into this Unified Development Ordinance have been adopted in accordance with the requirements established in the General Statutes.

155.103. Definitions

A. USE OF DEFINITIONS. In the construction of this Title, the definitions contained in this Article shall be observed and applied, except when the context clearly indicates otherwise. Definitions relating specifically to certain Chapters may also be contained within those Chapters. In addition to definitions provided here at § 155.103.C, additional definitions may also be found in Chapter 6, Tree Protection and Landscaping Regulations at § 155.606.1.C, and Outdoor Illumination at §155.609.3, in Chapter 8 Post Construction Storm Water Regulations at § 155.808, in Chapter 9 Floodplain Regulations at § 155.901.F, and in Chapter 10 Housing Code, at § 155.1002.

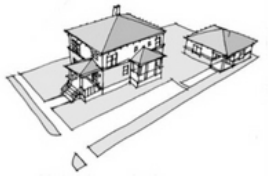
B. RULES OF CONSTRUCTION. This Title has been written so that the average citizen may use and understand its provisions. Efforts have been made to avoid the overuse of technical language where the meaning could be conveyed in another form. For the purposes of this Title, the following rules of construction and

interpretation apply.

1. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural, the singular, unless the context clearly indicates otherwise.
2. The words “must” and "shall" are mandatory and not discretionary.
3. The words "will" and “may” are discretionary and permissive.
4. The words “will” and "may" when used in the negative are mandatory and not discretionary.
5. The word "lot" shall include the words "plot", "piece", "parcel", and “tract”.
6. Unless otherwise specified, all distances shall be measured horizontally.
7. Whenever a word or term defined in this Article appears in the text of this Title, its meaning shall be construed as set forth in the definition in this Article.
8. The masculine gender shall include the feminine and neuter.
9. All measured distances shall be expressed in feet and shall be calculated to the nearest tenth (0.10) of a foot.
10. The word "person" shall include the words "association", "corporation", "estate", "governmental agency", "individual", "joint venture", "partnership", "venture", or any other legal entity.
11. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

C. DEFINITIONS. The following words and terms when used in the interpretation and administration of this Title shall have the meaning set forth here except where otherwise specifically indicated. Words and terms not defined here shall be defined as specified in the latest published edition of Webster's New Collegiate Dictionary. **[formerly known as § 153.007]**

Accessory Apartment: shall mean a separate dwelling unit that is located on the same lot as the principal dwelling unit in a single family district, for use as a complete, independent living facility, with a separate parking area, cooking facility, and entrance than the principal dwelling unit. (Ord. No. 1532, passed 1-8-07)



Accessory Building or Structure: shall mean a detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of land, and which is located on the same lot as that of the principal structure or use.

Accessory Use*:* shall mean a subordinate use, clearly incidental and related to the principal structure, building, or use of land and located on the same lot as that of the principal structure, building, or use.

Adjacent: shall mean, when referring to parcels of land, that at least one (1) boundary line of one (1) lot touches a boundary line or lines of another lot or is directly across a street from another lot, such that if the street did not exist then the two (2) lots would touch.

Adult Care Facility: shall mean a facility which may be operated as a part of a nursing home or as an independent facility and which provides twenty four (24) hour residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. These homes vary in size from family care homes of up to six (6) residents to adult care centers of seven (7) or more residents. (Ord. No. 1532, passed 1-8-07)

Adult Day Care Center: shall mean a facility which meets the definition and standards for an adult day care center, adult day health, or combination program as outlined by the North Carolina Department of Human Resources, and as may be amended by the NCDHR from time to time, and does not include residential living facilities. (Ord. No. 1035; passed 1-11-99)

Adult Uses: shall mean any adult entertainment or sexually oriented business which includes materials or activities that may be defined and considered of a sexual or provocative nature and inappropriate for viewing by children. Specific uses are defined in § 155.506.46 (Adult Uses).

Affordable Housing: shall mean one or more dwelling units that are affordable to households with an annual income no greater than eighty percent (80%) of the same size Mecklenburg County median income as most currently established by the United States Department of Housing and Urban Development in accordance with Section 3 of the US Housing Act of 1937, as amended, or any successor legislation.

Agent (for a Property Owner): shall mean any person, partner, corporation, designated officer, or other business entity that has been granted written authorization by a property owner to speak for and make decisions on behalf of the property owner.

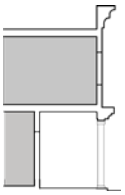
Alcohol and Alcoholic Beverage: shall mean distilled or ethyl alcohol, including spirits of whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liquor, and premixed cocktails in closed containers for beverage use regardless of their dilution.

Alley: shall mean a public right-of-way or private easement not more than thirty feet (30') in width primarily designed to serve as a secondary means of access to those parcels whose principal frontage is on some other street.

Animal Grooming Facility: shall mean an establishment where domesticated animals may be bathed, brushed and combed; hair or fur coats and nails may be clipped; flea dips or other methods of removing dirt, odors, and parasites from skin, fur or feathers may be provided; or related animal treatments and services may be offered that will enhance animal health, aesthetic value, or appeal.

Applicant: shall mean any person, party, partnership, corporation or other business entity that is seeking local governmental approval of a proposed plan, permit, variance, interpretation or appeal.

Arboretum: shall mean a place where trees, shrubs, and herbaceous plants are cultivated and maintained for scientific and educational purposes and for public display.



Arcade: shall mean a building frontage type where the building façade above the ground level overlaps the public sidewalk while the ground level portion of the building maintains a setback or is located at the build-to line.

Arcade, Amusement: shall mean a business establishment which provides an assortment of equipment and devises such as pinball and other electronic games, often requiring insertion of coins or tokens to begin the play sequence, for amusement purposes only, and not including bingo games, children's mechanical rides, or devices that sell merchandise, nor does an Amusement Arcade include any gambling devices, computers or software programs offering games of chance not allowed by law.

Assisted Living: shall mean a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. A facility which meets any required state licensing standards, and includes a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential. (Ord. No. 1532, passed 1-8-07)

Attached outside access storage closet: shall mean an unheated appendage to a principal residential unit, intended for storage of inanimate household items, which does not have any internal connection or opening to the main dwelling.

Balcony: shall mean an elevated platform open to the elements, suspended, cantilevered, or projecting from an upper story and generally enclosed by a railing, or balustrade.

Banquet Hall, Ballroom, or Catering Facility: shall mean a meeting facility designed for use by varying groups of people, which may be rented or leased to accommodate private functions such as weddings, banquets, anniversaries and similar celebrations. Such a facility may include a partial or full kitchen for food preparation or catering, the service and/or sale of alcoholic beverages for on-site consumption to guests of the private events only, an open floor area which may be used for dancing and similar entertainment and/or seating for guests. A restaurant that only occasionally leases out to private parties is not a Banquet Hall.

Bar: shall mean an establishment or part of an establishment primarily devoted to selling and/or serving alcoholic beverages by the drink to on-site occupants and guests. A Bar may be a stand-alone use or within a restaurant, lounge, nightclub, or similar facility.

Bed and Breakfast Establishment: shall mean an overnight lodging business located within a structure originally designed and built as a single family residence. Overnight guest facilities are limited in number, and maximum stay by guests is restricted to seven (7) consecutive days. Meals may be provided to overnight guests only at no

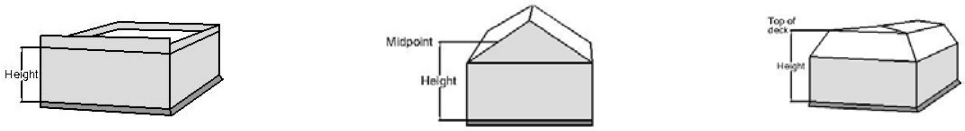
additional cost. Bed and Breakfast establishments are further divided into Bed and Breakfast Guest Homes and Bed and Breakfast Inns. A Bed and Breakfast Guest Home is an owner occupied single family residential structure with accommodations for up to six (6) guest sleeping rooms. A Bed and Breakfast Inn has accommodations for up to twenty three (23) persons in no more than twelve (12) guest sleeping rooms.

Brewpub: shall mean an establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar and where forty percent (40%) or more of the beer produced on-site is sold on-site. Where allowed by law, brewpubs may sell beer "to go" and/or distribute to off-site accounts.

Build To Line: shall mean a distance from edge of street pavement, back of curb, right-of-way line, back of sidewalk, or similar to a line along which a building must be built, which may be specified in place of a minimum front setback in order to create an urban, pedestrian-oriented environment.

Building: shall mean a structure having a roof supported by columns or walls, for the shelter, housing, or enclosure of persons, animals, or goods.

Building Height: shall mean the vertical distance measured from the average elevation of the highest and lowest finished grade points of that portion of the lot covered by the building to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof and to the deck line in the case of a mansard roof.



Building Lines: shall mean the lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

Caliper: shall mean the diameter measurement of a tree trunk taken at six inches (6") above ground level for trees up to and including four inches (4") in caliper. For larger trees, measurement of caliper shall be taken at twelve inches (12") above ground level.

Call Center: shall mean a facility that is designed and equipped to accommodate a large volume of telephone calls occurring at the same time for a business or service operation, with workspace for a concentration of employees to answer questions, provide technical advice, take orders, verbally offer goods or services available to consumers, and similar telephone-based communications with customers or the general public.

Child Day Care: shall mean any licensed child care arrangement in which three (3) or more children less than thirteen (13) years old receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care. *Child Day Care* does not include seasonal recreational programs operated for less than four (4) consecutive months in a year. *Child Day Care* also does not include arrangements that provide only drop-in or short-term child care for parents participating in activities that are not employment-related and where the parents are on the premises or otherwise easily accessible, such as drop-in or short-term care offered in health spas, bowling alleys, shopping malls, resort hotels, and churches.

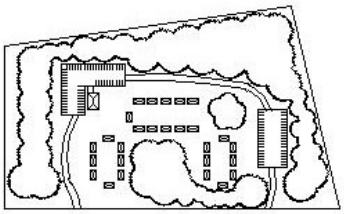
Child Day Care Facility: shall mean any licensed child day care center care arrangement (except child day care home) which provides day care for more than five (5) children, not including the operator's own school aged children, under the age of thirteen (13) years, on a regular basis of at least once per week for more than four (4) hours but less than twenty four (24) hours per day, regardless of the time of day and regardless of whether the same or different children attend.

Child Day Care Home: shall mean any licensed day care program or child care arrangement in an occupied dwelling which provides day care on a regular basis of at least once a week for more than four (4) hours per day for more than two (2) children under thirteen (13) years of age, but not to exceed a maximum of eight (8) children at any one time. All children in the dwelling shall be counted except the operator's own school aged children who reside at the location of the day care home. Of the children present at any one time, no more than five (5) children

shall be preschool aged.

Church, Place of Worship: shall mean an institution used for nonprofit purposes by a recognized and legally established group of persons as a religious body for the purposes of public worship, prayer and contemplation, religious education, fellowship, and community outreach, and may include accessory buildings on the same lot as the primary structure. The terms Church and Place of Worship may include facilities such as a synagogue, temple, mosque, and similar, when they are used on a regular basis for religious services.

Clear-Cut: shall mean the removal of all trees on a site or portion of a tract of land.



Cluster Development: shall mean a tract of land at least ten (10) acres in area, under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved preliminary site plan, and recorded at the Mecklenburg County Register of Deeds prior to August 13, 2012.

Common Open Space. shall mean any portion of a development or subdivision that is not a lot or tract intended to be developed for residential or nonresidential use, which is designed, designated, and intended for the permanent use and enjoyment of residents of the development or for the general public, not including streets or off-street parking areas.

Communications Antenna: shall mean any structure or device used to collect or radiate electromagnetic waves, including directional antennas - such as panels, microwave dishes, and satellite dishes and omni-directional antennas such as whips but not including satellite earth stations. Where a set or group of devices work as a single unit, such as three (3) panels facing different directions for three hundred sixty degree (360º) coverage, then that group shall be considered as a single antenna.

Communications Tower: shall mean a tower greater than thirty five feet (35') in height from ground level and which does not exceed four hundred feet (400') in height (including antenna) which is principally intended to support communication (transmission or receiving) equipment. The term communication tower shall not include amateur radio operator equipment, as licensed by the Federal Communications Commission (FCC). Design examples of communication towers are described as follows: *(a)* self-supporting lattice; *(b)* guyed; and *(c)* monopole. (Ord. 912, passed 1-27-97; Ord. 919, passed 4-28-97)

Communications Tower Height or Communications Antenna Height: shall mean overall height, not to exceed four hundred feet (400'), and shall include antenna, base pad, tower or other supporting structure (including a building), and other appurtenances and shall be measured from the average finished grade of the parcel directly under tower, or at finished grade of the parcel at front of other supporting structure when not a tower. (Ord. No. 912, passed 1-27-97; Ord. No. 919, passed 4-28-97)

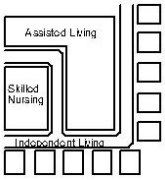
Community Garden: shall mean a public or private facility for cultivation of vegetables, fruits, and related agricultural products which is maintained by more than one (1) person or family and in which harvested products are intended for more than one (1) person or family.

Conditional District: shall mean a Parallel Traditional zoning district or a Conditional-Only zoning district as further outlined in this Title, or a zoning designation which existed prior to the adoption of this Title and included a site plan, written notes, or other conditions approved concurrently with the designation, but which is no longer included in the listing of zoning categories within the Town of Matthews.

Condominium: shall mean a form of real property ownership providing for individual ownership of space within a building which may be used for residential or nonresidential purposes, where the overall building or development has multiple units intended for separate ownership, together with an individual interest in the land or other parts of the building or development held in common with other owners.

Condominium Unit: shall mean enclosed space within a building which is intended to be individually owned from other portions of the building, and does not include land under or extending around the building. A declaration of

the provided amenities associated with the Condominium Unit may include accessory spaces such as garages, storage space, patios, balconies, and surface parking available for exclusive or communal use by the occupants of the Condominium Unit.



Construction Site: shall mean a site where any land disturbing activity is to occur.

Continuing Care Retirement Community (CCRC): shall mean a residential community including a range of living units from independent units to assisted care units to skilled nursing care facilities along with a variety of common amenities and ancillary services. (Ord. No. 1550, passed 3-12-07)

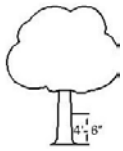
Contiguous: shall mean, when referring to parcels of land, that at least one (1) boundary line of one (1) lot touches a boundary line or lines of another lot.

Cornice: shall mean a molded and projecting horizontal element on a building that crowns an architectural feature or wall.

Cottage Cluster Housing Development, Overall: shall mean a tract of land designed to concentrate a number of dwelling units in close proximity to each other in a specific portion of the overall site, so that the remaining land may be shared or available for use in common by residents for recreation, open space, urban farming, or the preservation of visually and environmentally sensitive land areas. Within an overall development there may be one or more separate groups of cottage-style or bungalow houses that relate to each other by sharing a small common land area.

Cottage Cluster, Separate or Group: shall mean a group of dwelling units designed around a small shared common land area and meeting the design standards for one (1) cluster of homes within an overall cottage cluster housing development.

Crematorium: shall mean an enclosed chamber or building within which human corpses are reduced to ashes by incineration.



DBH (Diameter Breast Height): shall mean the diameter of a tree four and one-half feet (4 ½') above the average ground level.

Deciduous: shall mean plant materials that drop all of their foliage preceding their dormant season (usually the winter).

Demolition Disposal Site, On-Site: shall mean a small demolition disposal site or stumphole on property being cleared, graded, or otherwise worked, which shall be used for no longer than twenty four (24) months and shall only contain approved materials taken from the same site. Any on-site demolition disposal site shall be the only allowed use on or above that portion of the development site, except outdoor accessory uses not associated with structures or paving may be placed over such on-site disposal locations.

Demolition Disposal Site: shall mean a demolition landfill, limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth, or other solid wastes meeting the standards of the state, such materials coming either from the same site or from a separate parcel.

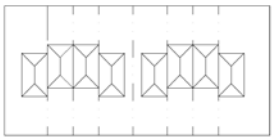
Donation Drop-Off Facility: shall mean a facility where donations such as common household and clothing items for nonprofit agencies or institutional uses only are collected. Large and bulky items such as large appliances and furniture that cannot be easily transported and stored within the collection facility may not be accepted. A Donation Drop-Off Facility may be sited within another building or may be located in a stand-alone structure and placed such that it does not cover any required parking spaces or block any vehicular or pedestrian movement or visibility. A Donation Drop-Off Facility is not a recycling center.

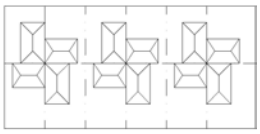
Drip Line: shall mean an imaginary vertical line extending from the outermost portion of the tree canopy to the ground.

Drive-Through Service Window: shall mean an opening in the wall of a building designed

and intended to be used to provide for sales and/or service to patrons who remain within their vehicles. A Drive-Through Service Window may also include a vehicular space designed beside a structure equipped with a mechanical device, often with interactive technology, in order to briefly conduct a business transaction such as paying for on-site services or goods or completing a banking transaction.

Dwelling, Attached: shall mean a one-family dwelling connected on at least one (1) side by means of a common dividing structural or load-bearing wall of at least ten (10) linear feet to one (1) or more other one-family dwellings, or the end dwelling of a series of such dwellings, each dwelling unit on its own individual lot.

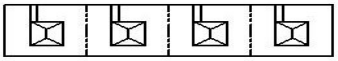




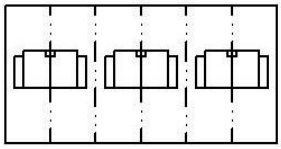
Dwelling, Detached: shall mean a one-family dwelling completely surrounded by permanent open spaces.

Dwelling, Multi-Family: shall mean a building designed, constructed, or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural or load-bearing wall of at least ten (10') linear feet with any other dwelling unit on the same floor or building level.

Dwelling, One-Family: shall mean a building or portion of a building designed, constructed, and used as a single dwelling unit.

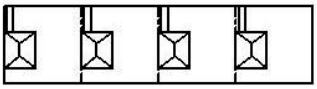


Dwelling, Two-Family, or Duplex: shall mean a building designed, constructed, or reconstructed and used for two (2) dwelling units that are generally side by side and connected by a common structural or load-bearing wall of at least ten (10) linear feet.



Dwelling Unit: shall mean an enclosure of one (1) or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by a single housekeeping unit.

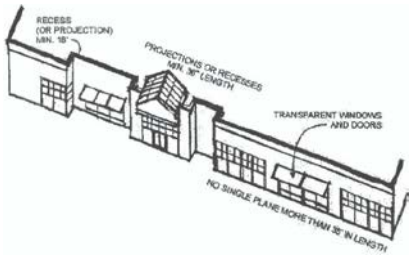
Dwelling, Zero Lot Line: shall mean a one-family dwelling that has one (1) wall located directly on a side lot line that is not a street side on a corner lot. A zero lot line dwelling may or may not be attached on one (1) side to another one-family dwelling. Where the zero lot line wall is not adjacent to any other structure, that wall shall be solid to a minimum height of eight feet (8') and without any windows. A zero lot line dwelling shall be provided with a five foot (5') maintenance agreement from the adjacent property. (Ord. 947, passed 12-8-97)



Eave: shall mean the lower border of a roof that overhangs or projects beyond the exterior wall of a building.

Evergreen: shall mean plant materials that retain foliage throughout the year.

Façade: shall mean the entire area of a building elevation extending from the roof or parapet to the ground and from one (1) corner of the building to another which can be viewed from a single vantage point. Each building will generally have multiple Facades when no physical or visual obstruction is immediately present beside the building.



Family: shall mean an individual, or two (2) or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than six (6) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

Farm: shall mean any tract of land containing at least three (3) acres which is used for dairying or for the raising of agricultural products, forest products, livestock, or poultry, and which may include facilities for the sale of those products from the premises where produced but shall not include commercial poultry and swine production, cattle

feeder lots and fur-bearing animal farms, commercial plant nurseries, commercial greenhouses, commercial hatcheries, or dairy facilities when used solely for the processing of dairy products.

Farm, Urban: shall mean any tract of land of any size devoted to the cultivation of agricultural products, including vegetables, herbs, and fruits, or to the propagation of horticultural species with nutritional value, all of which are intended for personal use or for consumption, through donation or sale, within the local region.

Farmers' Market: shall mean a specified land area, which may be open-air or partially enclosed, managed by a single operator who leases or designates sales areas or stalls to individuals for the sale to the general public of fresh produce and fruits, honey, herbs, plants and flowers, nature craft items, baked goods, dairy products, meat or fish items, and similar locally produced or acquired agricultural-based items. A Farmers' Market location may be on public or private property or within public right-of-way, and each location is designated by the Town Commissioners as a community activity.

Fence: shall mean an artificially constructed barrier of wood, masonry, stone, metal, wire, and/or other manufactured or durable natural materials erected to enclose, screen, or separate areas, but not including hedges, shrubbery, trees, or other natural growth.

Firing Range, Indoor: shall mean the use of a building for the safe discharge and use of firearms, such as but not limited to rifles, shotguns, pistols, and bows, for the practice of marksmanship, sport shooting, military or law enforcement training and certification, and competition.

Floor Area, Gross: shall mean the total floor area enclosed within a building, including interior balconies, exclusive of mezzanines, stairways and elevator shafts. For multi-family units, the total floor area contained within the individual unit as measured from the inside of the exterior walls of the unit exclusive of stairways.

Freeway or Expressway: shall mean a multi-lane, grade separated, limited access major road connecting this region, major activity centers or major roads with other regions, major activity centers or major roads. It is designed to accommodate larger traffic volumes at high speeds and such a facility may be part of the interstate, federal or state primary highway system.

Grading, Mass: shall mean changing the grade over an entire construction site through cut and fill operations. Mass Grading is made possible by clear cutting.

Grading, Selective: shall mean clearing and/or grading a development site such that selected, existing vegetation is preserved.

Group Home, or Family Care Home: shall mean a "family care home" as defined in Chapter 168, Article 3 of the North Carolina General Statutes, which is a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident persons with disabilities. A person with disabilities is an individual with a temporary or permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b. In addition, a Group Home or Family Care Home shall also mean a residential use that provides a residential environment for up to six (6) residents who may require various services, living assistance, or supervision but does not include any facility that provides medical services requiring or comparable to on-site nursing, physician, or medical care for the residents. All Group Homes or Family Care Homes must comply with all applicable federal, state, and local licensing requirements and health regulations.

Heliport: shall mean an area, either at ground level or elevated on a structure, containing cleared, protected space for loading, landing, and takeoff for helicopters, and which may be required to be licensed by federal or state government.

Home Based Business: shall mean an occupation, service, profession, or enterprise carried on by a resident member of a family within a dwelling unit.

Hospital: shall mean an institution providing primary health services and medical, obstetric, or surgical care to persons, primarily inpatients, requiring evaluation and treatment for illness, disease, injury, deformity, and other temporary or abnormal physical or mental conditions, and may include as an integral part of the facility related services such as but not limited to emergency or trauma response facilities, urgent care facilities, X-ray and other internal imaging facilities, laboratories, pharmacies, outpatient treatment, medical offices, cafeteria, training rooms, and administrative offices.

Housekeeping Unit: shall mean a family, or a group of not more than six (6) individuals of any age, of which any three (3) or more are not related by blood, marriage, or adoption, living together within a dwelling unit and sharing

common spaces inside and around the dwelling unit, which may include a kitchen, bathroom(s), hallways, exterior access doors, and on-site parking.

Interior Planting Area: shall mean an area on private property that lies inside of the areas designated for streetscape, perimeter, or property boundary screening plantings.

Kennel, Commercial: shall mean a building, along with any combination of other buildings, structures, and land designed and used for boarding, breeding, and care of five (5) or more domesticated animals for profit.

Kennel, (Animal) Day Care: shall mean a self-contained building that provides partial-day supervision for domesticated animals during typical business hours, not to exceed ten (10) consecutive hours during a twenty four (24) hour day, and does not include overnight boarding.

Landscaping: shall mean the preservation and/or modification of an existing landscape for an aesthetic or functional purpose, which includes live vegetation materials that are required for development.

Landscape Establishment Guarantee: shall mean a bond, irrevocable letter of credit, or other surety held by the Town until the satisfactory conclusion of the three (3) year landscape establishment period.

Landscape Establishment Period: shall mean a period of three (3) years commencing with the acceptance by the Town of an executed landscape plan.

Large Brewery: shall mean an establishment where beer and malt beverages are made on the premises at an annual beer production rate of over fifteen thousand (15,000) barrels.

Live/Work Unit: shall mean a building which incorporates a dwelling and an enclosed space for employment. These spaces share some common interior and/or exterior amenities, but shall have separate secured entry/exit locations. The residential and business use portions may be occupied by the same persons. (Ord. No. 1237, passed 1-14-02)

Loading Area, Service Area, or Outdoor Storage Area: shall mean an area with or without walls that is used for trash or garbage collection, vehicular loading and unloading, or outdoor storage.

Loading Space: shall mean an area of hard surfaced open land designated for short-term standing, loading, and unloading of larger commercial vehicles and intended to avoid undue interference with the use of public streets and alleys.

Lot: shall mean a parcel of land or any combination of several lots, occupied or intended to be occupied by a principal building or a building group, together with their accessory buildings or uses, and the access, yards, and other open spaces required under this chapter.

Lot, Corner: shall mean a lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than one hundred thirty five (135º) degrees with each other.

Lot, Through or Double Frontage: shall mean a lot having a pair of opposite lot lines along two (2) or more approximately parallel public streets and which is not a corner lot. (Ord. No. 1524, passed 12-11-06)

Lot of Record: shall mean a lot, described by plat or metes and bounds, which has been recorded in the office of the County Register of Deeds, prior to November 20, 1967.

Lot, Reverse Frontage: shall mean a through lot or double frontage lot which has frontage on more than one (1) public or private street, but vehicular access to one (1) street, generally a major or minor thoroughfare, federal or state highway, or commercial arterial, is restricted or prohibited. Reverse frontage does not relate to any particular orientation of the structure to the street. (Ord. No. 1524, passed 12-11-06)

Lot, Gateway: shall mean a lot which has its front, rear and one side yard bordering on a street and is located at an entrance to a subdivision or multi-parcel development.

Lot Width: shall mean the distance between the side lot lines, measured along the setback line as established by this chapter, or the distance between the side lot lines measured along a setback line shown on a duly recorded plat when that line is greater than the setback established by this chapter along the turnaround portion of a cul-de-sac street so long as that setback line imposed at the time of recordation is not more than twenty feet (20') further from the street right-of-way than the minimum setback as stated for the appropriate district in this chapter; or if no setback line is established, the distance between the lot lines measured along the street line.

Manufactured Home: shall mean a dwelling unit, transportable in one or more sections, which in the traveling mode is more than eight (8) body feet in width, or more than forty (40) body feet in length, or, when erected on-site, is more than

three hundred twenty (320) square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems. "Manufactured home" includes any structure that meets all of the requirements of NC-GS Chapter 143-145 except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and that complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC Section 5401, et seq. For manufactured homes built prior to June 15, 1976, "manufactured home" is a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over thirty two feet (32') in length and over eight feet (8') in width. "Manufactured home" also means a double-wide manufactured home, which is two (2) or more portable manufactured housing sections that are designed for transportation on their own chassis and that connect on-site for placement on a temporary or semi-permanent foundation having a measurement of over thirty two feet (32') in length and over eight feet (8') in width.

Manufactured Home Park: shall mean a parcel of land under single ownership which has been planned and improved for the placement of manufactured homes for dwelling purposes.

Manufactured Home Space: shall mean a designated plot of land within a manufactured home park reserved for the placement of an individual manufactured home and any exterior additions, such as a deck or patio, and any accessory structures related solely to the use of the individual dwelling.

Manufactured Home Subdivision: shall mean any subdivision of land developed for the placement of manufactured homes, for dwelling purposes, on individual lots that front a public street.

Masonry: shall mean brick, block, stone, and similar building materials of natural or synthetic components laid on top of one another with mortar applied between individual pieces in order to create vertical surfaces, where the individual pieces are of relatively small scale in relation to the overall surface plane being constructed, and where such vertical walls may be of substantial depth and durability, or may form a veneer surface when tied to a structurally independent wall.

Massage Service: shall mean an establishment where any method of applying pressure on, friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body manually or with the aid of any mechanical or electrical apparatus or appliance, with or without supplementary aids such as liniments, oils, powders, creams, or similar preparations, and where such practice is conducted by a certified massage therapist, medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the state.

Mechanical Equipment: shall mean outdoor machines and devices required for the delivery of public or public use utilities, or equipment such as HVAC units, fans, vents, backflow preventers, and generators, regularly and repetitively used in the operation of interior climate control, electrical, plumbing, or similar building systems. This Mechanical Equipment may be located within a building, on a rooftop, or on the ground.

Mezzanine: shall mean an intermediate level between the floor and ceiling of a story, covering less than one-third (1/3) of the area of the story immediately below it.

Microbrewery: shall mean an establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than fifteen thousand (15,000) barrels (a barrel is approximately thirty one [31] gallons) of beer per year. A Microbrewery sells to the public by one (1) or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

Mixed Use Development: shall mean a development which includes at least two (2) of the following uses: office, institutional, civic, residential, and/or service/retail in one (1) or more buildings or a combination of single and mixed use buildings in a pedestrian-oriented environment. (Ord. No. 1652-A, passed 1-10-08)

Modular Home: shall mean a dwelling unit which is constructed in compliance with the North Carolina Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Multi-use Development: shall mean any horizontally integrated development which includes at least two (2) of the following uses: office, institutional, civic, residential, and/or service/retail in separate but abutting buildings, and located on one (1) tract of land, or on multiple adjacent sites. Multi-use developments are pedestrian oriented, compact, and architecturally integrated.

Mural: shall mean a picture or design painted on or attached to an exterior surface of a structure. A Mural is a sign only if it is clearly related by language, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Native (Indigenous) Vegetation: shall mean vegetation that was growing in this geographic area before colonization by European settlers, as cited by the North Carolina State University Agricultural Extension Service.

Nightclub: shall mean a commercial establishment that may dispense alcoholic beverages for consumption on the premises and in which dancing, music, and other live or recorded entertainment and performances by comedians, magicians, or similar is permitted. A minimum of thirty percent (30%) of the revenue must be generated by food purchases. This definition includes, but is not limited to, establishments that serve beverages to persons age twenty one (21) and older, dance halls, teen clubs and similar establishments. Excluded from this definition are restaurants that meet both the requirements established by definition in this ordinance and in NCGS-18B-1000(6), retail stores, convenience stores, clubs and lodges used by nonprofit organizations, theaters and health athletic facilities.

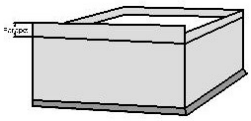
Nonresidential Park: shall mean a tract of land or a combination of parcels planned and designed to be developed in a coordinated effort with multiple nonresidential uses, under either single or multiple ownership when initially designed, although parcels may be sold into separate ownership or condominium units upon their completion. The uses may be any nonresidential uses allowed within the underlying zoning district(s) except exclusively retail uses, typically including general or professional offices, service or personal businesses, distribution warehouses, industries and manufacturing facilities. A Nonresidential Park places special attention on common design elements, shared access, parking and circulation, common utility needs, and compatibility of tenants, and often has a unified management system.

Occupy (By a Specified Use): shall mean a property which has a specified use operating or functioning within it, or a property that is arranged, intended or designed to house or be put to use with a specified use or uses.

Outdoor Sales: shall mean the retail sale of any article, substance, or commodity such as landscape materials and motor vehicles, located outside a permanent retail establishment, where such goods are available for immediate purchase. Outdoor display and sales are operated and maintained under the same ownership and on the same parcel of land as the principal use. (Ord. No. 1524, passed 12-11-06)

Outdoor Storage: shall mean the keeping of goods, materials, or merchandise in an unroofed area, in the same location for a period of forty eight (48) hours or more, but excluding temporary construction-related materials for an ongoing on-site improvement, or inventory storage of motor vehicles intended for sale or lease. (Ord. No. 1524, passed 12-11-06)

Parapet: shall mean a protective wall at the edge of a roof, terrace, or balcony that rises above the deck line or top surface of the roof.

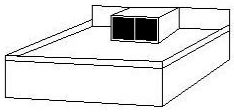


Park: shall mean a tract of land designated and used by the public for active and/or passive recreation or as a refuge for protection of natural flora and wildlife.

Parking Space, Motor Vehicle: shall mean an off-street space available for the parking of a vehicle. Minimum parking space dimensions may vary depending on the configuration of surrounding spaces and activities and size/type of intended vehicles.

Parking Space, Bicycle: shall mean a rack to which the frame and at least one (1) wheel of a bicycle can be secured with a user-provided U-lock or padlock and cable.

Penthouse: shall mean a structural enclosure on a rooftop of a building, intended to serve as either a dwelling or housing for service equipment. When a penthouse is a dwelling, at least some of its exterior walls will be set back from the outer edges of the supporting building to allow an outdoor private terrace. When a penthouse provides



weather protection for service equipment, it may house elevator machinery, water tanks, energy production or conservation components (for solar, wind, green roof gardening, etc.), building signage mechanism, and similar building-related items, and may have vertical or sloping sides and/or roof and will be attached directly to one or more building parapets.

Planting Area: shall mean the landscape area reserved for the purpose of providing growth area for required plant material.

Planting Season: shall mean the recommended time of the year for planting, normally September through May, that is timed to avoid the summer heat.

Planting Strip: shall mean a strip of land, adjacent to a public right-of-way, that is reserved for landscaping purposes.

Playground: shall mean an improved recreational area with a variety of equipment, facilities, and/or open fields for active recreation primarily by children.

Principal Building or Structure: shall mean a building or structure containing the principal use of the lot.

Principal Use: shall mean the primary purpose or function that a lot serves or is intended to serve.

Private Stable: shall mean an accessory building or parcel of land where horses are kept for private use and not for remuneration, hire, or sale.

Public Realm, Public Use Area or Realm: shall mean all areas dedicated to the public or privately owned but designed and accessible to the public, including but not limited to public streets, sidewalks, pedestrian pathways, bicycle or multi-modal pathways, and other public right-of-ways, civic greens, squares, plazas, and parks, and which space may be reasonably assumed to be within view of persons in these areas, or within view of buildings, vehicles, or rooftops adjacent to or near such areas.

Queue Space or Line: shall mean a temporary waiting area for motor vehicles, generally in an orderly sequence, obtaining a service or other activity such as at a bank teller window, or near an entrance to a facility where non-driver passengers are able to either enter or exit vehicles, such as at a school.

Recreational Use, Indoor: shall mean pleasure, hobby, or amusement uses requiring some personal physical activity, located within a building, such as but not limited to game arcades, indoor arenas/coliseums, gymnasiums, billiard parlors, bowling alleys, dance halls, roller or ice skating, go-carting, paintball, and similar uses available to the general public.

Recreational Use, Outdoor: shall mean pleasure, hobby, or amusement uses requiring some personal physical activity, located principally outdoors, such as but not limited to miniature golf courses, golf courses, putting greens and driving ranges, batting cages, swimming pools, skateboarding courses, trampolines, water slides, pedestrian and equestrian trails, sports courts, ball fields, cycle or running tracks, and similar uses available to the general public.

Recyclable Materials: shall mean those materials such as aluminum cans, glass, plastics #1-5 and 7, empty aerosol cans, paperbacks and magazines, cardboard, and paper which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

Recycling Collection Center: shall mean an area containing one or more “recycling containers” operated by a unit of local government, or its designee, which is set aside and used by members of the public, including business entities, to collect recyclable materials.

Residential Area: shall mean that portion of a project site designated for residential uses, and more specifically, the following: residential lots, streets directly serving residential lots, and common open space areas. Residential Area displays the character of a living environment, which may include a physical resemblance to a residential neighborhood through similar building height, mass, materials, and architectural elements.

Residential Area, Net: shall mean a calculation of land area for only that portion of a project site designated for residential lots and common open space areas.

Residential District, Single-Family District: shall mean any zoning category which allows by right, and is predominately used by, single-family dwelling uses, which may include detached or attached dwellings, manufactured homes, and modular homes, whether Traditional/Parallel Traditional or Conditional-Only. These districts include: R-20, R-15, R-12, R-9, R-MH, R-VS, and CrC.

Residential Use: shall mean any detached, duplex, attached, or multi family dwelling, manufactured home, group home for up to six (6) individuals, boarding house, family care home, sheltered household, accessory dwelling, or dormitory when legally used as a place for one (1) or more individuals to sleep, eat, bathe, and store clothing and

other daily use and personal care items.

Restaurant: shall mean an establishment designed, in whole or in part, for the preparation, serving, and consumption of food and/or beverages. Food and beverages are primarily made available for purchase to customers or patrons located at tables, counters, vehicles, or in a buffet line by restaurant employees, or by phone or electronic ordering methods.

Restaurant, Carry-Out: shall mean a restaurant, designed in whole or part, where food and beverage orders are prepared and wrapped in disposable containers and either handed to walk-in patrons for consumption off-premises or delivered by restaurant employees to off-site customers. When part of a restaurant that also provides on-site dining, the Carry-Out counter may be physically separated from the eat-in section.

Restaurant, Drive-In: shall mean an establishment designed, in part or whole, for the preparation, sale and consumption of food and beverages, where customers may remain within their parked motor vehicles to order, pay for, be served, and consume their food and beverage orders without leaving their vehicles. A Drive-In Restaurant may also provide indoor and/or outdoor customer seating.

Restaurant, Drive-Through: shall mean an establishment designed, in part or whole, for the preparation, sale and consumption of food and beverages, where customers may remain within their motor vehicles to order, pay for, and receive their food and beverage orders from employees within the restaurant building by traversing a drive-through lane. Upon receiving a complete food and/or beverage order, those customers remaining within motor vehicles generally leave the restaurant premises to consume it elsewhere. A Drive-Through Restaurant may also provide indoor and/or outdoor customer seating.

Restaurant, Entertainment: shall mean a restaurant incorporating both on-site dining and family-oriented recreation where neither the dining nor recreation activity is clearly secondary or accessory to the operation of the other. Recreation may include but is not limited to television or motion pictures; sound and sight systems, mechanical-, digital-, and/or electronic-operated games; animated mechanical devices and/or rides; and live entertainment.

Restaurant, Specialty: shall mean a restaurant whose primary business is the sale of a single specialty type of food or beverage that is not considered a complete meal, such as candy, coffee, or ice cream. The sale of other food, beverages, or merchandise is incidental to the sale of the specialty food or beverage. Customers may consume their orders on-site or take them off-site.

Restaurant, Sidewalk Café or Outdoor Dining: shall mean a portion of a restaurant located on a public sidewalk or private outdoor patio, which functions as an extension of the interior building, with direct doorway access to the restaurant, where patrons may sit and be served or consume their food or beverage orders. A Sidewalk Café or Outdoor Dining area may be enclosed with low fencing, landscaping, or similar materials to separate it from the adjacent outdoor or sidewalk area, and has no permanent walls, windows, ceiling, or roof.

Roof: shall mean the outside covering of the top of a building, and may include the structural framework supporting the covering. Roof shape and style may vary, including but not limited to varieties of pitched roofs (gable, hip, mansard, gambrel, etc.) and flat, domed, and shed (single sloped). A roof may extend beyond the perimeter of the exterior building walls to create overhanging rakes or eaves, or may be enclosed by exterior walls and parapets.

Roof, Green: shall mean a roof that is partially or completely covered with materials that reduce energy consumption for the building below it. This may be accomplished through the use of vegetation planted in a growing medium over a waterproof membrane, or may accommodate some environmentally sustainable technology such as but not limited to solar thermal collectors, photovoltaic panels, insulated or heat reflective materials, and storm water recovery/irrigation systems. A Green Roof may be designed to absorb rainwater, create wildlife habitat, and lower urban heat islands.

Root Protection Zone: shall mean an area measuring approximately eighteen to twenty inches (18” to 24”) deep and at a horizontal distance from the truck of a tree in all directions equal to one foot (1’) for each inch of DBH.

Sale, Garage, Rummage, or Yard: shall mean the occasional casual sale to the public of tangible personal property that was obtained by the person(s) making the sale, through purchase or otherwise, for his or her own use. Such Sales do not involve the resale of merchandise acquired for that purpose. The location of a Garage Sale may be on vacant, residential, institutional, or commercial property and may be inside or outside. A Garage Sale is an

occasional activity, intended to be of short duration.

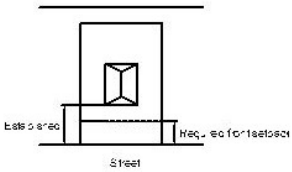
School, Elementary and Secondary: shall mean a public or private institution which has its primary purpose to provide full time academic instruction of language, math, science, history and related areas to children, and is licensed by the state of North Carolina as a school for children ages four (4) and up, including kindergarten, elementary, middle or junior high, and high school, generally consisting of grades K through 12, where children receive approval to move from one grade level to successively higher grade levels.

School, Trade or Vocational: shall mean a post secondary level facility offering instruction in specific occupational focus areas.

School, University or College: shall mean a public or private educational institution offering full or part time post-secondary academic coursework which may lead to certificates of completion in technical fields and/or associate or bachelor degrees or higher.

Seating Capacity: shall mean the measurement of maximum occupancy within an assembly room or area. *Seating Capacity* may be determined by: i) The number of fixed seats in the largest assembly room or area; ii) By allowing ten (10) square feet of floor area per person available for the accommodation of movable seats only in that portion of the structure that could be reasonably assumed to be part of the largest assembly room or area; or iii) By allowing fifty (50) square feet of gross floor area per person of the structure as a whole.

Setback, Established: shall mean the distance between a street line and the front building line of a principal building or structure, as constructed, projected to the side lines on the lot.



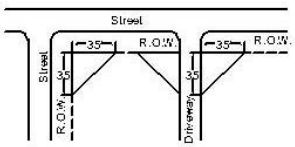
Setback, Required: shall mean the minimum distance required between a street line and the front building line of a principal building or structure, projected to the side lines of the lot.

Sheltered Household: shall mean a group of individuals of any age who do not need to be related by blood, marriage, or adoption, living together in a single housekeeping unit in a structure with up to six (6) bedrooms, for the purpose of receiving/giving some specialized care, training, or support for their physical, emotional, or social health. A resident attendant individual or couple (two [2] people maximum) to provide on-site care or training, such as a nurse or houseparent, may occupy one (1) of the allowed bedrooms in the dwelling, while the remaining bedrooms must be occupied by individuals receiving such care or training. A sheltered household does not include household settings that would meet the definition of group home without regard to the number of permitted residents. (Ord. No. 1126; passed 6-12-00)

Showroom: shall mean a business establishment primarily for the display and selling of a limited type or line of products that requires an area to set up and exhibit the products, such as furniture, mattresses, cabinets, home plumbing or lighting fixtures, rugs and flooring, and similar items or products that are generally not intended to be placed or left in an outdoor environment. These business establishments are generally characterized as having a relatively low volume of customers at any one time frame compared to other retail type businesses. A Showroom may include retail and wholesale sales, but is contained in an entirely enclosed building with no outside storage of any materials, products, or parts. Any storage of material or products not displayed can occupy no more than forty percent (40%) of the gross floor area of the building and be contained within the same building as the display area.

Shrub: shall mean a woody plant normally containing multiple stems and a mature height of less than twelve feet (12').

Sight Triangle: shall mean the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines, or a right-of-way line and the curb or edge of pavement of a private street or driveway, each point being thirty five feet (35') from the intersection, and the two intersecting right-of-way lines (or right-of-way line and curb cut). A sight triangle may also be created with dimensions as determined by the State Department of Transportation. (Ord. No. 1532; passed 1-8-07)



Sign: shall mean any object, device, surface, or structure, in full or part, which is sufficiently visible to persons not located on the lot where such a device is situated in order i) to attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, or ii) to communicate information to them.

Sign, Advertising: shall mean a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered: i) when located at a site other than upon the premises where the sign is displayed, such as

a billboard, or ii) as a minor and incidental activity upon the premises where the sign is displayed.

Sign, Airborne: shall mean any sign, including any moored blimp, gas balloon, or other inflatable element, whether or not intended to move in the wind, which is designed to inform or attract the attention of persons not on the premises on which it is located.

Sign, Attached: shall mean a sign connected or affixed to a principal building or structure or to any architectural feature of such building or structure, or dependent on such a building or structure for its support, but not including signs affixed to a fence or accessory structure.

Sign, Awning: shall mean a sign attached to or made part of an awning.

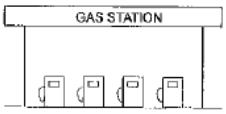
Sign, Banner: shall mean a sign made of nonrigid material, possessing some characters or ornamentation, intended to be hung either with or without an enclosing framework, but not a flag, feather, or pennant.

Sign, Billboard: shall mean a sign that has a primary purpose of identifying or communicating, by paint, posters, panels, or lighting, a message related to an activity, service, business, event, or location other than where the sign is located, or a noncommercial message that may be unrelated to the sign location or to any real property. Such Billboard signs are generally freestanding permanent structures with their sign face area designed so that the copy or featured message can be changed frequently and the advertising space is for lease.

Sign, Bulletin Board: shall mean a sign used to announce meetings or programs to be held on the premises of a place of worship, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

Sign, Business: shall mean a sign which directs attention to a business, profession, or industry located upon the premises where the sign is displayed, to type of products sold, manufactured, or assembled, and/or to services or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

Sign, Canopy: shall mean a sign attached to or made a part of a canopy.

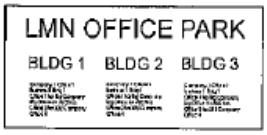


Sign, Changeable Copy: shall mean a sign that is designed so that copy on some or all of the sign area can be periodically altered, either manually in the field or through mechanical or computerized methods, including but not limited to readerboards and computerized LED or pixel-lit message boards.

Sign, Construction: shall mean a sign placed at a location where land disturbing activity is occurring, or is scheduled to occur, which identifies or announces the project or the name of the architect, engineer, contractor, financier, and/or others involved in the development of the project.

Sign, Directional: shall mean a sign, either on- or off-premise, intended to direct persons to a business, activity, event, or other location, limited only to identification of the business, activity, event or location and accompanying directional message in words or symbols.

Sign, Directory: shall mean a sign listing names and/or uses, or locations of more than one business, activity, or professional office conducted within a building, group of buildings, or shopping center. Such signs are typically located near entrances or at strategic locations within the center or complex, and contain no other identifying or advertising messages.



Sign, Feather: shall mean a form of temporary sign composed of durable lightweight fabric with a sturdy frame enclosing only a portion of the material's edges so that it can remain upright and still be flexible in the breeze, generally shaped to be tall and narrow when affixed into the ground or other bottom support.

Sign, Flag: shall mean a piece of durable fabric with a distinctive design, whether or not containing a written message, that is used as a symbol or decorative feature.

Sign, Flashing: shall mean a sign that uses intermittent, varying intensity, or flashing light source or sources to attract attention.

Sign, Freestanding: shall mean a sign that is not attached to, suspended from, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but instead is supported by some structure in or on the ground or other surface or is unsupported (airborne).

Sign, Government: shall mean any temporary or permanent sign erected and maintained for any governmental purposes.

Sign, Ground or Monument: shall mean a freestanding sign which extends from the ground or is attached directly to the ground generally for the entire length of its bottom sign face dimension or which has a support which places the bottom of the sign less than twelve inches (12") from the ground.

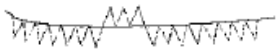
Sign, Identification: shall mean a sign used to display only the name (words and/or symbols, plus address, phone, website, etc.) of the individual, family, organization or enterprise occupying the premises, or the profession of the occupant, or the name of the building on which the sign is displayed.

Sign, Incidental: shall mean a sign which is clearly incidental to other signs on-site, and is intended to provide instruction or information to persons on-site, such as but not limited to "Exit", "Entrance", "Parking", "Bicycle parking", "Drive Through", and menu boards. Simple identification of the on-site enterprise or organization may be displayed with the informational copy.

Sign, Moving: shall mean a sign that moves as one unit or that has individual parts designed to move by mechanical means, but not including sign faces that change or move symbols or messages by means of differing light sources.

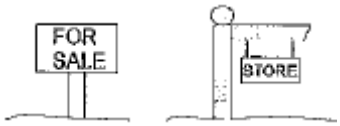
Sign, Mural: shall mean the sign area on an exterior wall that may include some illustration or design and also a discernible message, when the message is clearly related by language, logo, or pictorial depiction to the advertisement of any contemporary product or service or the identification of a contemporary business. Identification or advertisement of products, services, businesses, or locations of a historical nature and not in operation or available today may be a Mural but is not a sign.

Sign, Pennant: shall mean any lightweight material, whether or not containing a message of any kind, suspended from a rope, wire, string, or pole, usually in a series, designed to move in the wind.

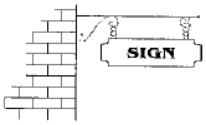


Sign, Portable: shall mean a sign designed or intended to be regularly relocated, whether or not it is attached to the ground, a structure, or a building, and may include but not be limited to a sign on wheels, an A-frame sign, a sandwich board, an airborne sign, or standing (gas price) signs.

Sign, Post: shall mean a freestanding sign with one (1) or two (2) supporting posts, wires, or rods, or similar small upright structure which extends less than five feet (5') in vertical height, anchored in or placed on the ground or other surface so that the message copy area can be attached directly unto such post or to a generally horizontal support element which is attached to the upright post.



Sign, Projecting: shall mean a sign other than a canopy or awning sign which projects from, and is attached to, the exterior wall of any building, and forming an angle to the supporting wall.



Sign, Pylon or Pole: shall mean a freestanding sign supported by one (1) or more structures or poles that are placed on, or anchored in, the ground or other surface and otherwise separated from the ground by more than twelve inches (12") by air, generally over five feet (5') in height, and which is independent from any building or other structure.

Sign, Real Estate: shall mean a sign that is placed on private property to offer real property for sale, lease, rent, or development.

Sign, Residential Development Message Board: shall mean a sign used to announce meetings or programs and similar noncommercial messages specifically intended for the residents of the one specific residential subdivision, development, or complex within which it is located. (Ord. No. 2083; passed 5-11-2015)

Sign, Roof: shall mean a sign erected or maintained in whole or in part upon or over the roof of a building, or on a parapet of a building higher than the top of the roof located directly behind the sign, and where no structural penthouse extends from the interior side of the parapet to increase the roof height at that location.

Sign, Sponsorship: shall mean an advertising sign employed by civic, fraternal, religious, charitable or similar organizations which identifies a sponsor of recreational facilities or special events provided on the premises where such signs are displayed.

Sign, Suspended: shall mean a sign which is suspended or hung from the underside of a horizontal plane surface, such as an arcade, and is supported by such surface.

Sign, Temporary: shall mean a sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time.

Sign, Vehicular: shall mean a sign on a parked or stationary vehicle visible from the public right-of-way where the

primary purpose of the vehicle and its placement is to advertise a product or to direct people to a business or activity located on the same or nearby property, but does not include business logos, identification or advertising on a vehicles which is primarily and regularly used for other business purposes.

Sign, Wall: shall mean any sign directly attached to, painted on, or adhered to an exterior wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall and which does not extend above the roofline immediately behind it or more than twelve inches (12") from the supporting wall.

Sign, Wayfinding: shall mean a sign, frequently off-premise, specifically designed to provide directional or destination information, and provided as part of an overall community plan to improve communication to the public.

Sign, Window: shall mean a sign which is applied on, affixed to, painted or stenciled on, or displayed on or through the exterior of the building glass area, located such that the identifying/advertising message or other material which communicates information can be read from off-premises.

Sign Area: shall mean i) the smallest square, rectangle, or circle that physically and visually forms the boundary of the complete message area of a sign, such as a board, frame, painted border, or canister, or ii) the smallest square, rectangle, or circle that encloses separate elements of the message of a sign composed in whole or in part of freestanding letters, devices, or sculpted matter not mounted on a measurable surface.

Skilled Care Facility (Nursing Home): shall mean a home for three or more chronic or convalescent patients, who, on admission, are not as a rule, acutely ill, and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments for which nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (Ord. No. 1532, passed 1-8-07)

Solar Collector Installation: shall mean a device or structure which transforms solar radiant energy into other forms of energy, which may take the form of a series of photovoltaic cells or an array of panels aimed to directly collect the sun's rays, along with necessary lines, wires, pumps, batteries, mounting brackets, framing, and other related equipment to support the placement of the solar energy receiving elements and to assist in the delivery or transformation of the received energy.

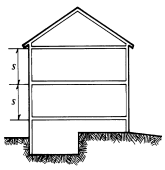
Solar Glare: shall mean the effect produced by light reflecting from a solar panel to an individual not within the confines of the solar collector installation with an intensity sufficient to cause physical discomfort, or loss in visual performance and visibility.

Spa: shall mean a personal service establishment which employs professional, licensed therapists whose services include nonsurgical body or facial treatments, such as cleansing facials, electrolysis, exfoliation, waxing, and body wraps. Steam and sauna facilities, massage and relaxation facilities, hair salons, manicure and pedicure stations and other similar personal treatment areas may also be provided.

Stealth or Concealed Structure: shall mean the support structure for a communications antenna which is primarily for another principal use or accessory to the principal use on the lot where it is located, and partially or wholly conceals the antenna or minimizes its appearance in relation to the principal use of the stealth structure. A stealth or concealed structure may also be a freestanding structure with no other use connection to the principal use on the site when it is designed to match features on the site, such as a "tree" structure within natural trees. A stealth structure shall visually blend in and fit with the overall activities and structures on the site. All appurtenances to the antenna are wholly concealed by the same structure or other structure in the immediate vicinity, except where a stealth application is not part of a building, then the equipment and wiring shall not be required to be wholly concealed.

Stealth Structure, Existing: shall mean a stealth structure in place as of January 27, 1997, the initial date of adoption of regulations concerning communications towers and antennas, is considered existing. Essentially equivalent replacement of such a structure in which its height does not increase more than twenty feet (20'), and compliance to this height limit can be verified, may also be deemed to be existing.

Story: shall mean that part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third (1/3) of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third (1/3) of the area of the roof.



Story (s)

Street, Arterial: shall mean a multi-lane major roadway, designated as a Class I, II, III, III-C, or IV street, connecting freeways, expressways, or other main roads with lesser streets in the network and is designed to accommodate large volumes of traffic at moderate speeds. There are several categories of arterial streets: limited

access arterial streets, which have access points only at cross streets rather than individual driveways; major arterial streets, which may also connect regions, but are not intended to provide primary access to trip generating uses; commercial arterial streets, whose function, in part, is to provide direct access to nonresidential high trip generating land uses; and minor arterial streets, which, built on a smaller scale than other types of arterial streets, usually only handle trips for short to moderate distances.

Street, Close: shall mean a segment or final block of a local street which incorporates a small public green area surrounded by a public pavement or shared private street serving as vehicular access for a limited number of adjoining lots, which offers a design alternative to a cul-de-sac end segment.

Street, Collector: shall mean a roadway which assembles traffic from local streets, and distributes it to the nearest arterial street, provides direct primary access to low/medium density land uses, and is designed to carry low to moderate traffic volumes at low to moderate speeds.

Street, Cul-de-sac: shall mean a permanently dead-ended street segment, with only one motor vehicular entry and exit point and the other end in a form that allows at minimum size private passenger vehicles to maneuver within the improved pavement area to turn one hundred eighty degrees (180º).

Street, Minor Residential Access: shall mean a street used predominantly to provide access to abutting residential properties and classified as a Class VI Local, or VI-L Local Limited.

Street, Private: shall mean, where allowed, an interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private residences, business establishments, or parking and service areas and which is not maintained by the public.

Street, Public: shall mean a public right-of-way not less than thirty feet (30') in width set aside for public travel and either which has been accepted for maintenance by the State of North Carolina or by the Town of Matthews, has been established as a public street prior to the adoption date of this section, or which has been dedicated for public travel by the recording of a plat of subdivision which has been approved by the Board of Commissioners.

Street, Thoroughfare: shall mean any street designated on an adopted thoroughfare plan or any street which is an extension of any street on a thoroughfare plan and which extends into the area not covered by a thoroughfare plan. The terms thoroughfare and arterial are used synonymously and indicate streets which are designated as Class I, II, III, III-C, or IV.

Street Line, Right-of-Way Line: shall mean a dividing line between a lot and a street right-of-way. In cases where the right-of-way has not been recorded through the subdivision process or otherwise recorded with specific dimensions, the right-of way width is the area maintained by the Town or the State.

Streetscape Plan: shall mean a plan that specifies planting strips, tree species, sidewalk locations, and other design aspects along public and/or private streets within Matthews. Such plans are effective following approval by the Board of Commissioners.

Structure: shall mean anything constructed or erected, the use of which requires location on the land or attachment to something having a permanent location on the land, excluding fences, walls used as fences, garden trellises, arbors, sports backstops, and similar items when such items are less than six feet (6') in height and twelve inches (12") in depth.

Subdivider: shall mean any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision.

Subdivision: shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition: i) the combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Title; ii) the division of land into parcels greater than ten (10) acres where no street right-of-way dedications is involved; iii) the public acquisition by purchase of strips of land for the widening or opening of streets; and iv) the division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Title and the underlying zoning district.

Subdivision, Limited: shall mean a subdivision that is not otherwise exempt from the provisions of this Title and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres.

Subdivision, Minor: shall mean any subdivision containing not more than nine (9) lots fronting on an existing street that does not involve any of the following: i) the creation of any new public streets or street right-of-way, or improvements to an existing street; ii) the extension of any needed rights-of-way or easements for the water or sewer system operated by Charlotte-Mecklenburg Utility Department; iii) the installation of drainage improvements through one or more lots to serve one or more other lots; and iv) the installation of a private waste water treatment plant or a private water supply system for more than one lot or building site.

Tap Room: shall mean a room or defined interior space that is ancillary to the production of beer at a microbrewery, brewpub, or large brewery where the public can purchase and/or consume only the beer produced on-site.

Telephone Exchange: shall mean an enclosed structure containing electronic components and digital systems which are necessary to transmit and complete audio elements of telephone calls between callers and receivers.

Thoroughfare Plan: shall mean the map and attendant documents approved by the Mecklenburg County Board of Commissioners which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

Topping: shall mean any pruning practice generally employed on the top of a tree that indiscriminately makes cuts without regard to the proximity of a side branch, and which practice is very detrimental to tree health.

Town: shall mean the Town of Matthews.

Traffic Calming Device: shall mean speed humps, speed tables, traffic circles, chicanes and other devices designed to control motor vehicular speeding and high through traffic volumes on streets.

Trailer, Hauling or Utility: shall mean a vehicle or structure designed to be transported and intended for carrying animals or goods.

Trailer, Overnight Camping: shall mean a vehicle or structure designed to be transported and intended for occasional recreational use for living and sleeping accommodations, which may include one of the following: i) *Camping Trailer:* shall mean a canvas, temporary, folding structure mounted on wheels and designed for travel, recreation, and vacation use; ii) *Motor Home:* shall mean a portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle; iii) *Pick-Up Coach:* shall mean a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation; and, iv) *Travel Trailer:* shall mean a vehicular, portable structure built on a chassis, designed as a temporary dwelling for travel, recreation, and vacation, having its body width not to exceed eight feet (8') and its body length not to exceed thirty two feet (32').

Trailer Park, Overnight Camping: shall mean a site, tract of land, or lot upon which not less than two (2) overnight camp sites for use by camping or recreation trailers or vehicles may be located, regardless of whether or not a charge is made for that service.

Transit Station: shall mean an identified and approved location currently or eventually to be owned or leased by a local or regional transit providing agency, on which facilities have or will be located to allow public access to regional mass transit vehicles. A Transit Station may include, but not limited to: station platforms as designated places for loading and disembarking of passengers; ticket stations (manned or automated); passenger drop-off areas and parking spaces for use by passengers prior to and following travel by transit vehicle; travel mode transfer facilities such as a change from bus to rail; and passenger comfort amenities such as benches, covered walkways, waiting rooms, and rest rooms.

Transit Stop Shelter: shall mean a free standing structure, of less than one hundred (100) square feet, located on any type of mass transit route which is designed to accommodate embarking and disembarking transit passengers. Mass transit routes include, but are not limited to, public bus, trolley, rail and light rail transportation systems.

Tree, Large Maturing: shall mean a tree whose height is greater than thirty five feet (35') at maturity.

Tree, North Carolina Champion: shall mean any tree that is listed in the North Carolina Big Tree List.

Tree, Protected: shall mean an individual tree having special regulatory procedures for removal on public and private property. Protected Trees include all trees on public property, North Carolina Champion Trees, and Matthews Specimen Trees as designated by the Matthews Board of Commissioners. Protected Trees can include individual trees or all trees in a stand on a construction site designated to be preserved on a required landscape plan.

Tree, Small Maturing: shall mean a tree whose height is generally less than thirty five feet (35') at maturity.

Tree, Specimen: shall mean any tree designated by the Town as having unique value, historical interest, or other noteworthy characteristics. A tree may be considered a Specimen Tree based on its size, age, rarity, history, or ecological significance as determined by the Town Landscape Manager and a Certified Arborist consultant.

Tree, Streetscape: shall mean any tree planted within or adjacent to a public right-of-way.

Tree Canopy: shall mean the combined crown areas of all trees on a tract of land.

Tree Canopy, Existing: shall mean the tree canopy that has existed for at least three (3) years on a site as verified by aerial photographs.

Tree Evaluation Formula: shall mean a formula for determining the value of trees and shrubs as published by the International Society of Arboriculture.

Tree Protection Area: shall mean that area or areas designated for the protection of both preserved and planted trees depicted on tree protection and landscape plans.

Tree Stand: shall mean a group of trees in close spatial proximity that can be treated as a unit for the implementation of a tree protection area.

Truck Terminal: shall mean a facility used for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in this use type would be express and other mail and package distribution facilities. A truck terminal facility does not include permanent or long-term accessory storage for principal land uses at other locations. (Ord. No. 1524, passed 12-11-06)

Unobstructed Open Space: shall mean land not covered by buildings or structures. Unobstructed Open Space is further defined in Chapter 8 Post Construction Regulations.

Usable Open Space: shall mean that required portion of a lot at ground level, unoccupied by principal or accessory buildings and available for all occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways, off-street parking, or loading berths but shall be usable for greenery, drying yards, recreation space, and other leisure activities normally carried on outdoors.

Vegetation Survey: shall mean an inventory and assessment of existing vegetation, particularly trees, on a site prior to any land disturbing activity, and/or any vegetation that existed on the site prior to clear cut activity that occurred within the previous three years.

Vehicle, Commercial, Mid-Range: shall mean a vehicle that is marked with a sign or carries a commercial vehicle license plate, that is designed or used for business purposes that has a gross vehicle weight rating (GVWR) of less than thirteen thousand (13,000) pounds and a cargo area/work platform (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.) that does not exceed eight feet (8') in height. Cargo area/work platforms separate from the cab shall not exceed fourteen feet (14') in fixed length. A camper shell, toolbox within the bed, and similar accessory equipment or a conversion van that is clearly intended and being used for regular personal or household use, but not for any business or commercial activity, will not qualify the vehicle as a commercial vehicle. However, ladder racks, cranes, compressors, hose reels, welders and similar equipment make the vehicle a commercial vehicle.

Vehicle, Commercial, Large: shall mean a vehicle that is marked with a sign or carries a commercial vehicle license plate, that is designed or used for business purposes that has a gross vehicle weight rating (GVWR) of thirteen thousand (13,000) pounds or more. Large commercial vehicle also includes a vehicle with a GVWR of less than thirteen thousand (13,000) pounds if the height of any portion of the vehicle exceed eight feet (8') (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.), or the length of the cargo area/work platform exceeds fourteen feet (14') in fixed length.

Vehicle, Compact: shall mean a car used for transportation by one or more individuals in their daily routines and occasional activities, marketed as an economical compact or subcompact vehicle for personal or family use, with a wheelbase generally not exceeding one hundred seven inches (107") and overall length not exceeding one hundred ninety inches (190").

Vehicle, Standard or Passenger: shall mean a car, pick-up truck, van, sport utility vehicle, and similar sized vehicle used for transportation by one or more individuals in their daily routines and occasional activities, excluding buses and trains.

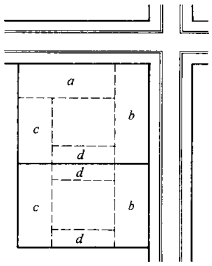
Vehicle, Recreational: shall mean a vehicle other than a passenger or commercial vehicle for noncommercial recreational use, either self-propelled or able to be mobile on land when towed by a separate vehicle or when placed on a separate trailer, including but not limited to a motor home, travel trailer, camper shell, cab-over-camper, fifth wheel, horse trailer, or a trailer which transports a recreational vehicle such as a boat, water craft, or off-road vehicle.

Veterinary Clinic: shall mean a facility where small animals or pets are given medical or surgical treatment and

are cared for only while they are there for the treatment.

Veterinary Hospital: shall mean an establishment for the diagnosis, treatment, and prevention of animal diseases and injuries which may include medical and surgical services and twenty four (24) hour surveillance of recuperating animals.

Xeriscape: shall mean a landscape site planted with plant materials that have a very low water requirement or are very drought tolerant as designated by the North Carolina State University Agricultural Extension Service.



Yards:

(a) Corner Side Yard
(b) Front Yard
(c) Rear Yard
(d) Side Yard

Yard, Front, Established: shall mean an open, unoccupied space between a street line and the front of a building or structure, as constructed, projected to the side lines of the lot.

Yard, Front, Required: shall mean the minimum open, unoccupied space required between a street line and the front building line of a principal building or structure, projected to the side lot lines of the lot.

Yard, Rear, Required: shall mean the minimum open space required between the rear lot line and the rear building line of a principal building or structure, projected to the side lot lines of the lot, and containing permitted accessory buildings, structures, or uses.

Yard, Side, Required: shall mean the minimum open, unoccupied space including driveways and parking areas required between the side line and the side building line, extending from the required setback to the required rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the required rear yard.

('72 Code, § 24-1100) (Ord. 477, passed 2-8-88; Am. Ord. 716, passed 2-3-92; Am. Ord. 731, passed 5-4-92; Am. Ord. 752, passed 8-3-92; Am. Ord. 869, passed 7-14-95; Am. Ord. 871, passed 9-12-94; Am. Ord. 872, passed 8-8-94; Am. Ord. 875, passed 5-9-94; Am. Ord. 885, passed 3-18-96; Am. Ord. 2025A, passed 6-9-14; Am. Ord. 2059, passed 12-8-14)

Chapter 2. Decision-Making, Administration & Enforcement Responsibilities

155.201. General Provisions.

The administration of this Title is vested in the following:

A. The Town Planning Director;

B. The Town Zoning Administrator;

C. The Town Public Works Director;

D. The Town Engineer;

E. The Town Floodplain Administrator;

F. The Town Storm Water Administrator;

G. The Plan Review Committee;

H. The Town Board of Adjustment;

I. The Town Planning Board;

J. The Town Board of Commissioners (Town Mayor and Commissioners, or Town Council).

K. Mecklenburg County Land Use and Environmental Services Agency (LUESA); and,

L. Mecklenburg County Code Enforcement Division

Each group or individual identified here as a Town role means the Town of Matthews has authorized a specific position to take on that particular responsibility, whether or not the position is a direct Town of Matthews employee. When an individual position is identified, either the person holding that position or an authorized designee may perform the assigned functions, unless a specific professional qualification is necessary, such as possession of a PE license.

155.202. The Town Planning Director

A. DESIGNATION. Except as specifically provided otherwise in this Title, the Town Planning Director is assigned the primary responsibility for administering and enforcing this Title. Any of these responsibilities may be assigned to others, including Town staff members within the Planning and Development Department (the Planning Office), and Mecklenburg County LUESA or Code Enforcement Division by interlocal agreement, as determined necessary.

B. DUTIES OF THE TOWN PLANNING DIRECTOR. The Town Planning Director or designees shall have the following duties and responsibilities with respect to this Title:

1. To consider and approve, approve with conditions, or disapprove:

   a. Applications for administrative amendments as provided at § 155.401.5.A.1.

   b. Landscape plans, exterior illumination plans, and zoning overlay district compliance plans.

   c. Site plans, elevation plans, material or color selections, etc., as required by this Title or through site-specific conditions for zoning approval.

d. Applications for temporary use permits

e. Applications for zoning compliance for certificates of occupancy.

f. Sign permits (temporary and permanent).

2. To consider and make recommendations to the Town Council to adopt ordinances to amend the text of this Title and the Official Zoning Map.

3. To establish application requirements and schedules for review of applications for zoning changes, text amendments to sections within this Title, development plans, master sign plans, and subdivisions, and provide oversight to review and approval procedures which involve other Town departments or outside agencies.

4. To serve as Chair of the Plan Review Committee and coordinate all reviews and communications regarding proposed and pending subdivisions.

5. To review and make recommendations to the Planning Board, Board of Adjustment and/or Board of Commissioners on all applications for development considered by those boards, and take any other actions necessary to administer the provisions of this Title.

6. To provide expertise and technical assistance to the Board of Commissioners, Planning Board, and Board of Adjustment upon request.

7. Receive and process applications for zoning permits for structures or additions for which building permits are required.

8. Receive and process applications for zoning permits not accompanied by an application for a building permit.

9. Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use to ensure conformity to the provisions of this Title.

10. Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

11. Maintain in current status the Official Zoning Map.

12. Verify that permanent and current records as required by this Title are maintained, including, but not limited to, zoning permits, certificates of occupancy, inspections, all official action on appeals, variances, and amendments, and registrations for items requiring placement on the land such as temporary signs or temporary storage units.

13. Provide on request to the public printed or digital copies of the Zoning Map or Maps, the compiled text of this Title, and the minutes of the Planning Board and Board of Adjustment meetings. The Board of Commissioners may establish a fee to be charged to any person desiring a copy of such text and/or map to defray the cost of publication or reproduction of such text and/or map.

14. Furnish members of the public with forms for appeals and interpretations, applications for variances to be heard by the Board of Adjustment, and receive on behalf of the Board of Adjustment all such forms, when completed and executed by the appellant or applicant, or his agent or attorney.

15. Refer any violation of this Title to the Town Attorney for prosecution or other appropriate action when deemed necessary.

155.203. The Town Zoning Administrator

A. DESIGNATION. The Town Zoning Administrator shall mean the person, agent, or his or her designees, designated by the Town Manager to administer the provision of zoning authority as provided by state statutes and Chapters 1 thru 6, inclusive, of this Title.

B. DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator or his designated assistant shall administer and enforce Chapters 1 thru 6, inclusive, of this Title. It shall be the duty of the Zoning Administrator to:

1. To render interpretations of all provisions of the zoning regulations in Chapters 1 thru 6, inclusive, of this Title, including interpretations of the text; interpretation of the zoning district boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zoning district.
2. To provide written interpretation for all zoning variance applications prior to a hearing before the Board of Adjustment that a requested action would not be in compliance with existing zoning provisions without the granting of a zoning variance.

C. CRITERIA TO CONSIDER FOR INTERPRETATIONS. The Zoning Administrator or designated assistant shall use the following criteria, where applicable, when making a determination on how to interpret a given land use category:

1. Has the Zoning Administrator received a detailed written description of all the desired and expected activities to take place within the given use, and do these activities match, or very closely compare in their land use impacts to another land use category already defined?
2. Is there a general catch-all land use category that clearly would allow the given use in the requested zoning district?
3. Is the development intensity of the given use the same as or very similar to another land use category already stated within this Title?
4. How may newly generated traffic, noise, light, vibration, odor, or other potential impacts on surrounding parcels and the adjacent neighborhood very closely match any land use category already stated within this Title?
5. Does the given land use type have the same potential environmental impacts as another land use category already determined by the Town as inappropriate to be located within close proximity to residential and institutional land uses?

155.204. The Town Public Works Director and Town Engineer

A. DESIGNATION OF THE PUBLIC WORKS DIRECTOR. The Town Public Works Director shall mean the person, agent, or his or her designees, designated by the Town Board of Commissioners to, among other duties and responsibilities implement and enforce the standards and procedures in Chapter 7 of this Title.

B. DUTIES OF THE PUBLIC WORKS DIRECTOR. With regard to this Title the Public Works Director shall have responsibility for implementing and enforcing the standards and procedures in Chapter 7 of this Title.

C. TOWN ENGINEER. The Town Engineer is a specific employee within the Town Public Works Department, and as such, shall often serve as the agent or designee of the Public Works Director on many elements related to any new development or redevelopment activities.

155.205. The Floodplain Administrator

A. DESIGNATION. Through a properly executed, legally binding interlocal agreement, the Town Manager designates the Mecklenburg County Floodplain Administrator, and his or her designees, as the person(s) with the authority to administer, implement and enforce the provisions of Chapter 9, Floodplain Regulations, of this Title. **[formerly known as § 151.15 and deleted from Chapter 9]**

B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The Floodplain Administrator is authorized to and shall perform, but not be limited to, the following duties: **[formerly known as § 151.17 and deleted from Chapter 9]**

1. Reviewing, approving, and issuing all Floodplain Development Permits in a timely manner to assure that the permit requirements of Chapter 9 of this Title have been satisfied.

2. Reviewing, approving and issuing all documents applicable to Letters of Map Change.
3. Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
4. Notifying adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
5. Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered watercourse so that the flood-carrying capacity is maintained.
6. Not issuing a Floodplain Development Permit for Encroachments within the Community Encroachment Area and/or the FEMA Floodway unless the certification and flood hazard reduction provisions of § 155.905 are met.
7. Reviewing and recording the actual elevation (in relation to mean sea level) of the Reference Level (including basement) of all new or substantially improved structures, in accordance with § 155.905.B.2.c.
8. Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved non-residential structures have been flood-proofed, in accordance with § 155.905.B.1.c.
9. Obtaining certifications from a registered professional engineer or architect in accordance with § 155.905.B.1.b when flood-proofing is utilized for a particular nonresidential structure.
10. Making the interpretation of the exact location of boundaries within the FEMA Special Flood Hazard Area or the Community Special Flood Hazard Area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 CFR Parts 59-78).
11. RECORDS MAINTENANCE. Permanently maintain all records that pertain to the administration of Chapter 9 of this Title and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
12. MAKING ON-SITE INSPECTIONS OF WORK IN PROGRESS. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local regulations and the terms of the permit.
13. Serving notices of violation, issuing stop work orders, revoking permits and taking corrective actions.
14. Maintaining a copy of the Letter of Map Amendment issued from FEMA in the Floodplain Development Permit file when a property owner has received a Letter of Map Amendment (LOMA).
15. Determining the required information to be submitted with an application for approval of an Individual Floodplain Development Permit.
16. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.

17. NEW CONSTRUCTION DETERMINATION. Reviewing information provided by a property owner or his designated agent for the purpose of making a determination of whether the proposed construction activities constitute new construction for purposes of Chapter 9.

18. Reviewing and approving FEMA Conditional Letters of Map Revision and FEMA Final Letters of Map Revision if Authorized by FEMA to do so.

19. ISSUING STOP-WORK ORDERS. Whenever a building or part at a building is being constructed, reconstructed, altered or repaired in violation of Chapter 9, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor.

20. REVOKING FLOODPLAIN DEVELOPMENT PERMITS. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his agent, or under other circumstances where allowing re-submittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit.

21. MAKING PERIODIC INSPECTIONS. The Floodplain Administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

22. Providing owners of structures in the floodplain with information concerning their flood risk, and (for structures with the lowest floor below the Flood Protection Elevation) inform potential buyers of substantial improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.

155.206. The Town Storm Water Administrator

A. DESIGNATION. The Town Storm Water Administrator shall mean the person, agent, or his or her designees, designated by the Town Manager, which may be through a properly executed, legally binding interlocal agreement, to administer, implement and enforce the provisions of Chapter 8, Post Construction Regulations, (the "PCO") of this Title.

B. DUTIES OF THE STORM WATER ADMINISTRATOR. In addition to the powers and duties that may be conferred by other provisions of the Town Code of Ordinances and other laws, the Storm Water Administrator shall have the following powers and duties pertaining to the Post Construction Regulations in Chapter 8 of this Title:

1. To review and approve or disapprove applications submitted pursuant to the PCO.

2. To make determinations and render interpretations of the PCO.

3. To establish application requirements and schedules for submittal and review of applications and appeals.

4. To enforce the PCO in accordance with its enforcement provisions.

5. To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of the PCO.

6. To provide expertise and technical assistance upon request to the Matthews Board of Commissioners and the Storm Water Advisory Committee (SWAC).

7. To designate appropriate other person(s) who shall carry out the powers and duties of the Storm Water Administrator.

8. To provide information and recommendations relative to variances and information as requested by SWAC in response to appeals.

9. To take any other action necessary to administer the provisions of the PCO. **[formerly known as § 154.021 and deleted in Chapter 8]**

155.207. The Plan Review Committee

A. MEMBERSHIP. The Plan Review Committee shall consist of one or more staff members from Town departments, as appropriate, and staff members from Mecklenburg County Land Use and Environmental Services Agency. The Planning Director or the Planning Director's designee shall serve as the Chair of the Plan Review Committee.

B. DUTIES OF THE PLAN REVIEW COMMITTEE. The Plan Review Committee shall review, consider, and make recommendations to approve, approve with conditions, or disapprove sketch plans for minor and major subdivisions, preliminary plans for major subdivisions, and, final plats for minor and major subdivisions as needed, and as further explained in Chapter 4. The Plan Review Committee Chair shall be responsible for coordinating any review sessions and collecting/distributing any communications between members and to applicants.

155.208. The Town Board of Adjustment

A. ESTABLISHMENT AND ORGANIZATION. The Town Board of Adjustment is hereby established. The Board of Adjustment will consist of five (5) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be three (3) alternate members who are Town citizens and residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one (1) or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Board of Adjustment members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term.

B. RULES OF PROCEDURE. The Board of Adjustment will adopt rules and regulations for its own operation necessary to carry out the provisions of this Title. The Town Planning and Development Department will maintain copies of the adopted rules for public information.

C. DUTIES OF THE BOARD. The Board of Adjustment shall have the following duties:

1. VARIANCE OF CHAPTERS 1 THRU CHAPTER 6, INCLUSIVE.

a. Following a determination by the Zoning Administrator that a requested action is not in compliance with the zoning provisions of Chapters 1 thru 6, inclusive, of this Title, the Board of Adjustment will hear and determine variances from the requirements which relate to the establishment or extension of structures or uses of land. The Board may not grant a variance which would allow the establishment of a use which is not otherwise permitted in the district, would result in the extension of a nonconforming use, or would change the district boundary or zoning classification of the property in question.

b. In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria.

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

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

iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

iv. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

2. VARIANCE OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide petitions for variances from the requirements of Chapter 9 of this Title, as further explained at § 155.904.

3. ADMINISTRATIVE APPEAL. The Board of Adjustment will hear and decide appeals on any determination, order, requirement, or decision made by the Zoning Administrator or code enforcement official. A request for appeal must be complete, and must be submitted to the Town within thirty (30) days of the date of notice of violation, order, or decision.

4. APPEAL OF FLOODPLAIN REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding the regulations of Chapter 9 of this Title as further explained at § 155.904.

5. APPEAL OF MINIMUM HOUSING REGULATIONS. The Board of Adjustment shall hear and decide appeals from any order, decision, determination, or interpretation made by Mecklenburg County Code Enforcement (the Building Inspector) pursuant to or regarding the regulations of Chapter 10 of this Title as further explained at § 155.1005.

6. INTERPRETATION OF CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE. The Board of Adjustment is responsible for interpreting the provisions in Chapter 1 thru Chapter 6, inclusive, of this Title relating to zoning regulations if there is a question about the meaning or application of a provision. Once the Board has made an interpretation on an issue, the Zoning Administrator will use that interpretation in the administration of this Title. The Board may also ask that the Title be amended to clarify a problem that has come to the Board's attention.

7. The Chair, or vice-chair in the absence of the Chair, may subpoena witnesses and compel the production of evidence.

D. QUASI-JUDICIAL HEARINGS. The Board of Adjustment will hold a quasi-judicial hearing on any variance, appeal, or interpretation request which comes before it. All administrative papers and other information relating to the request shall be transmitted to the Board. Notice of the time, place and subject of hearings shall be given to the persons making the request and to the owners of property that adjoins or is directly across a street or alley from the property involved in the hearing. The Board shall keep minutes of its hearings and records of the votes of each member.

E. ACTIONS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment will decide on a zoning variance, appeal, or interpretation request and on any matter upon which it is required to act under this Title. The decision of the Board shall be documented in the minutes or transcript of the meeting which shall record a motion to approve, approve with conditions, or disapprove. The motion shall be supported with findings of fact and conclusions of law placed in the minutes of the meeting. A majority vote of the members of the Board will be required to override a decision of the Zoning Administrator or a code enforcement official charged with enforcement of this Title or

to decide in favor of the persons making an appeal. The concurring vote of four fifths (4/5) majority shall be required to grant a variance request.

F. FILING APPLICATIONS AND FEES. Applications and related documents for zoning variance, appeal, or interpretation requests to be considered by the Board of Adjustment must be filed with the Town Planning office as further explained at § 155.403.2, and accompanied by the necessary application fee as established by the Town Commissioners. The Town Planning office shall determine the application is complete and ready to be sent to the Board of Adjustment for review.

155.209. The Town Planning Board

A. ESTABLISHMENT. The Town Planning Board is authorized and established under the authority of G.S. Chapter 160A- 361 to perform the functions and duties prescribed by the General Statutes.

B. APPOINTMENT, TERMS, AND ORGANIZATION. The Town Planning Board will consist of seven (7) full voting members who are citizens and residents of the Town and appointed by the Town Board of Commissioners. There shall also be two (2) alternate members who are Town citizens and residents appointed by the Board of Commissioners. Alternates may sit in on an official meeting of the Board in the absence of one or more members of the Board at a given meeting. All appointed members serve until they are replaced by a successor. Planning Board members shall be eligible for reappointment for a maximum of two (2) consecutive terms, at which point they would not be eligible for reappointment for at least one (1) year. An appointment to fill a vacancy on the Board will be for the remainder of the unexpired term. Further, all members shall be appointed to terms of two (2) years staggered so that terms overlap.

C. COMPENSATION. All members of the Planning Board shall serve without compensation.

D. REMOVAL AND VACANCIES. Members may, after a public hearing, be removed by the Board of Commissioners for inefficiency, neglect of duty, or malfeasance in office. The Mayor shall file a written statement of reasons for the removal. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the Board of Commissioners.

E. OFFICERS. At the first meeting following appointment of new members each year, the Planning Board shall elect its Chair and Vice-Chair from among the appointed citizen members and create and fill any other offices as it may determine. The term of office for the Chair and Vice-Chair shall be one year.

D. MEETINGS AND RULES. The Planning Board shall hold at least one regular meeting in each month which shall be open to the public. It shall adopt rules for transaction of business and shall keep records of its resolutions, transactions, findings and determinations, which records shall be a public record.

E. CONFERENCES. Members of the Planning Board may attend city planning conferences or meetings of city planning institutes or hearings on pending city planning legislation.

F. GENERAL POWERS AND DUTIES. It shall be the primary function and duty of the Planning Board to study, review, and make recommendations regarding the physical development of the Town, including community goals and vision statements, long-range comprehensive plans, small area plans, strategic plans, zoning regulations, location of zoning district designations, subdivision regulations, energy efficiency measures, and related activities as allowed by state statute and authorized by the Board of Commissioners. In the course of completing these duties, the Planning Board may develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans, and may advise the Board of Commissioners on their rationale for recommendations. The Planning Board may recommend amendments, extensions or additions to previously adopted plans. [formerly § 33.15-33.22]

155.210. The Town Board of Commissioners (Mayor and Commissioners, or Town Council)

Without limiting any authority granted to the Mayor and Board of Commissioners by state law or by other ordinances of the Town, the Board of Commissioners have all of the powers and duties with respect to this Title conferred on it by the General Statutes. The Board of Commissioners, or Town Council, includes the Mayor and six (6) Commissioners.

155.211. Mecklenburg County Land Use and Environmental Services Agency (LUESA)

A. DESCRIPTION. Mecklenburg County Land Use and Environmental Services Agency (LUESA) is a department of Mecklenburg County responsible for administering and enforcing regulations affecting new development and protecting air and water resources in Mecklenburg County.

B. DUTIES OF MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY. Mecklenburg County Land Use and Environmental Services Agency shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:

Receive and process applications for grading permits, building permits, sign permits, change of use permits, temporary use permits, and similar requests for land disturbing activities, including any related plan review.

Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

Conduct inspections of structures or the use of land to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

155.212. Mecklenburg County Code Enforcement Division

A. DESCRIPTION. Mecklenburg County Code Enforcement Division is a department of Mecklenburg County responsible through interlocal agreement for providing technical expertise on building code criteria, conducting plan review, conducting inspections, and administering and enforcing regulations affecting new development, redevelopment, maintenance and repair, and improvement of structures, buildings, and real property to obtain compliance with all applicable local, state, and federal building codes in Mecklenburg County.

B. DUTIES OF MECKLENBURG COUNTY CODE ENFORCEMENT DIVISION. Mecklenburg County Code Enforcement Division shall have the responsibilities with regard to this Title conferred upon it by interlocal agreement, including:

Receive and process applications for a certificate of occupancy after an on-site inspection and upon completion of a structure or when there is a change of use as provided to ensure conformity to the provisions of this Title.

Conduct inspections of structures to determine whether there is compliance with this Title, and, in cases of any violation, to notify in writing the person or person responsible, specifying the nature of the violation and ordering corrective action.

Conduct inspections and administer minimum housing provisions as enumerated in Chapter 10 of this Title.

155.213. Compliance Documents

It shall be illegal for any person to begin the construction or reconstruction of any structure or any part of a structure, or to begin to remove trees, excavate or grade for a structure or land improvement, or any other land disturbing activity, or to make any structural repairs, alterations, or additions to any structure without obtaining any and all appropriate compliance documents from the office or agent authorized by the Matthews Board of Commissioners to issue such permits and documents. The office or agent authorized by the Matthews Board of Commissioners will not issue such documents unless the plans, specifications, and intended use of the structure and property conform to the requirements of this Title. The application for

compliance documents shall be accompanied by information sufficient to allow the office or agent to act on the request.

A. INITIAL SITE PLAN COMPLIANCE DOCUMENTS. One (1) or more site layout documents may apply to each lot or tract prior to any development activity. These initial site plan documents grant opportunity to proceed with preconstruction aspects, and may include approved conditional zoning site plans, elevation plans, landscape plans, lighting plans, and/or zoning overlay compliance plans, all of which shall be coordinated through the Matthews Planning office (whether staff approval or Board of Commissioners approval is necessary for each). These approved plans shall be adhered to and submitted when requested with subsequent data to Mecklenburg County LUESA and/or Code Enforcement in all following steps in the development review and approval process.

B. GRADING/INFRASTRUCTURE IMPROVEMENTS PERMITS. Any proposed land disturbing activity that will include any grading, removal of trees and existing vegetative ground cover, removal of existing structures, buildings, and/or impervious surfaces, or any on-site work that may impact soil erosion or will take place close to a protected tree, shall not commence until all appropriate approvals and permits are issued by Mecklenburg County LUESA. When any driveway permit or right-of-way encroachment permit is necessary, they shall be obtained from Matthews Public Works and/or North Carolina Department of Transportation, as appropriate.

C. STRUCTURAL/MECHANICAL BUILDING PERMITS. When any structure or building is proposed for a site, all applicable building permits and inspections shall be successfully obtained from Mecklenburg County Code Enforcement. Such building permits may be in addition to other required compliance documents. Approval of building permits shall be consistent with all the approved initial site plan documents necessary for the property.

D. ZONING PERMITS. A zoning permit shall be required for any new use, change of use, temporary use, or similar activity on a lot or tract of land whether or not other permits and documents listed in this section are required. Zoning permits may be necessary for activities including but not limited to: a permanent sign; start-up of a home-based business; a day care home; a temporary business; application for an ABC permit; construction of a parking lot; or placement of a small storage building.

E. CERTIFICATES OF OCCUPANCY. It shall be illegal to commence or change the use of any building or land, except for uses expressly exempted by federal, state or other local laws, until a Certificate of Occupancy has been issued by Mecklenburg County LUESA and/or Code Enforcement stating that the use complies with the requirements of this Title.

F. TIME LIMIT ON COMPLIANCE DOCUMENTS. Any building permit or zoning permit issued pursuant to this Title will lapse and become invalid if the work for which it was issued is not started within six (6) months of the date of issue or if the work authorized by it is suspended or abandoned for one (1) year. [formerly known as § 153.306 and § 153.307]

155.214. Enforcement and Penalties

The provisions of this Title may be enforced by any one or more of the following methods, unless an alternate procedure is specifically indicated elsewhere in this Title.

A. EQUITABLE REMEDIES AND PROCEDURE. The Town may apply for any appropriate equitable remedy to enforce the provisions of this Title. It is not a defense to the Town's application for equitable relief that there are other remedies provided under the general law or this Title.

The provisions of this Title may be enforced by injunction. When a violation of this Title occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Town may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and

materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

B. CIVIL PENALTIES AND PROCEDURE. If, through inspection, it is determined that a person has failed to comply with the provisions of this Title, a Town or County code enforcement official may issue a warning citation to the violator, followed by citations of specific monetary fines as outlined below. These civil penalties are in addition to any other penalties imposed by a court for violation of the provisions of this Title.

1. LENGTH OF WARNING CITATION. Where violations are clearly of a temporary nature and could physically be immediately corrected, the violator shall be given a twenty four (24) hour warning citation. A twenty four (24) hour citation must be hand-delivered to a responsible representative for the violator, and that individual must sign that he/she has received such citation. Where the violation can be generally believed to be corrected within a short time frame, and does not involve multiple persons' coordinated actions and/or require mechanical/vehicular tasks, the violator shall be given a three (3) day warning citation. Any other violation that may reasonably be expected to be corrected within a limited time period shall be given a ten (10) day warning citation. Delivery of a three (3) day or ten (10) day warning citation may be by hand-delivery, first class US mail, certified mail, and/or by conspicuously posting a print copy of the warning citation on the subject property. Warning citations may be sent to property owners and to occupants when they are different parties.

2. CITATION AMOUNTS. If the violation is not corrected within the specified time period, a citation subject to a fifty dollar ($50.00) civil penalty may be issued. If the violation is not corrected within twenty four (24) hours, a second citation subject to a civil penalty up to two hundred dollars ($200.00) for the same violation may be issued. Subsequent citations subject to a civil penalty up to five hundred dollars ($500.00) may be issued for each day the violation is not corrected. Any citation not paid within fifteen (15) days of issuance shall have a ten dollar ($10.00) delinquency charge added per citation to the amount listed on the face of the citation form.

3. APPEAL OF WARNING CITATION. If an individual chooses to appeal a warning citation, they must do so in writing within seventy two (72) hours of the issuance of the warning citation to the Matthews Planning and Development Department. A written appeal will stay any monetary citations from being issued. In the case of a twenty four (24) hour warning, the written appeal must be submitted to the Matthews Planning and Development Department within twenty four (24) hours in order to stay any citations with fines. An initial request for appeal may be by letter; however an appeal to the Matthews Board of Adjustment must be fully completed and returned to the Matthews Planning and Development Department within ten (10) days of the warning citation. If a letter requesting appeal is submitted but the appeal to the Board of Adjustment is not completed and submitted in the required ten (10) days time, then citations in the amounts provided above may be issued as though no request for appeal had been initiated.

4. CIVIL PENALTIES FOLLOWING A WRITTEN NOTICE OF VIOLATION. When a Notice of Violation is written by a Town or County enforcement officer, providing a thirty (30) day period to resolve the violation, and the violation remains at the conclusion of the thirty (30) days, then the Notice of Violation shall serve as the warning citation, and citations with monetary fines as provided in subparagraph 2 above may be issued. Because the written Notice of Violation includes the opportunity for appeal within the initial thirty (30) day period, there is no provision for further appeal. ('72 Code, § 24-3137.5) (Ord. 477, passed 2-8-88; Am. Ord. 591, passed 6-12-89; Ord. 1238, passed 3-11-02) **[formerly known as § 153.308]**

C. CRIMINAL PENALTIES. Any person, firm, or corporation convicted of a violation of any provisions of this Title shall be punished by a fine not exceeding five hundred dollars ($500.00) or imprisonment not exceeding thirty (30) days. After notice of a violation is given, the violator will have thirty (30) days to correct the violation. After that time, each additional day that the violation remains will be considered a separate violation. ('72 Code, § 24-1203) (Ord. 477, passed 2-8-88; Am. Ord.763, passed 11-2-92) **[formerly known as § 153.999]**

D. CIVIL PENALTIES AND PROCEDURE FOR VIOLATIONS RELATED TO TEMPORARY USES. Because temporary business uses may set up and begin operations in a very short time frame and may not adhere to the requirements as provided in § 155.506.43, the following procedures and penalties are created for those situations.

1. WARNING OF VIOLATIONS; AUTHORITY TO ISSUE. The Zoning Administrator and the Code Enforcement Officer are empowered to issue warnings of violations to any person if there is a reasonable cause to believe that a person has violated any provision of § 155.506.43. These warnings of violation may be delivered in person to the violator, or, if the violator cannot be readily found, the warning of violation may be mailed to the last known address of the violator, or mailed or hand delivered to another individual participating with the violator in the business on the site. Warnings of violations may be issued for the following:

   a. Conducting a temporary use without a temporary use permit. A temporary use permit must be obtained within five (5) calendar days of warning issue date.

   b. Conducting a temporary use on a property that is ineligible for a temporary use as required by § 155.506.43.B.4. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

   c. Failure to cease business activities and to remove all business-related material from the property within the forty five (45) day time limit specified in § 155.506.43.B.2. Business activities must cease immediately upon receipt of written notice of violation and all business-related material must be removed from the property within three (3) calendar days of warning issue date. (Ord. 1237, passed 1-14-02)

2. CITATION. Compliance with § 155.506.43 may be enforced in any one or more of the following ways as prescribed by law.

   a. CITATION AND CIVIL PENALTY. A civil citation in the amount of one hundred dollars ($100.00) may be levied against any person who violates any provision of § 155.506.43 and who has been issued a warning of violation and has not met the specified compliance. Additional citations in the amount of two hundred dollars ($200.00) may be issued for the second day of violation and an additional citation in the amount of three hundred dollars ($300.00) may be issued for a third day of violation and any subsequent days the violation continues to exist. Each and every day during which the violation continues shall be a separate and distinct offense.

   b. VIOLATION A MISDEMEANOR. If a violator fails to comply with the warning of violation, the Zoning Administrator or Code Enforcement Officer may have a complaint entered against the violator and have a criminal summons issued. Upon conviction, the violator shall be subject to criminal penalty up to five hundred dollars ($500.00) and/or up to thirty (30) days in jail as the courts may allow. **[formerly known as § 153.191]**

E. REMEDIES FOR DISTURBANCE, DESTRUCTION, OR REMOVAL OF VEGETATION AND REQUIRED LANDSCAPING. Any person, who violates any of the tree protection or landscaping provisions of § 155.606, or any Landscape Plan approved by the Town under prior Landscaping ordinance provisions, shall be subject to any one or combination of penalties prescribed in this § 155.214.

1. If a person fails to comply with any notice of violation, warning citation, or citation, as outlined above in § 155.214.A. through C., then the following penalties may be initiated. Any penalties shall be in addition to, and not in lieu of, compliance to all requirements and payment of any financial penalties.

2. Any act constituting a violation of § 155.606.13 Landscape Maintenance Standards resulting in the destruction, excessive pruning/topping, or removal of required vegetation up to twelve inches (12") DBH without approval from the Town shall be subject to a civil penalty of two dollars ($2.00) per square foot for area damaged or destroyed, not to exceed fifty thousand dollars ($50,000).

3. Destruction or removal of a tree greater than twelve inches (12") DBH without prior Town approval as provided at § 155.606.13.E. may be subject to a civil penalty equal to the amount of the value of the tree as listed in the most current edition of The Guide for Plant Appraisal, published by the International Society of Arboriculture in conjunction with the information provided by the Southern Chapter of the International Society of Arboriculture.

4. In the event that a Landscape Guarantee bond has not been posted and accepted by the Town and/or Mecklenburg County, and the developer and/or property owner has failed to plant the required trees and shrubs as depicted on the most current approved Landscape Plan, a ten (10) day warning citation as provided for in § 155.214.B. above, may be issued, indicating a fine of five hundred dollars ($500.00) per tree or shrub not installed may be issued per day of ongoing violation, due within ten (10) days of day of issuance, not to exceed twenty thousand dollars ($20,000) per day of violation. **[formerly portions of § 153.075(P)]**

F. Final Plats.

1. After the enactment date of this Title, a plat of a subdivision filed or recorded in the Mecklenburg County Register of Deeds office without approval of the Town as required by these regulations shall be null and void**.** No street shall be maintained by the Town, nor shall any permit be issued by an administrative agent of the Town for the construction of any building or other improvement requiring a permit, upon any land for which a plat is required to be approved, unless and until the requirements given in this Title have been fully met and the final plat has been approved.

2. Any property owner, agent of an owner, or other person, who transfers or sells land within the jurisdiction of the Town by reference to a plat showing a subdivision of land before that plat has received final Town approval and is recorded at the Register of Deeds, shall upon conviction be guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding thirty (30) days, whether or not the unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring that land. The Town through the Town Attorney or other official designated by the Board of Commissioners, may enjoin the transfer or sale by action for injunction. These regulations shall not affect the sale or transfer of any land, a plat of which was recorded prior to November 9, 1998. **[formerly § 152.07]**

Chapter 3. Nonconformities

155.301. Purpose.

This Title places restrictions on the use and development of land by establishing minimum standards. In many instances, land and improvements were developed or proposals for the use of land were initiated prior to the adoption of this Title, or one (1) or more of the previous development ordinances which this Title supercedes. These uses may not meet the minimum standards contained in this Title because they were developed under no specific standards or under standards which were less restrictive. The Board of Commissioners recognizes that the strict application of these standards to those uses may create certain hardships for the property owner. The Board also recognizes that these nonconformities may be allowed to continue in use in accordance with the spirit of this Title, even though not meeting the ordinance standards. Therefore, the uses or situations described below are accorded a nonconforming status with all the specific privileges and limitations set forth to govern their existence. Many nonconformities may continue, but the provisions of this Chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination in order to preserve the integrity of this Chapter and the character of the town. It is the intent of this Chapter to allow the continuation of any nonconformity and the repair and maintenance of such nonconformities, but to require that any expansion, improvement, or alteration to such situations obtain a variance to determine whether it will substantially injure the value, use and enjoyment of neighboring properties according to § 155.208 and § 155.403. ('72 Code, § 1501) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94). **[formerly known as § 153.220]**

155.302. General Provisions.

155.302.1. Nonconformities Defined

A nonconformity shall be any use, lot, improvement, or structure that, as a result of adoption of this Title or further amendment~~s~~, or a pre-existing condition, does not meet the current standards of this Title.

A. NONCONFORMING USE. A nonconforming use shall be any land use or type of residential use that was legally established but has become a prohibited use in the district in which it exists.

B. NONCONFORMING LOT. A nonconforming lot shall be any legally established parcel that does not conform to the current area or dimensional requirements of the zoning district in which it is located.

C. NONCONFORMING IMPROVEMENT OR STRUCTURE. Except in the HUC District, a nonconforming improvement or structure shall be any legally established improvement, building or structure that fails to meet current standards for setback, height, or similar factors.

D. MINOR NONCONFORMITIES DUE TO OUTDATED ZONING CLASSIFICATIONS. Certain parcels of land that were developed under a zoning designation that is no longer available may have conditions legally established through an earlier zoning approval process which would be considered nonconformities under this Title. Those provisions may be eligible for relaxed standards of transition as provided at § 155.401.1.l. which lists certain exemptions to limit the extent of nonconformities on those specific parcels at the time they undergo a further zoning action.

155.302.2. Continuation of Nonconformities

Legal nonconformities may continue subject to the limitations of this Chapter. Continuation, reconstruction, alteration, and/or expansion of such nonconformities shall be subject to the provisions of this Chapter.

155.302.3. Maintenance and Repair

Nothing in this Chapter shall prohibit the ordinary maintenance of a nonconformity, including but not limited to repairs required by the Building Code official, subject to the value limits as further outlined in this Chapter. Maintenance and repairs shall be subject to issuance of permits as required by the appropriate building codes in effect at the time of permit issuance.

155.303. Nonconforming Lots.

A nonconforming lot is a lot which does not meet the minimum dimensional requirements for width, area, front, side or rear yard, height or unobstructed open space, for the district in which it is located, but was recorded by plat or description in the office of the Register of Deeds of Mecklenburg County prior to the adoption of this Title or any subsequent amendment. Such a lot can either be vacant or contain a structure. A nonconforming lot may be used for any of the uses permitted by this Title in the district in which it is located, or any structure on this type of lot may be improved or expanded in accordance with the following standards.

A. The minimum requirements for front, side and rear yards, heights of structures and unobstructed open space for the district must be met.

B. The lot in question does not adjoin a lot which could be combined with it to make it conforming as provided for in § 155.601. ('72 Code, § 1502) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94) **[formerly known as § 153.221]**

155.304. Nonconforming Structures.

A nonconforming structure is any structure that existed prior to the adoption of this Title, or the effective date of any subsequent amendment, which does not comply with the minimum requirements of this Title in the district in which it is located. A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the following limitations.

A. Normal repair and maintenance may be performed to allow the nonconforming structures to maintain a safe and sound condition.

B. Except as provided in §155.304.C. and D. immediately below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

C. A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations provided that:

   1. The change in use or renovation does not increase the floor area of the structure; and

   2. The number of parking spaces provided for the use and the standards for landscaping and buffering are in conformity with the requirements of these regulations.

D. A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are brought into conformity with the requirements of these regulations.

E. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.

F. An existing manufactured home as a principal residential building on an individual lot or located in a nonconforming manufactured housing park or subdivision in operation at the time of the adoption of these regulations may be replaced with another manufactured home provided the number of manufactured home units may not be increased beyond the number available before replacement and the replacing manufactured home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. Any replacement manufactured home not within the R-MH

district shall comply with the lot development and design criteria as outline in 155.605.1.A.4. ('72 Code, § 1503) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94; Am. Ord. 2083, passed 5-11-15) **[formerly known as §153.222]**

155.305. Nonconforming Use of Open Land.

A nonconforming use of open land is an open use on a lot, when the only buildings are incidental and accessory to the principal open use which was in existence prior to the adoption of this Title and which would not be permitted by this Title in the district in which it is located. Uses of open land may include, but are not limited to, storage yards, used car lots, auto wrecking, salvage yards, golf driving ranges, and miniature golf courses. A legally established nonconforming use of open land may be continued but is subject to the following limitations.

A. When a nonconforming use of open land has been changed to a conforming use, it may not later be used for any nonconforming use.

B. A nonconforming use of open land may only be changed to a conforming use.

C. A nonconforming use of open land that is discontinued for more than one (1) year may not be re-established, and all subsequent uses of the site must be in conformance with the particular district regulations. Any vacancy or non-use of the land regardless of the intent of the owner or tenant will be considered discontinuance for the purposes of this requirement.

D. A nonconforming use of open land may not be enlarged to cover more land that it occupied when it became nonconforming. The cost of any repairs or improvements to a nonconforming use of open land shall not exceed forty percent (40%) of the then-current County tax assessed value of the land. Before any repairs or improvement activity commences on the site of a nonconforming use of open land a list of all the repairs or improvements proposed to be completed, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for a written determination that the proposed repairs or improvements comply with the requirements of this Chapter. ('72 Code, § 1504) (Ord. 477, passed 2-8-88) Penalty, see §153.999 **[formerly known as § 153.223]**

155.306. Nonconforming Use of Structures.

A nonconforming use of a structure is a use in a structure existing prior to the adoption of this Title which would not be permitted by this Title in the district in which it is located. This type of use may be continued subject to the following limitations.

A. A nonconforming use of a structure may be changed to another nonconforming use of the same classification or of a higher classification or to a conforming use. The determination of the classification of the use is based on the district in which the use would be allowed by right under this Title. The change from one nonconforming use to a different nonconforming use must not generate any more truck or automobile traffic, noise, vibration, smoke, dust, or fumes than the original nonconforming use.

B. Once a nonconforming use of a structure has been changed to a conforming use, it will not be allowed to return to any nonconforming use.

C. Maintenance and repairs necessary to keep a structure which houses a nonconforming use in safe and sound condition are permitted**.** No structural alterations are allowed to any structure containing a nonconforming use except for those required by an order from the office or agent authorized by the Board of Commissioners to issue building permits to ensure safety of the structure, and where the cost of such repairs do not exceed forty percent (40%) of the then-current County tax assessed value of the structure. Before any construction activity commences or any building permit is issued, a list of all proposed work, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for written determination that it complies with the requirements of this Chapter.

D. A nonconforming use of a structure may be enlarged or extended only into portions of the structure which existed at the time that the use became nonconforming and which were designed or arranged to accommodate the use. No structural alterations are allowed to any structure containing a nonconforming use. The cost of such renovations to a nonconforming use of a structure shall not exceed forty percent (40%) of the then current County tax assessed value of the structure. Before any construction activity commences or any building permit is issued, a list of all proposed work, along with cost estimates for each activity, shall be submitted to the Zoning Administrator for written determination that it complies with the

requirements of this Chapter. Existing nonconforming residential uses in a business or industrial district may be enlarged or extended if no additional dwelling units result from the enlargement or extension. (Ord. No. 1418, passed 2-14-05)

E. A nonconforming use of a structure that is discontinued for more than one year may not be re-established, and all subsequent uses of the structure must be in conformance with the particular district regulations. Any vacancy or non-use of any portion of the structure housing the nonconforming use regardless of the intent of the owner or tenant will be discontinuation for the purpose of this Chapter. ('72 Code, § 1505) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94) Penalty, see § 153.999 **[formerly known as § 153.224]**

155.307. Reconstruction of Damaged Structures.

A. When a structure on a nonconforming lot is damaged by fire, flood, wind, or act of God, or condemnation proceedings, the structure may be repaired and restored to its original dimensions and condition as long as a permit authorizing the reconstruction is issued within one (1) year of the occurrence of the damage, and the reconstruction work has received a Certification of Completion and/or Occupancy, as appropriate, within eighteen (18) months of the damage. ('72 Code, § 1506) (Ord. 477, passed 2-8-88) **[formerly known as § 153.225]**

B. When a structure containing a nonconforming use and not also on a nonconforming lot or being a nonconforming structure, is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored to its original dimensions and condition as long as a permit authorizing the reconstruction is issued within one (1) year of the occurrence of the damage, and the reconstruction work has received a Certificate of Completion and/or Occupancy, as appropriate, within eighteen (18) months of the damage.

C. When a nonconforming structure is damaged by fire, flood, wind, or act of God, the structure may be repaired and restored only to current dimensional limits of the zoning district in which it is located as long as a permit authorizing the reconstruction is issued within one (1) year of the occurrence of the damage, and the reconstruction work has received a Certificate of Completion and/or Occupancy, as appropriate, within eighteen (18) months of the damage.

155.308. Nonconforming Signs.

A nonconforming sign is one which existed prior to the adoption of this Title but which does not meet the standards for signs for the use or the district in which it is located. A nonconforming sign may be allowed to continue subject to the following limitations.

A. Nonconforming signs made of paper, cloth, or other nondurable materials or freestanding signs not attached to a building or to the ground must be removed within six (6) months of the adoption of this Title.

B. A nonconforming sign will not be replaced with another nonconforming sign. However, the replacement of paper, vinyl, film or similar lightweight material poster panels, painted boards, or other demountable materials on nonconforming signs is allowed.

C. Minor repairs and maintenance of a nonconforming sign, such as repainting, electrical repairs, and neon tubing repairs will be permitted. However, no structural repairs or changes in the size, shape, height, or type or intensity of illumination of a sign will be permitted, except to make the sign comply with the requirements of these regulations.

D. New signs related to legally established nonconforming uses may be erected, provided they comply with the sign regulations applying to the use in the most restricted district in which the use is permitted. ('72 Code, § 1507) (Ord. 477, passed 2-8-88) Penalty, see §153.999 **[formerly known as § 153.226]**

155.309. Changes in Zoning.

Any nonconformance created by a change in a zoning classification or district boundary or by a change in the regulations in this Title will be regulated by the provisions of this Chapter. ('72 Code, § 1508) (Ord. 477, passed 2-8-88) **[formerly known as § 153.227]**

Chapter 4. Application Requirements and Review Procedures

155.401. Amendments

The purpose of this Section is to provide a means for amending the Matthews Land Use Plan, the text of these regulations, and the classification of any parcel of land identified on the Official Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights to any person, but only to make adjustments necessary in light of changed conditions or changes in public policy, or likely to achieve the purposes of these regulations.

155.401.1 General Requirements for Zoning Map Changes and Amendments

A. APPLICATION AND FEE FOR AMENDMENT REQUIRED. An application for an amendment must be completed on the forms provided and filed with the Town Planning Office, together with the necessary fee as established by the Board of Commissioners. **[formerly § 153.266]**

B. PUBLIC HEARING REQUIRED. The regulations imposed and the existing zoning classifications applied by this Title may be amended from time to time, but no such amendments shall be made until a public hearing has been held, and a recommendation has been made by the Planning Board. The public hearing may be continued to a later date in order to provide opportunity for proposed text, conditional notes, site plan details, or other unresolved issues to be presented and clarified during an open public session. **[formerly part of § 153.268]**

C. APPEARANCE AT PUBLIC HEARING. Any person desiring to speak either for or against an application may be present at the public hearing or arrange for a suitable agent to speak on his behalf. Or, interested parties may submit written correspondence to the Board of Commissioners at or prior to the public hearing in order for it to be presented at the public hearing and entered into the record. The Applicant, or his designated agent, is compelled to appear at the public hearing. Failure to appear at the public hearing may result in the Board of Commissioners continuing the public hearing to another date. **[formerly part of § 153.268.B]**

D. NOTIFICATION REQUIRED. A notice of the required public hearing shall be published in a local newspaper having general circulation in the area by the Town once a week for two (2) successive calendar weeks, or

any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A. When provided by local newspaper, the notice will appear for the first time no less than ten (10) days and no more than twenty five (25) days prior to the hearing date. If a public hearing is continued to a later date, no additional notice is required. **[formerly part of § 153.268.A]**

E. ACTION BY THE PLANNING BOARD. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed change. No proposal to amend this Title or to rezone property will be approved unless it is first submitted to the Planning Board for its recommendation. The Planning Board shall make a recommendation within thirty (30) days after the application has been referred to it following the close of the public hearing. If the Planning Board does not complete their review within the specified period, then it will be considered the same as a favorable recommendation. The Planning Board shall advise and comment on whether the proposed amendment is consistent with the Town's adopted Land Use Plan, any applicable small area plans, and other development policy plans. **[formerly § 153.269]**

F. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendations and report of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the application or amendment. In accordance with GS 160A-75, a member of the Board of Commissioners who is present and not excused from participating on a final vote on a requested change in zoning district or text of this Title, and does not vote, that member's lack of a vote will not be counted as an affirmative vote.

G. EFFECT OF DENIAL. After a public hearing, no application for a proposed zoning map change or amendment of this Title which has been denied wholly or in part by the Board of Commissioners shall be resubmitted for a period of one (1) year from the date of action on the original request. However, the Commissioners may choose to allow a re-application, if after a report from the Planning Board, they determine that there have been substantial changes in circumstances or conditions not discovered or not possible during the previous zoning action, which may relate to the request. **[formerly § 153.270]**

H. NO COMMITMENT PRIOR TO PUBLIC HEARING. The Mayor, members of Town Board of Commissioners, and members (including alternates) of the Planning Board shall make no commitment or agreement or enter into any understanding of any zoning issues through the application process pertaining to any property located within the Town limits until the conclusion of the public hearing on the application to amend this Title or change the zoning map. **[formerly § 153.271]**

I. RELIEF FOR MINOR NONCONFORMITIES REQUIRING VARIANCE ACTIONS DURING REZONING FROM AN OUTDATED ZONING CLASSIFICATION.

1. While an application or motion to change a parcel from a classification that is no longer available in these regulations to a current zoning district designation may be desirable, this action may create some conditions on a parcel that would become nonconformities. In order to reduce the necessity of resulting multiple similar zoning variance actions, certain minor nonconforming elements may be determined to be exempt from strict compliance through the following:

   a. Any existing development which meets the setback and rear yard requirements of its zoning district prior to amendment but will exceed front setback and/or rear yard minimums in the proposed new zoning district, up to twenty feet (20'), will be considered to be in conformance to the new zoning district provisions.

   b. Any existing development which meets the side yard requirements of its zoning district prior to amendment but will exceed one or more side yard minimums in the proposed new zoning district, up to ten feet (10'), will be considered to be in conformance to the new zoning district provisions.

   c. Any existing development which meets the minimum parking requirements of its zoning district prior to amendment but will be deficient in required parking by up to ten percent (10%) for parcels up to two (2) acres in size, or will be deficient by up to fifteen percent (15%) for parcels greater than two (2) acres, will be considered to be in conformance to the new zoning district provisions.

   d. Any existing development which did not have to meet any minimum landscape regulations prior to amendment but will be deficient in some required landscaping in the proposed new zoning district will be exempt from installation of new landscaping to meet current standards.

   e. Any existing development which meets the landscaping requirement imposed on it at the time of the last successful zoning action on the site but would not be in compliance in the

proposed new zoning district, will be considered to be in conformance to the new zoning district provisions.

f. Any existing development which meets the signage provisions imposed on it at the time of the last successful zoning action on the site but would not be in compliance in the proposed new zoning district, will be considered to be in conformance with the new zoning district provisions if both: any single sign on the site is no more than twenty percent (20%) greater in sign area than what would be allowed in the proposed zoning district; and the total signs on the site are not in aggregate more than fifteen percent (15%) greater in sign area and number than would be allowed under the proposed zoning district.

2. Any site which has existing development and utilizes one or more of the exemptions listed in § 155.401.1.I.1, above, may continue in active use and may change from one land use to another under the exemptions listed above. When changes are made to the improvements on the parcel, the following apply:

a. If structural changes are considered for any structure, then the provisions of § 155.304, Nonconforming Structures, shall apply. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested.

b. If any additions or changes are considered for on-site parking, or are required as a result of a change in use, then the current parking standards must be fully met. Parking lot landscaping requirements must also be met for any new or revised parking lots. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested. Restriping or repaving of existing pavement without removal of the existing hard surface shall not be considered revision. Removal or disturbance of the existing parking hard surface pavement (including gravel) shall require compliance to current standards in that portion of the parking lot which is being impacted. When there is a clear limit to the disturbance, only that disturbed portion is subject to compliance with current standards.

c. If any changes are made to a sign on the site that has been exempted under § 155.401.1.I.1.f, then the replacement sign must meet current standards but the overall exemption may still apply for the remainder of the site.

d. When a developed parcel has utilized one or more of the exemptions at § 155.401.1.I.1 and later is considered for significant or total redevelopment, then all standards in place at the time of redevelopment will be required. For purposes of this paragraph, significant redevelopment means any land disturbing activity whose cost exceeds fifty percent (50%) of the County tax market value of the property. **[formerly § 153.272]**

155.401.2 Additional Standards and Criteria for Amending the Town Land Use Plan

A. THE ROLE OF THE LAND USE PLAN IN ADMINISTRATION OF THE UNIFIED DEVELOPMENT ORDINANCE. The Matthews Land Use Plan shall serve as the basic policy guide for the administration of this Title. The Land Use Plan is a statement of goals and policies to guide new development, redevelopment and infrastructure investment decisions in the Town. It therefore, is the intent of the Town to administer this Title in accordance with the Land Use Plan. The goals and policies of the Land Use Plan may be amended from time to time to meet changing community preferences, needs and requirements. Such amendments may at times be necessary to accommodate proposed development or redevelopment of property that may be inconsistent with the Land Use Plan. This Section establishes the procedures for amending the Land Use Plan.

B. INITIATION OF AMENDMENTS. An amendment to the Land Use Plan may be initiated only by the Planning Board, the Board of Commissioners, or the Owner of property proposing development of such property under this Title that may be inconsistent with the Land Use Plan.

C. NOTIFICATION REQUIREMENTS. The Town Board of Commissioners shall call for a notice of public hearing on the application and the notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area~~.~~ or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A. When provided by local newspaper, the

notice shall be published the first time not less than ten (10) days and no more than twenty five (25) days before the date fixed for the public hearing.

D. APPLICATION FOR AMENDING THE LAND USE PLAN.

1. FILING AN APPLICATION. Where an amendment to the Land Use Plan is proposed by someone other than the Planning Board or Board of Commissioners, an application requesting the amendment shall be filed with the Planning Director. The application shall be accompanied by a written statement from the applicant stating the basis for the request.

2. STAFF REVIEW. Upon receiving an application requesting an amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of the Land Use Plan and this Title. The Planning Director may require review by appropriate Town departments and other government agencies in which case the applicant will pay any review fees that may be required. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other government agencies.

3. ACTION BY THE PLANNING BOARD.

a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed amendment.

b. In considering the amendment, the Planning Board shall review the proposed amendment, the standards set forth in § 155.401.2.D.4 below, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise submitted. Based on this information, the Planning Board shall submit, within a reasonable time and recommendation to the Board of Commissioners on whether or not the proposed amendment should be adopted.

4. STANDARDS FOR REVIEWING PROPOSED LAND USE PLAN AMENDMENTS. In deciding whether to recommend adoption of a proposed amendment to the Land Use Plan, the Planning Board shall consider whether the amendment is necessary based on one or more of the following factors:

a. There has been a change in projections or assumptions (such as demographic trends or the availability of public facilities) from those on which the Land Use Plan is based;

b. The data used as the basis for formulating the Land Use Plan are in error or out of date;

c. New issues or needs have presented themselves to the Town that are not adequately addressed in the Land Use Plan; or

d. The amendment will not adversely affect the character of the area in which the proposed development is to be located.

5. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendations of the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment. The Board of Commissioners may refer the matter back to the Planning Board for further consideration.

E. SMALL AREA PLANS AS APPENDICES. A small area plan, neighborhood plan, or a similar plan which explains and illustrates desired development concepts for a sub region of the Town may be adopted as an Appendix to the Land Use Plan. Such area plan shall follow the same review and approval process as an amendment to the Land Use Plan, as outlined in § 155.401.2.D above. The provisions within an Appendix shall be considered as outlining adopted policies and preferred development patterns for that portion of the Town the same as the main body of the Land Use Plan.

F. TYPOGRAPHICAL OR DRAFTING ERRORS. Notwithstanding any other provisions set forth above, amendments to correct typographical or drafting errors in the Land Use Plan may be adopted by the Board of Commissioners at a regular meeting without the posting or personal delivery of prior notice and without a public hearing.

155.401.3 Additional Standards and Criteria for Amending the Regulations of this Title

In addition to the requirements set forth in § 155.401.1 applications to amend the regulations of this Title shall

comply with the following:

A. INITIATION OF AMENDMENTS. Amendments to the text of this Title may be initiated by the Board of Commissioners, by the Planning Board, the Planning Director, by any person having proprietary interest in property in the Town, or by any interested citizen of the Town.

B. APPLICATION FOR AMENDING THE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE. Where an amendment to text of this Title is proposed by someone other than the Planning Director, Planning Board or Board of Commissioners, an application requesting the amendment shall be filed with the Planning Director. The application shall be in a form determined by the Planning Director and shall include the section(s) of this Title to be amended and the proposed text. An application to amend the text initiated by someone other than the Board of Commissioners or Planning Board shall only be accepted after a pre-application meeting with Planning Office staff has been held.

C. NOTIFICATION REQUIREMENTS. The Town Board of Commissioners shall call for a notice of public hearing on the application and the notice of public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area~~.~~, or any other alternative notice as allowed by the NC General Statutes at Article 19, Chapter 160A. When provided by local newspaper, the notice shall be published the first time not less than ten (10) days and no more than twenty five (25) days before the date fixed for the public hearing.

D. PROCEDURE FOR AMENDING THE REGULATIONS OF THE UNIFIED DEVELOPMENT ORDINANCE.

1. STAFF REVIEW. Upon receiving an application requesting an amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of this Title. The Planning Director may deliver copies of the proposed amendment to appropriate departments and government agencies for review and comment. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other agencies.

2. ACTION BY THE PLANNING BOARD.

a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed amendment.

b. In considering the amendment, the Planning Board shall review the proposed amendment, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise made part of the record. Based on this information, the Planning Board shall submit, within thirty (30) days of date of referral, a recommendation to the Board of Commissioners on whether or not the proposed amendment should be adopted. The Planning Board shall advise and comment on whether the proposed text amendment is consistent with the Town's adopted Land Use Plan, any applicable small area plans, and other development policy plans.

3. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendation from the Planning Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment.

E. ALTERNATE PROCEDURE ON MOTIONS. When a proposed text change is initiated by motion from the Board of Commissioners, the Planning Board may review and make recommendation regarding the suggested change prior to the public hearing. The Planning Board shall sit in joint session with the Board of Commissioners for the public hearing, and at the close of the hearing the Board of Commissioners may act on the request or may refer the proposed text amendment back to the Planning Board for further consideration and recommendation. The Planning Board shall submit a recommendation to the Board of Commissioners within thirty (30) days of date of referral, if the motion is sent to them after close of public hearing. The Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment.

155.401.4 Additional Standards and Criteria for Amending the Zoning Map

In addition to the requirements set forth in § 155.401.1 applications to amend the zoning map shall comply with the following:

A. INITIATION OF AMENDMENTS. Amendments to the zoning map for a Traditional district classification may

be proposed by any person. A Parallel Traditional or Conditional-Only district classification will be considered only if the application is made by the owner of the property or his/her authorized agent. [formerly part of § 153.201(A)]

B. APPLICATION FOR AMENDING THE ZONING MAP. Every application for an amendment to the zoning map shall be filed with the Planning Director. An application to amend the zoning map or to make revisions to a previously-approved conditional zoning district shall only be accepted after a pre-application meeting with Planning office staff has been held with the property owner(s) and/or agents.

C. NOTIFICATION REQUIREMENTS. In addition to the requirements for notification in § 155.401.1.D, the following forms of notice shall be provided:

1. NOTICE BY MAIL. The owner of the subject parcel(s) of land, and the owners of all parcels of land which abut, are across a public right-of-way, and/or are wholly or partially within one hundred feet (100') of any point of the subject property, as shown on the most current county tax listing, shall be mailed a notice of a public hearing on the proposed zoning map amendment by first class mail. The applicant shall prepare such notices and shall deliver said notices to the Planning Office at the time of zoning application submission. If any citizen submits a written statement regarding the proposed zoning change to the Planning office and Town Clerk at least two (2) business days prior to the scheduled decision date, the Clerk shall deliver the written statement to the Board of Commissioners. **[formerly part of § 153.268.A]**

2. EXCEPTION TO NOTICE BY MAIL. The first class mail notice required in § 155.401.4.C.1, above, shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for in § 155.401.4.C.1 or may, as an alternative, elect to publish notice of the hearing as required by GS 160A-364 but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected properties, shall be notified according to the provisions of § 155.401.4.C.1. **[verbatim from GS 160A-364]**

3. NOTICE BY POSTING A SIGN. When a zoning map amendment is proposed, the Town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, posting a sign on each individual parcel is not required, but the Town shall post sufficient notice signs to provide reasonable notice to interested persons. **[verbatim from GS 160A-364]**

D. PROCESS FOR AMENDING THE ZONING MAP.

1. STAFF REVIEW. Upon receiving an application requesting a zoning map amendment, or upon an instruction from the Board of Commissioners, or Planning Board, that it will consider a proposed amendment, the Planning Director shall review the proposed amendment to evaluate its effect on the integrity of the Land Use Plan and this Title. The Planning Director may deliver copies of the proposed zoning map amendment to appropriate departments and government agencies for review and comment. Prior to the scheduled public hearing, the Planning Director shall deliver a written report incorporating or summarizing the comments of the Planning Director, other Town departments, and other agencies.

2. ACTION BY THE PLANNING BOARD.

a. The Planning Board shall sit in joint session with the Board of Commissioners for a public hearing on the proposed zoning map amendment.

b. In considering the amendment, the Planning Board shall review the proposed amendment, the report of the Planning Director, and any oral and written comments received before or at the public hearing or otherwise submitted. Based on this information, the Planning Board shall submit, within thirty (30) days of date of referral, a recommendation to the Board of Commissioners on whether or not the proposed zoning map amendment should be granted.

3. ACTION BY THE BOARD OF COMMISSIONERS. After receiving the recommendation of the Planning

Board, the Board of Commissioners may adopt an ordinance approving, modifying, or rejecting the amendment. **[formerly § 153.265.B]**

4. ADDITIONAL CRITERIA FOR ZONING MAP AMENDMENTS.

a. When considering an application to amend the zoning map to any Traditional classification, the Planning Board or Board of Commissioners will not evaluate the application based on any specific proposal for the use or development of the property. The applicant will refrain from using any graphic materials or descriptions of the proposed development except for those which would apply to any use permitted by the requested classification. **[formerly § 153.265.C]**

b. Following formal acceptance of an application by the Board of Commissioners, the applicant may propose further adjustment to the application which results in a more restrictive zoning district, or applicant may amend the proposed conditions in a conditional zoning district that do not alter the requested underlying proposed district designation. ('72 Code, § 24-1303) (Ord. No. 477, passed 2-8-88; Ord. No. 1524, passed 12-11-06) **[formerly § 153.267]**

E. WITHDRAWAL OF APPLICATIONS. Applications for amending the zoning map or amending conditions of a previously approved conditional zoning district may be withdrawn by the applicant at any time up to and including fifteen (15) days prior to the initially-scheduled hearing date. It is generally not the intent of the Board of Commissioners to permit withdrawal of applications within fifteen (15) days prior to the hearing date. However, after that time, requests to withdraw an application must be filed with the Planning Office. On the day of the hearing the Commissioners will decide if the withdrawal will be allowed. The Board of Commissioners may approve a request for withdrawal if it finds that there are substantial circumstances which warrant favorable consideration and that the withdrawal will not be detrimental to the interests of citizens affected by the application. Application fees are non-refundable. **[formerly § 153.267]**

155.401.5 Administrative Amendment Approval, and Site Plan and/or Elevation Plan Review and Approval

Changes to approved plans and conditions of development in Parallel Traditional Districts and Conditional-Only Districts will be treated the same as changes to the zoning map and will be processed as an amendment as provided in §§ 155.401.1 and 155.401.4. However, some minor changes or additional details in response to previously approved zoning conditions in these conditional districts may be approved through one of the procedures listed here. Site plan and/or elevation plan review and approval may also be a requirement for certain identified uses allowed in some zoning districts as a use "under prescribed conditions" in the Tables of Allowed Uses at § 155.505.

A. ADMINISTRATIVE AMENDMENT. Minor changes in the detail of the approved plan which will not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted or increase the density or intensity of development, or will not decrease the off-street parking ratio or reduce the yards provided at the boundary of the site may be approved as an Administrative Amendment.

1. STAFF REVIEW AND APPROVAL. Upon receiving an application for an Administrative Amendment, the Planning Director shall review the specific proposed changes to previously approved zoning conditions to verify the level of revision requested. When the proposed changes are limited to no more than two (2) note or drawing changes as allowed through the Administrative Amendment process, the Planning Director may approve the changes. The Planning Director may determine the request be reviewed by the Planning Board for action.

2 PLANNING BOARD ACTION. The Planning Board shall review any request for Administrative Amendment submitted to the Board from the Planning Director. The Planning Director shall provide the Planning Board with an explanation of the requested revisions to previously approved zoning conditions, and a recommendation of action. The Planning Board may approve a request for an Administrative Amendment, or may refer the request for change to the Board of Commissioners for decision.

3. BOARD OF COMMISSIONERS ACTION. When the Planning Board refers a request for Administrative Amendment, the Board of Commissioners shall determine whether the impact of the proposed changes, while meeting the standard of minor changes as provide here, would be sufficient to provide an opportunity for public input prior to action. The Board of Commissioners may schedule a public input session or require the applicant to hold a community meeting. Notice of the public input session or community meeting shall be sent by the applicant by first class mail to all persons

required to be notified for a change of zoning map at § 155.401.4.C.1. When the applicant holds a community meeting separate from a regular Board of Commissioners meeting, then the applicant shall provide a written report to the Commissioners on discussion during and results from the community meeting. The Board of Commissioners may approve, modify and approve, or deny the Administrative Amendment.

B. BOARD OF COMMISSIONERS SITE PLAN AND/OR ELEVATION PLAN APPROVAL. Approved zoning map changes involving conditional districts may include standards for greater details to be provided at a later time. The Board of Commissioners may review and act on graphics and site plans provided to them separate from and subsequent to a zoning application which provide details on the specific design of sites and/or buildings. A request for Site Plan and/or Elevation Plan approval shall not require notification or public hearing when they are in response to a condition of a previously approved zoning action on a site. In addition, certain uses that are allowed under prescribed conditions may require site plan and/or elevation plan review and approval by the Board of Commissioners.

1. STAFF REVIEW. Upon receiving an application for Site Plan or Elevation Plan Approval, the Planning Director shall review the documents to verify they meet all zoning conditions for the site. The Planning Director may deliver copies of the drawings to appropriate departments and government agencies for review and comment. The Planning Director shall determine when sufficient information has been provided to verify all conditions have been met, and shall deliver a written report incorporating or summarizing comments from Planning staff, other Town departments, and other agencies, as appropriate, with the drawings to the Board of Commissioners.

2. BOARD OF COMMISSIONERS ACTION. The Board of Commissioners shall approve the Site Plan and/or Elevation Plan as presented or may request further revisions or details from the applicant. The Board of Commissioners may not take final action until they have sufficient details on the documents to fully illustrate the intended design, materials, and related information.

C. SITE PLAN AND/OR ELEVATION PLAN APPROVAL FOR CERTAIN USES UNDER PRESCRIBED CONDITIONS. Some uses are identified as allowed "under prescribed conditions" in some zoning districts. Where the specific standards to be met for these uses include a site plan and/or elevation plan review and approval by the Board of Commissioners, then the site plan and/or elevation plan review shall follow the same process as given in § 155.401.5.B. immediately above. **[formerly § 153.201(E)]**

155.401.6 Conditional-Only District and Parallel Traditional District Zoning Provisions

A. PURPOSE. This Title identifies multiple residential, nonresidential, and mixed use zoning districts that may be assigned to parcels within the Town's jurisdiction. There are certain uses or site design layouts which because of their nature or scale have particular impacts on both the immediate area and the community as a whole. Development of these uses and situations may benefit the community, but their unique aspects and needs cannot be predetermined within the confines of general district regulations. In addition, circumstances often arise when a general district designation would not be appropriate for a certain property, but a specific use or group of uses permitted under the district would be consistent with the objectives of this Title. To accommodate these specific situations, Parallel Traditional and Conditional-Only districts (conditional districts) may be employed.

B. PARALLEL TRADITIONAL DISTRICTS. The Parallel Traditional district process is established to address those situations when a particular use may be acceptable but the Traditional classification which would allow that use would not be acceptable. It allows the Board of Commissioners to approve a proposal for a specific use or group of uses with reasonable conditions to assure the compatibility of the use(s) with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding Traditional zoning district. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time, unless a condition is included to have all development go through a subsequent site plan and/or elevation plan review and approval by the Board of Commissioners.

1. Potential uses which may be considered for a Parallel Traditional district are restricted to those uses permitted in the corresponding Traditional zoning district. Uses permitted in Parallel Traditional districts are subject to all applicable development standards and requirements for that use listed in the corresponding Traditional zoning district.

2. The application for a Parallel Traditional district must contain information and/or site plans which will indicate all of the principal and accessory uses which are proposed to be developed on the

site. Subsequent to the approval of a Parallel Traditional district, only those principal and accessory uses indicated on the approved plan may be constructed on the site. Any modifications to an approved plan or any changes in the permitted principal or accessory uses must comply with the provisions of § 155.401. **[formerly § 153.202]**

C. CONDITIONAL-ONLY DISTRICTS. The Conditional-Only district process allows certain uses to be established in accordance with specific development standards for each use. The categories listed at § 155.501.3.B may be utilized only through the Conditional-Only district process. The standards for these districts are provided in Chapter 5.

D. APPLICATION AND REVIEW PROCESS. The following process applies to both the Parallel Traditional and Conditional-Only districts. For simplicity the term conditional district shall be used in this section to refer to both types of districts unless otherwise noted.

1. APPLICATION. Applications to establish a conditional district shall be processed in accordance with the provisions of § 155.401.1, § 155.401.4, and § 155.401.5 as appropriate, as well as this section. A conditional district classification shall be considered only if the application is made by the owner of the property or his/her authorized agent. All applications must include a schematic plan drawn to scale and supporting text which will become part of the ordinance amendment. The applicant should include at least the items listed below:

   a. A boundary survey showing the total acreage, present zoning classifications, date, and north arrow.

   b. The owners' names, addresses, and the tax parcel numbers of all adjoining properties.

   c. All existing easements, reservations, and rights-of-way, and all yards required for the zoning district(s) requested.

   d. Proposed use of land and structures. A site plan drawing, to scale, shall be submitted showing the outline of each building, related parking and vehicular circulation, pedestrian facilities, storage, service and loading facilities, vehicular queuing plans where appropriate for the use, storm water improvements, recreational facilities, required landscape screening and buffers, and all other planned improvements to the site. When this level of detail design has not yet been prepared, the applicant may choose to submit a generalized site plan document showing overall proposed land use by location, vehicular and non-vehicular circulation patterns, preserved natural or historic features, and required landscape screening and buffers. This generalized site plan must include a written condition that all development on the site will go through a subsequent site plan and/or elevation plan review and approval by the Board of Commissioners. In addition, general information on the intended density and intensity of development at build-out must be included on the site plan. For residential uses this should include the number of units and an outline of the area where the structures will be located. For nonresidential uses this should include the approximate square footage of all structures and an outline of the area where such structures will be located. For applications for Early Designation to an applicable Condition-Only district, a lesser level of detail is necessary. A site map showing land area in the requested zoning action is minimally required, along with additional written and/or graphic conditions matching the adopted small area plan or general development plan for the geographic area, and conditions indicating any proposed refinement of design standards of the proposed Conditional-Only district.

   e. Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets, all sidewalks, bicycle facilities, and multi-modal pathways for non-motorized transportation. For Early Designation applications, general motor vehicle and pedestrian/bicycle circulation plans, in written and/or graphic format, shall be submitted, sufficient to show compliance with any small area plan or general development plan for the geographic area.

2. ADDITIONAL REQUIREMENTS. When dealing with the conditional district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore the Planning Director, Planning Board and/or the Board of Commissioners may request additional information as they deem necessary. This information may include but is not limited to the items listed below.

a. Proposed screening, including walls, fences, or planting areas as well as treatment of any existing natural features.

b. Delineation of areas within the regulatory floodplain as shown on official Flood Hazard Boundary Maps for Mecklenburg County.

c. Existing and proposed topography at four foot (4') contour intervals or less.

d. Generalized information on the number, height, size, or location of structures.

e. Proposed number and location of signs.

f. Approximate completion time of the project and proposed phasing, if any.

3. REVIEW AND APPROVAL.

a. In considering an application for the establishment of a conditional district, the Board of Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of the proposed use. Any conditions should exhibit the relationship of the proposed use to surrounding property, proposed support areas, the timing of development, and other matters that the Board may find appropriate or the applicant may propose. The applicant will have a reasonable opportunity to consider and respond to any such requirements prior to final action by the Board of Commissioners. All conditions included in any conditional zoning approval require agreement of the property owner, which may be accomplished by the owner's authorized agent.

b. In evaluating an application for the establishment of a conditional district, it is appropriate for the Commissioners to consider the following.

i. The policies and objectives of the Matthews Land Use Plan and any relevant small area plan, particularly in relation to the proposed site and surrounding area.

ii. The potential adverse impacts on the surrounding area, especially in regard but not limited to traffic, storm drainage, land values, and compatibility of land use activities.

c. In the review and approval of a Parallel Traditional district, emphasis will be given to an evaluation of the characteristics of the specific use(s) proposed in relationship to surrounding properties.

4. EFFECT OF APPROVAL. If an application is approved, the conditional district established and all conditions attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The intent of this type of zoning is to provide an alternative procedure for specific development proposals. It is intended that all property be zoned only in accordance with firm plans to develop. Therefore, three years from approval, the Planning Board will examine the progress made to develop in accordance with approved plans to determine if active efforts are proceeding. If it is determined by the Planning Board that active efforts to comply with the approved plan are not proceeding, a report will be forwarded to the Board of Commissioners which may recommend that action be initiated to remove the conditional district in accordance with the amendment procedures outlined in § 155.401.1 and § 155.401.4.

5. ZONING MAP DESIGNATION. Following Board of Commissioners approval of a conditional district, the property in question will be identified on the zoning map by the appropriate Parallel Traditional or Conditional-Only district designation. **[formerly § 153.201]**

155.401.7 Use of Flexible Design Standards

A. OPPORTUNITY TO APPLY**.** Certain conditional zoning districts are intended to allow flexibility in overall design through the use of Flexible Design Provisions. Because it is not always possible to anticipate variations or improvements in the development types or to accommodate changes with broad, all-encompassing regulations which could create good quality of life opportunities, these provisions allow the Board of Commissioners to consider and evaluate new and flexible design concepts in a specially designated and controlled setting.

1. The R-VS SRN, C-MF, MUD, TS, and ENT Conditional-Only districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for these districts.
2. The Cottage Cluster Housing alternative in the residential districts provide such a setting. Therefore, the opportunity for flexible design standards may be included as an integral part of proposals for Cottage Cluster Housing within any of the single-family zoning districts when requested through a Parallel Traditional district process.
3. Various permitted uses within the CrC district may apply flexible design standards.

B. PURPOSE. It is the objective of these flexible design standards to encourage development proposals that exhibit such special qualities or concepts that they may deviate from standard ordinance requirements. These regulations are established in order that a flexible design proposal will be evaluated on its own merits. It is recognized that some proposals or concepts will be more successful than others, and the approval of a specific proposal in one situation does not mean that a similar proposal would be acceptable in other circumstances. These provisions are purely optional and are a voluntary means by which land may be developed outside of the standard ordinance requirements. These provisions are designed to evaluate only those flexible design concepts that propose to meet a community need that would not otherwise be met. Finally, it should be emphasized that these provisions should not be confused with or take the place of the normal zoning and subdivision variance procedures established either in § 155.403 or § 155.712.

C. CERTAIN ZONING DEVELOPMENT STANDARDS MAY BE MODIFIED. The quantitative dimensions and locational zoning standards listed here which would normally apply to development may be modified through the flexible design process.

1. Lot area.
2. Lot width.
3. Public street frontage.
4. Setbacks and yards.
5. Building separation.
6. Height of fences and walls.
7. Location of off-street parking (distance from site and/or on-site or off-site provisions; partially within a sight triangle; partially within perimeter planting or required screening).
8. Specific standards set within the Conditional Only zoning districts for "Building and Structure Design Principles" (within subsection G of each district's section at 155.503) when they would result in new development concepts, innovative design, unique circumstances, or public/private ventures.

D. CERTAIN INFRASTRUCTURE STANDARDS MAY BE MODIFIED. The infrastructure standards of Chapter 7 which would normally apply to development may be modified either through the subdivision variance process or flexible design process, each as identified below.

1. Street right-of-way.
   a. Street right-of-way must be at least thirty feet (30') for a private street or alley in accordance with the Land Development Standards Manual or other adopted street cross sections.
   b. Street right-of-way must be at least forty four feet (44') for a two-way public street in accordance with the Land Development Standards Manual or other adopted street cross sections.
   c. The Board of Commissioners may modify the above minimum standards as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.
2. Street type – public or private.
   a. Where a public street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections.

b. Where a private street is used, it must be constructed in accordance with the Land Development Standards Manual or other adopted street cross sections. Private streets generally will not be allowed although private alleys may be used. Private streets must be identified on any record maps as "private street not eligible for State or Town maintenance".

c. The Board of Commissioners may modify the above requirements as they deem necessary or justifiable through the subdivision variance procedure as established at § 155.712.

3. Sidewalks, pedestrian pathways, and multi-use trails (all non-motorized use paths). Where required or used, sidewalks and other pedestrian bike facilities shall conform to the minimum width and construction standards of Chapter 7, and to the standards as may be adopted separately for any type of non-motorized use pathways. They may, however, deviate from the usual placement within the road right-of-way, and may meander on both public and privately-owned land with appropriate easements. The Board of Commissioners may consider deviations regarding location and construction standards for non-motorized vehicular use pathways through the flexible design procedures of this § 155.401.7.

4. Curbs and gutters. Where required or used, curbs and gutters must conform to the Land Development Standards Manual or other adopted street cross sections, or provide sufficient documentation to illustrate alternative construction design that will provide necessary storm water control and adequate traffic and parking safety. The Board of Commissioners may consider deviations regarding location and construction standards for non-motorized vehicular use pathways through the flexible design procedures of this § 155.401.7.

E. LIMITATIONS ON PROJECT SIZE. Due to the special nature of these provisions, it may be desirable to limit the size of the area proposed for flexible design standards. This will ensure the appropriateness of the land use relationships with adjoining property, and/or within the development site itself, while providing needed flexibility essential to the success of these provisions.

1. In any R-VS district, the cumulative project area which may incorporate flexible design provisions shall not exceed ten (10) acres.

2. In any MUD district, the cumulative project area which may incorporate flexible design provisions shall not exceed thirty (30) acres.

3. In any residential district employing the Cottage Cluster Housing option, the total project area, when incorporating flexible design provisions, shall not exceed ten (10) acres.

F. APPLICATION PROCESS.

1. In applying for approval of a flexible design standards project, the applicant shall include a letter to the Planning Director with a statement of intent outlining the purposes and objectives of the proposed development; the particular development standards being modified; the special design features or amenities being incorporated into the plan which makes the proposed development significant and worthy of approval; identification of the individual separate locations where flexible design provisions are proposed to be used, and the cumulative total acreage; and any other applicable information that the applicant may feel is appropriate. The applicant must submit a site development plan drawn to scale showing the information listed below.

a. Proposed lot configurations.

b. Proposed vehicular and non-vehicular circulation systems, off-street parking arrangements, on-street parking locations, pedestrian and bicycle facilities and pathways.

c. Open space system, specifying what improvements, amenities, or facilities will be located within the open space, and phasing of implementation, if phasing is proposed.

d. Proposed screening, including fences, walls, or planting areas.

e. Proposed treatment of any significant natural features.

2. The Board of Commissioners, the Planning Board, or the Planning Director or designee may require additional information that may be necessary for an adequate review of the proposed development. This information may include individual building concepts, intended use and design

of green or environmentally sustainable elements, proposed recreational amenities, and similar information.

G. REVIEW AND APPROVAL. Any application for flexible design will be considered at the same time as the related conditional district application or through a separate site plan and/or elevation plan review, as appropriate. In evaluating an application for flexible design, the Planning Board and Board of Commissioners will consider whether the development plan meets the following objectives.

1. Accomplishes objectives as specified in the written statement of intent.
2. Exhibits special, atypical design features or environmentally sustainable elements and creates a thoughtful, imaginative use of land.
3. Provides for reasonable and appropriate land use relationships, both within the development itself and with surrounding areas adjacent to the development, specifically improving neighborhood access to employment or services opportunities.
4. Exhibits design criteria that will protect and preserve substantial natural or historic features of the site prior to any land disturbing activity
5. Provides the community with a beneficial, alternative design concept which is potentially applicable in other community situations. (Am. Ord. 2059, passed 12-8-14) **[formerly § 153.207]**

155.402. Vested Rights

155.402.1 Purpose

The purpose of this section is to implement the provisions of GS Chapter 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan. ('72 Code, § 24-1800) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.240]**

155.402.2 Definitions

For the purpose of this § 155.402, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Approval Authority: shall mean the Town Board of Commissioners is authorized to grant the specific zoning approval that constitutes a site specific development plan.

Multi-phased development: shall mean a development containing one hundred (100) acres or more that: i) is submitted for site plan approval for construction to occur in more than one phase; and ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval, all as provided by NCGS 160A-385.1(b).

Property Owner: shall mean any owner of a legal or equitable interest in real property, including the devisees, heirs, successors, assigns, and personal representative of that owner. The property owner may allow a person holding a valid option to purchase to act as his agent for purposes of submitting a proposed site specific development plan.

Site Specific Development Plan: shall mean a plan of land development submitted to the Town for purposes of obtaining a certificate of vested right which plan shall include the following items: i) a boundary survey showing the total acreage, present zoning classifications, date, and north arrow; ii) the owners' names, addresses, and the tax parcel numbers of all adjoining properties; iii) all existing easements, reservations, and rights-of-way and all yards required for the zoning district requested; iv) proposed use of structures and land (for residential uses, this should include the number of units and an outline of the area where the structures will be located; for nonresidential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located); and, v) traffic, parking, and circulation plans, showing proposed locations and arrangement of parking spaces and access points to adjacent streets. Notwithstanding the foregoing, neither a variance, a Sketch Plan, or any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

Vested Right: shall mean a right pursuant to GS 160A-385.1 to undertake and complete the development and use of property under the conditions and terms of an approved site specific development plan, upon receipt of a certificate of vested right. ('72 Code, § 24-1801) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.241]**

155.402.3 Obtaining a Certificate of Vested Right

1. CERTIFICATE OF VESTED RIGHT CONCURRENT WITH SUBMITTAL OF A PARALLEL TRADITIONAL OR CONDITIONAL-ONLY DISTRICT ZONING APPLICATION.

   1. If the property owner so chooses, an application for vested right and fee (in accordance with a fee schedule adopted by the Town Board of Commissioners) may be submitted concurrent with a zoning application for a conditional district rezoning. Upon the successful completion of a conditional district zoning request, which includes a public hearing, Planning Board review, and Town Board of Commissioners final approval, then a certificate of vested right shall be issued. ('72 Code, § 24-1802) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) [formerly § 153.242]

   2. A multi-phased development request for vested right (over one hundred acres) shall be submitted concurrent with a zoning application for a conditional district rezoning. This request will require additional time for staff review, and will not be scheduled for public hearing on the zoning request until the Planning office has verified all necessary information, including what is listed in 155.402.3.C. below and any data unique to the proposed development location, has been satisfactorily submitted. The zoning public hearing will be scheduled no earlier than three (3) months following initial submission. If the proposed development location has been previously zoned to a conditional district through an early designation process, then the request for vested right will be processed as though it is a change of zoning conditions for that zoning district and therefore will follow the same review and approval steps as a zoning action.

B. OBTAINING A CERTIFICATE OF VESTED RIGHT INDEPENDENT OF ZONING APPLICATION. To apply for a certificate of vested right, a property owner or his agent shall submit a site specific development plan, a fee (in accordance with a fee schedule adopted by the Town Board of Commissioners) and an application for vested right on a form supplied by the Town. The application and plan shall be accepted by the Town Board of Commissioners and a hearing date shall be set. Following the hearing, the Board of Commissioners may submit the application to the Planning Board for its recommendation. The Board of Commissioners shall approve, approve with conditions, or deny the site specific development plan. Conditions shall be reasonable and appropriate and relate to the relationship of the proposed use to surrounding property, proposed support facilities, such as parking areas and driveways, pedestrian and vehicular circulation systems, buffer and screening areas, the timing of development, and other matters the Board of Commissioners may deem necessary for public health or safety. ('72 Code, § 24-1803) (Ord. 477, passed 2-8-88; Am. Ord.694, passed 10-7-91) **[formerly § 153.243]**

C. CERTIFICATE OF VESTED RIGHT APPLICATION REQUIREMENTS. The Town Board of Commissioners may request additional information as they deem necessary in order to evaluate a proposed use and its relationship to the surrounding area. This information may include but is not limited to the items listed below.

   1. Proposed screening, including walls, fences, or planting areas, as well as treatment of any existing natural features;
   2. Delineation of areas within the regulatory floodplain as shown on the official Flood Hazard Boundary Maps;
   3. Existing and proposed topography at two foot (2') contour intervals or less;
   4. Generalized information on the number, height, size, or location of structures;
   5. Location and size of storm water quality ponds or facilities;
   6. Driveway access and off-street parking areas;
   7. Proposed number, size, and location of signs; and,
   8. Proposed phasing, if any, and approximate completion time of the project. ('72 Code, § 24-1804)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.244]**

D. PUBLIC HEARING. A public hearing date shall be set by the Town Board of Commissioners at the next regularly scheduled meeting which includes zoning matters, subject to sufficient time for advertisement. Notice shall be published in a newspaper having general circulation in the Town area once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty five (25) days prior to the date established for the public hearing. In addition, a notice of the public hearing shall be sent by first class mail to the owners of all parcels of land which are wholly or partially within one hundred feet (100') of any point of the subject property, when calculated to exclude any public right-of-way one hundred feet (100') wide or less, as shown on the most current county tax listing. The applicant shall prepare such notices to all property owners required to receive mailed notification, and shall deliver said notices to the Planning Office at the time of application submittal for a Certificate of Vested Right. ('72 Code, § 24-1805) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.245]**

155.402.4 Approval of a Site Specific Development Plan

A. CONSIDERATIONS FOR APPROVAL. The burden of proof of producing evidence to support these findings and to overcome challenges to them shall rest entirely with the property owner. In evaluating a site specific development plan for approval, the Board of Commissioners shall find the following:

1. The policies and objectives of the Land Use Plan, particularly in relation to the proposed site and surrounding area shall be met.
2. The potential adverse impacts on the surrounding area, especially in regard but not limited to traffic, storm drainage, land values, and compatibility of land use activities shall be minimized to the greatest extent possible.
3. The plan meets all specifications required by this Title.
4. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. **[formerly § 153.246]**

B. APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN. Upon approval of a site specific development plan, a statement shall be placed on the plan reading:

> "A vested right under GS 160A-385.1 has been established for this property as shown on this site Specific Development Plan, approved on *(date)* . Unless terminated at an earlier date, the vested right shall remain valid until *(date)* ."

('72 Code, § 24-1807)(Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.247]**

C. OTHER REVIEWS. Following approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that those reviews and approvals are not inconsistent with the original approval. The establishment of a vested right on a property shall not preclude the Town from creating and approving one or more overlay districts which may impose additional restrictions on the property, provided that those restrictions do not affect the allowable type or intensity of use. The Town may also enforce on the property any regulations adopted during the effective time period of the vested right, which are general in nature and applicable to all property subject to the regulations of 155.402. ('72 Code, § 24-1808) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.248]**

D. DURATION. A vested right shall be approved for a period of two (2) years, except a vested right for a multi-phase development (100 acres or larger) shall be approved for a period of seven (7) years. It shall be effective immediately upon approval. Upon issuance of a building permit, the expiration provisions of GS 160A-418 and the revocation provisions of GS 160A-422 shall apply, except that a building permit shall not expire or be revoked due to the running of time while an established vested right is outstanding. A multi-phased development shall be vested for the entire development to utilize the provisions of this Title in place at the time of zoning and site plan approval for the initial phase of the multi-phased development.

E. ('72 Code, § 24-1809) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.249]**

155.402.5 Termination of a Zoning Vested Right

A zoning right that has been vested as provided in this § 155.402 shall terminate:

A. At the end of the applicable vesting period with respect to buildings or uses for which no valid building permit applications have been filed;

B. With the written consent of the affected property owner;

C. Upon findings by the Town Board of Commissioners, by ordinance after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

D. Upon payment to the affected property owner of compensation for all costs, expenses, and other losses incurred by the property owner, including fees paid in consideration of financing and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval of vested right, and interest at the legal rate until paid;

E. Upon findings by the Town Board of Commissioners, by ordinance after notice and a hearing, that the property owner or his representative intentionally supplied inaccurate information or made material

misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

F. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the Board of Commissioners may modify the affected provisions, upon a finding, by ordinance after notice and a hearing, that the change in state or federal law has a fundamental effect on the plan. ('72 Code, § 24-1810) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.250]**

155.402.6 Voluntary Annexation

A petition for voluntary annexation for contiguous or satellite boundaries shall contain a signed statement declaring whether or not any vested right with respect to the properties subject to the petition has been established. A statement declaring that no vested right has been established, or the failure to sign a statement declaring an established vested right, shall be binding on the property owner and any undeclared vested right shall be terminated. ('72 Code, § 24-1811) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.251]**

155.402.7 Repealer

In the event that GS 160A-385.1 is repealed, § 155.402 shall be deemed repealed and the provisions within no longer effective. ('72 Code, § 24-1812) (Ord. 477, passed 2-8-88; Am. Ord. 694, passed 10-7-91) **[formerly § 153.252]**

155.403. Process for Deciding Interpretations, Appeals, and Variances

In fulfilling the duties listed at § 155.208, the Town Board of Adjustment shall receive and act on applications presented for their review and action.

155.403.1 Interpretation and Variance Limitations

No request for interpretation or variance to zoning provisions of Chapters 1 through 6 inclusive, or to the Floodplain and Flood Damage Protection Standards of Chapter 9, shall be granted that would have the effect of allowing a use not permitted in the district in which the property in question is located.

155.403.2 Application Process

A. APPLICATION REQUIRED.

1. All interpretation or variance applications shall be filed with the Planning Office. An application shall be considered filed with the Planning Office when delivered to the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

2. An appeal of any determination, order, requirement or decision by an administrative official must be taken within thirty (30) days after the date of decision or order which is being appealed. An appeal shall be concurrently filed with the Town Clerk, the Planning Office and any administrative official charged with enforcement of this Title, which shall serve as the notice of appeal finding as required at NCGS 160A-388(b1)(1). An application shall be considered filed when delivered to both the Town Clerk and the Planning Office and the date and time of filing shall be entered on the application by the Planning Office staff.

B. DETERMINATION OF COMPLETE APPLICATIONS**.** An application for interpretation, appeal, or variance will not be deemed properly filed unless it is complete. The Planning Office shall determine the completeness of an application. Upon determination that the application is complete, the Board of Adjustment shall schedule a hearing in accordance with the application schedule on file in the Planning Office.

C. NOTICE TO OFFICIAL**.** When an appeal is filed, the Planning Office shall transmit to the Board of Adjustment and to any administrative official charged with enforcement of a pertinent section of this Title all documents constituting the record relating to the action which is being appealed. An administrative or enforcement official may include, but is not limited to, the Town Planning Director or designee, the Town Code Enforcement Officer, the Town Zoning Administrator, the Town Public Works Director or designee, the Town Engineer, the Town Storm Water Administrator, the Town Floodplain Administrator, and an employee of the Mecklenburg County Land Use and Environmental Services Agency or Mecklenburg County Code Enforcement Division when applying Town adopted regulations.

D. EFFECT OF APPEAL APPLICATION. An appeal stays all actions by the enforcement official seeking enforcement of or compliance with the order or decision being appealed unless the enforcement official certifies to the Board of Adjustment in an affidavit that a stay would cause imminent peril to life or property, or

because the violation is transitory in nature, a stay would seriously interfere with the enforcement of this Title. In that case, enforcement proceedings shall not be stayed except by restraining order. If enforcement is not stayed, the appellant may request an expedited hearing, as allowed at NCGS 160A-388(b1)(6).

155.403.3 Findings of Fact for Zoning Variances

In granting any zoning variance to provisions within Chapters 1 through 6, the Board of Adjustment shall make findings listed at § 155.208.C.1.b.*i* through *iv* that an unnecessary hardship would result from the strict application of this Title, that the hardship is peculiar to the subject property, that the hardship is not self-created, and that the variance is consistent with the spirit of this Title and public safety is secured. To reach these findings, the Board of Adjustment shall consider the following standards:

A. That special or unique circumstances or conditions exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;

B. That the special conditions or circumstances do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later;

C. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property;

D. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title;

E. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief;

F. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties; and

G. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.

155.403.4 Conditions of Approval for Zoning Variances

In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practical with surrounding properties.

155.403.5 Burden of Proof

A. ZONING VARIANCES. The burden of presenting evidence sufficient to allow the Board of Adjustment to make its findings as set forth in § 155.403.3, as well as the burden of persuasion on those issues remains with the applicant seeking the variance.

B. APPEALS. When an appeal is taken to the Board of Adjustment in accordance with § 155.403.2, the enforcement official shall have the initial burden of presenting to the Board sufficient evidence and argument to justify the order or decision which is being appealed. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

155.403.6 Action by Board of Adjustment

A. VARIANCE APPROVAL. Before a variance action is determined to be granted, the Board of Adjustment shall vote affirmatively by a four-fifths majority on the request and on the required findings of fact in § 155.208.C.1. A statement on each of the seven standards in § 155.403.3, or any other contested facts and their application to the case under review, may be included to give a specific reason in support of the motion.

B. VARIANCE DENIAL. A motion to deny a variance may be made on the basis that any one or more of the standards and therefore required findings of fact are not satisfied or that the application is incomplete. The motion shall include a statement of the specific reasons or findings of fact that support such motion. The motion is adopted as the Board's decision if supported by more than one-fifth of the Board's membership (excluding vacant seats). **[Expands upon § 153.289]**

C. APPEAL. The Board of Adjustment may reverse or affirm in whole or in part, or may modify the order,

requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the Board shall have all the powers of the officer from whom the appeal is taken. A motion to reverse, affirm, or modify the order, requirement, decision, or determination which is being appealed shall include a statement of the specific reasons or findings of fact that support the motion. If a motion to reverse or modify is not made or fails to receive a majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

D. INTERPRETATION. The Board of Adjustment shall interpret the meaning or application of text within this Title, zoning maps, district boundary lines and similar questions by a concurring vote of a majority.

E. WRITTEN DECISION. Each quasi-judicial decision by the Board of Adjustment shall be in writing and signed by the chair or other duly authorized member of the Board. The decision shall become effective when the signed decision is filed with the clerk to the board. A copy of the signed decision shall be given to the applicant, property owner, and any person who requested in writing to receive a copy by personal delivery, electronic mail, or first-class mail. The person delivering this notice shall certify that proper notice has been made. **[Expands upon § 153.289]**

155.403.7 Other Appeal or Variance Actions

A. VARIANCE FROM SUBDIVISION REGULATIONS. The procedures, standards, and requirements as given in § 155.712 shall be followed for any request for variance from Chapter 7 Public Improvement Standards.

B. APPEAL OR VARIANCE FROM POST CONSTRUCTION ORDINANCE REGULATIONS. The procedures given in § 155.802.E. for actions taken by the Storm Water Advisory Committee (SWAC) shall be followed for any request for variance or appeal to enforcement of and regulations in Chapter 8 Post Construction Storm Water Regulations.

C. APPEAL OR VARIANCE FROM FLOODPLAIN REGULATIONS. The Board of Adjustment shall follow the procedures, standards, and requirements as given in § 155.904 for any request for variance or appeal from Chapter 9 Floodplain Regulations.

D. APPEAL FROM MINIMUM HOUSING REGULATIONS. The Board of Adjustment shall follow the procedures given in § 155.1005.D. for any appeals of enforcement decisions or actions taken to implement Chapter 10 Housing Code.

155.403.8 Effect of Board's Decision

A. After the Board of Adjustment approves an interpretation or a variance, the applicant shall be required to follow the applicable procedures of this Chapter 4 for the approval of a building permit or Certificate of Occupancy in order to proceed with the use and development of the subject property. Where a variance is granted, unless otherwise specified by the Board, the variance shall automatically expire if a building permit is required and is not obtained within six (6) months from the date of the meeting at which the Board of Adjustment rendered its decision. In addition, if six (6) months has expired, the Zoning Administrator shall have the authority to authorize the permit to be issued if the Zoning Administrator determines that, based upon the Board's decision the circumstances for granting of the variance have not changed and would allow the issuance of the permit.

B. After the Board of Adjustment reverses or modifies an order, requirement, decision, or determination of the Zoning Administrator, the appellant shall be required to follow the applicable procedures of this Chapter 4 for the approval of a building permit or Certificate of Occupancy in order to proceed with the use and development of the subject property.

C. After the Board of Adjustment issues an interpretation on how a specific provision of this Title is to be understood and applied, then that interpretation will be used on future situations with matching criteria. Future amendments to clarify or further revise written provisions or zoning maps shall follow the procedures outlined in this Chapter 4.

D. Decisions on interpretations, appeals, and variances by the Board of Adjustment may be appealed when such appeal is to superior court in the nature of certiorari as provided by law. A petition for review shall be filed with the clerk of superior court by the later of thirty (30) days after the decision is effective or thirty (30) days after a written copy is given to the applicant or property owner.

155.405. Subdivisions

155.405.1 General Requirements

A. PURPOSE. The provisions of these regulations are designed and enacted for the following purposes: to promote the orderly development of the Town and its environs; to promote the coordination of streets within subdivisions with existing or planned streets or with public facilities; to secure adequate rights-of-way or easements for street or utility purposes; to secure adequate spaces for recreation, open space, and school sites; to provide for the distribution of population and traffic in a manner which will avoid congestion and overcrowding; to protect and enhance environmental quality; and to create conditions essential to health, safety, convenience and the general welfare. **[formerly § 152.01]**

B. JURISDICTION. The provisions of these regulations apply to all subdivision activities for which approval under these regulations is required in the Town of Matthews. **[formerly § 152.02]**

C. APPLICABILITY. A subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but, the following shall not be considered a subdivision nor be subject to the requirements of the regulations of this § 155.405:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of these regulations;
2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
3. The public acquisition by purchase of strips of land for the widening or opening of streets; and
4. The division of a tract in single ownership whose entire area is not greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of these regulations and the underlying zoning district. **[formerly the definition of "subdivision" from § 152.10]**

D. COMPLIANCE WITH OFFICIAL PLANS. When a proposed subdivision embraces any part of a proposed thoroughfare, school, park, or recreation site, or other public facility which has been designated in the officially adopted plan of the Town, that planned facility shall be platted and designated by the subdivider in the location shown on the plan in accordance with § 155.405.4.L, § 155.405.4.M, § 155.405.4.N, and § 155.405.4.O. **[formerly § 152.04]**

155.405.2 Subdivision Plat Required

After the effective date of this Title and pursuant to GS 160A-372, a Final Plat shall be prepared, approved and recorded pursuant to the provisions of this Title whenever any subdivision of land occurs. **[formerly § 152.20]**

155.405.3 Approval Prerequisite to Plat Recording

Pursuant to GS 160A-373, no Final Plat of a subdivision within the jurisdiction of the Town shall be recorded by the Register of Deeds of Mecklenburg County until it has been approved as provided by this Title. To obtain approval of a Final Plat the subdivider shall follow the procedures established in this Chapter.

155.405.4 General Subdivision Design Criteria

The following statements provide general requirements and policies to be used in the design, review, and approval of any subdivision under the jurisdiction of these regulations. As stated at § 155.701.C, these provisions also apply to any proposed rezoning, expansion of an existing development (40% or more increase in building square footage or outdoor use area), any new development, or any redevelopment of land where they logically can apply (i.e., not § 155.405.4.Q since subdivision names would not apply to a development site not involving a formal subdivision final plat). (Am. Ord 2059, passed 12-8-14)

A. CONSISTENCY WITH ADOPTED PUBLIC PLANS AND POLICIES. All subdivisions of land approved under these regulations shall be consistent with the most recently adopted plans and policies for the area in which they are located and conform to the dimensional requirements of the underlying zoning. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities

such as streets, parks and open space, schools, and other similar facilities.

B. CONFORMITY. All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas where nearby development has occurred, new subdivisions should be planned to protect and enhance the stability, environment, health and character of the neighboring area.

C. EXTENSION OF EXISTING STREETS. The proposed street system shall extend streets on their proper projections at the same or greater width than the minimum required by these regulations. Emphasis will be placed on the adopted thoroughfare plan and any adopted small area plans in the determination of street extensions and connections.

D. ACCESS TO ADJOINING UNSUBDIVIDED PROPERTY. The proposed street system shall be designed to provide for desirable access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision and to provide interconnection to similar adjacent uses when such connection would facilitate traffic movement in the area. Reserve strips adjoining street rights-of-way for the purpose of preventing access to adjacent property are not permitted.

E. RELATIONSHIP TO TOPOGRAPHY. In sloping terrain, streets should parallel the contours of the land insofar as practicable, to avoid steep grades and the undue concentration of storm water surface runoff.

F. MATURE TREES AND NATURAL VEGETATION. Streets and development sites shall be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Streetscape trees shall be incorporated along all new public or private streets, and should utilize existing trees to the greatest extent possible. Streetscape trees shall follow the Town's adopted plans along existing roads. Interior landscaping within newly platted lots should be designed to incorporate and preserve existing trees. (Ord. No. 1618, passed 4-14-08)

G. ACCESS TO PARKS, SCHOOLS, GREENWAYS, ETC. Streets shall be designed or walkways dedicated to assure convenient access to parks, greenways, playgrounds, schools and other places of public assembly. Dedicated walkways or easements shall not be less than fifteen feet (15') in width and may be required to be large enough and structurally capable of providing vehicular access for maintenance vehicles.

H. NEIGHBORHOOD CONNECTIVITY. Subdivisions shall be designed to connect to adjacent neighborhoods by street to the greatest extent practicable for improved access for emergency services without encouraging a significant increase in volume of traffic or speed of motor vehicles. Subdivisions shall also be designed to incorporate bicycle and pedestrian facilities in such a manner as to allow for access within and between neighborhoods.

I. RELATIONSHIP TO RAILROAD RIGHTS-OF-WAY. When a subdivision adjoins a railroad right-of-way the subdivider may be required to arrange the street pattern to provide for the future grade separation of street and railroad crossings.

J. HALF STREETS. Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street shall be platted within such tract. New half streets are prohibited.

K. PARALLEL STREETS ALONG THOROUGHFARES. Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required by the Town or the North Carolina Department of Transportation (NCDOT) to provide a street parallel to the highway or to utilize reverse frontage on an interior street for the lots to be developed adjacent to the highway. Where reverse frontage is established, deed restrictions or other means shall be provided to prevent private driveways from having direct access to the highway or street.

L. PUBLIC PARK, GREENWAY, RECREATION, AND OPEN SPACE SITES. The subdivider of each subdivision which includes residential lots shall dedicate a portion of such land or pay a fee in lieu of land dedication, in accordance with Chapter 7, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision.

M. PUBLIC SCHOOL SITES. When a tract of land that appears in an adopted plan or policy document as a future public school site falls within an area proposed to be subdivided, the Planning Director shall notify the Charlotte- Mecklenburg Board of Education of the proposed subdivision and its effect on the future public site. The Board of Education must decide within thirty (30) days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall be processed in the normal fashion. If the Board of Education does wish to reserve the site, then the subdivision shall not be approved without such reservation. The Board of Education shall have eighteen (18) months from the date of Preliminary

Plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. The Board of Education may also choose to release the site from reservation at any time prior

to the end of the eighteen (18) month period. If at the end of the eighteen (18) month period none of the actions listed above have commenced, the subdivider may consider the land free of any reservation.

N. PUBLIC FACILITIES. When a tract of land that appears in an adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, or other public use, falls within the area proposed to be subdivided, the Town staff shall notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within thirty (30) days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision shall proceed in the normal fashion. If the agency does wish to reserve the site, then the subdivision shall not be approved without such reservation. The appropriate agency shall have eighteen (18) months from the date of Preliminary Plan approval to acquire the site by purchase, receipt of a dedication or by initiating condemnation proceedings. The appropriate agency may also choose to release the site from reservation at any time prior to the end of the eighteen (18) month period. If, at the end of the eighteen (18) month period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation.

O. THOROUGHFARE RIGHTS-OF-WAY. Whenever a tract of land to be subdivided includes any part of any arterial street shown on any thoroughfare plan adopted by the Town Board of Commissioners, the right-of-way for the arterial street shall be platted and dedicated or reserved in accordance with Chapter 7.

P. STREET NAMES. All proposed street names must be reviewed by Matthews Planning Department, Public Works, Police Department, and Fire & EMS Department before being submitted to Mecklenburg County for final approval. A proper street name shall include one (1) to three (3) words as the main name and a street type suffix. A proper street name may include a directional prefix, and/or "extension" following the street type suffix. Proposed street names shall adhere to the following guidelines: do not duplicate nor too closely approximate phonetically the name of any street within the Town or county; do not use business names; do not include punctuation; do not use possibly offensive names; and do not include directional suffixes. Where proposed streets are extensions of existing streets, or align with an existing street, the existing names should be used, except where a new name can reasonably be used to facilitate the proper street address numbering or to avoid further street name duplication. Words shall not be used as the first word of a street name if used in two other locations within the county. The only exception allowed is use of a generic label naming a topographic feature or a color, which can be part of multiple street names.

Q. SUBDIVISION NAMES. Proposed subdivision names shall not duplicate nor too closely approximate phonetically the name of any subdivision within the Town, unless applicant presents compelling reasons to support proposed name. Compelling reasons include known and documented historical reference names specific to the history of the Town of Matthews. Subdivision names should minimize the use of words used two (2) or more times as part of names of streets (except streets internal to the subdivision), residential subdivisions, commercial subdivisions or apartment complexes within the county except where the new subdivision is an extension of or adjacent to an existing subdivision with the same name. Applicants may present requests to deviate from this ordinance prior to the completion of any new subdivision. Approval of requested names shall be reviewed on an individual basis and solely at the discretion of the Board of Commissioners. (Am. Ord. 2091, passed 6-8-15)

R. EASEMENTS. Easements for public and private utilities and drainage shall be provided on all lots when requested by an appropriate utility agency or as determined to be necessary by the Town Public Works Director. Easements shall be established to the width and in the locations required by the County Land Use and Environmental Services Agency, the Town Public Works Director and the Charlotte-Mecklenburg Utility Department as appropriate, but in no case shall be less than a minimum of ten feet (10') in width and shall be centered on rear and side lot lines. A utility easement not less than five feet (5') in width shall be provided along the front lot line. More than one easement may be required on a lot to accommodate the various utilities and drainage facilities.

S. PROPOSED WATER AND SEWERAGE SYSTEM. The preliminary subdivision plan shall be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

1. Where these systems are to be a part of the Charlotte-Mecklenburg public water and sanitary sewerage system, the acceptability of the proposed system should be attested by the approval of the preliminary subdivision plan by the utility department or a letter from the utility department stating the availability of water and/or sewer service and that the subdivision shall be allowed to connect to the system upon completion and dedication of the systems in the development.

2. When the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the proposed

systems must meet the Charlotte-Mecklenburg Utility Department Standards and shall be reviewed and approved by the agency or agencies with jurisdiction over the approval. Evidence must be provided by the developer prior to the Preliminary Plan approval of the required soil and site evaluation. Prior to the approval of the Final Plat evidence must be provided that both the sewer and water system designs meet Charlotte-Mecklenburg Utility Department Standards and have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question. Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the State Department of Environment and Natural Resources shall coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environment and Natural Resources.

T. STORM WATER. When a tract of land to be subdivided is required to comply with the Matthews Post Construction Ordinance, Chapter 8 of this Title, and/or the storm water management standards at § 155.704, then all requirements and procedures of these provisions shall be followed. (Ord. 1585, passed 8-13-07)

U. RESTRICTIONS ON THE SUBDIVISION OF LAND SUBJECT TO FLOODING. Lots that are subject to flooding shall not be established in subdivisions except as provided in Chapter 9. **[formerly § 152.21]**

V. BURIED UTILITIES. Except for overland drainage and detention, meters, and control boxes/equipment, all public and private utilities in the subdivision shall be buried.

W. CENTRALIZED BOX UNITS (CBUS) FOR USPS MAIL DELIVERY. Where the US Postal Service determines there is a need to utilize one or more Centralized Box Units (CBUs) in place of individual curb-side mailboxes, then the following dimensional and design criteria shall be followed:

1. Any CBU placement shall meet the requirements of the US Postal Service for unobstructed pavement and individual CBU unit(s), and shall be situated to meet ADA requirements. CBUs shall be placed where there is a logical, safe and direct walking path between the CBU location and the homes, offices, or other establishments being provided with mail delivery service.
2. Any CBU structure shall not extend over the required minimum width of the public sidewalk, over the street curb and gutter, or over any bike facility.
3. Any CBU shall not open directly toward travel lanes (bicycle or motor vehicle) within the street without adequate space for the carrier and users to open individual unit boxes to insert or retrieve mail.
4. A CBU shall be accessible from the adjacent sidewalk when one is provided.
5. A CBU shall be set back from the edge of pavement or back of curb at least five feet (5') when no sidewalk or pedestrian path is either immediately adjacent or connected by a minimum 5' wide solid surface path.
6. A CBU shall not be placed any closer to an intersection of two Class V, VI, or VI-L streets than forty feet (40').
7. A minimum of two (2) on- or off-street parking spaces shall be provided within eighty feet (80') of any CBU which is located on a Class IV or higher street. These parking spaces shall be placed such that the carrier or individual visiting the CBU does not need to cross a Class IV or higher street after exiting the vehicle.

155.405.5 Major and Minor Subdivision Classifications

For the purposes of this § 155.405, two (2) classes of subdivisions are established, minor subdivisions and major subdivisions, and are described as follows:

A. MINOR SUBDIVISIONS. Minor subdivisions require only approval of a Sketch Plan and a Final Plat in accordance with the requirements of §§ 155.405.6 and 155.405.8, respectively, of this Chapter 4. A minor subdivision has all of the following characteristics: **[formerly § 152.22]**

1. The subdivision has no more than nine (9) lots;
2. There is no installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site;
3. There are no new proposed public or private streets, roads, or alley rights-of-way to serve the lots being created, or improvements to an existing street;

4. There is no new installation of drainage improvements through one or more lots to serve one or more other lots; and,

5. There are no new extensions of any needed rights-of-way or easements for the water and sewer system operated by the Charlotte-Mecklenburg Utility Department.

B. MAJOR SUBDIVISIONS. Major subdivisions require the approval of a Sketch Plan, Preliminary Plan and a Final Plat as required by §§ 155.405.6, 155.405.7, and 155.405.8, respectively, of this Chapter. A major subdivision is one that fails to satisfy the requirements for a minor subdivision.

155.405.6 Sketch Plan Requirements and Procedures

A. SKETCH PLAN REQUIRED. As a prerequisite for application for Preliminary Plan or Final Plat, and in order to discuss the general purpose of the subdivision or development in the context of the Town's established community development policies and practices, and to ensure that required data is properly prepared and presented before expending the time and money in preparation and review of a Preliminary Plan (for Major Subdivisions) and a Final Plat (for Minor Subdivisions), any person desiring to subdivide land subject to this § 155.405 before filing a Preliminary Plan or Final Plat shall file a Sketch Plan of the subdivision with the Planning Office.

B. REQUIRED INFORMATION FOR SKETCH PLAN. When submitted, the Sketch Plan shall be on a topographical survey and shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It shall include the information identified in § 155.405.9.

C. SKETCH PLAN REVIEW PROCESS.

1. A Sketch Plan of the proposed subdivision prepared in accordance with the specifications and requirements set forth in § 155.405.6.B and § 155.405.9 shall be submitted to the Planning Office. Digital and/or print copies are to be submitted to the Planning Office and Mecklenburg County Land Use and Environmental Services Agency Department along with any applicable fees as may be required by each agency.

2. Within thirty (30) days for a Minor Subdivision, or forty five (45) days for a Major Subdivision, from the date of receipt of the Sketch Plan by the Planning Office the Plan Review Committee shall review, comment and approve the Sketch Plan only if all requirements of this Title are met. All proposed street names and the proposed subdivision name shall be sent to Mecklenburg County Land Use and Environmental Services Agency and local emergency agencies for comments. If necessary, the subdivider shall submit additional information and/or a revised Sketch Plan, as required, to the Planning Office. Within thirty (30) days from the date of receipt of the revised Sketch Plan or such additional information by the Planning Office the Plan Review Committee shall review the revised Sketch Plan or such additional information and, if all issues have been satisfactorily resolved, the Plan Review Committee shall approve the Sketch Plan with or without conditions.

3. EXPIRATION. Sketch Plan approval shall be effective for no more than one (1) year from the date of approval by the Plan Review Committee to submission of Preliminary Plan for a Major Subdivision or Final Plat for a Minor Subdivison. The time frame for expiration does not change with successive owners.

D. SKETCH PLAN IS NOT A COMMITMENT TO APPROVE. Approval of the Sketch Plan by the Plan Review Committee shall in no way be construed as constituting an official act of approval for recording the subdivision plat and does not vest the owner or developer with any developmental rights. **[formerly § 152.23]**

155.405.7 Preliminary Plan Requirements and Procedures

A. PRELIMINARY PLAN REQUIRED. Prior to filing an application for approval of the Final Plat for Major Subdivisions, a Preliminary Plan must be prepared and submitted as outlined here.

B. PRELIMINARY PLAN REVIEW PROCESS.

1. PLAN REVIEW COMMITTEE ACTION. A Preliminary Plan of the proposed subdivision prepared in accordance with the specifications set forth in § 155.405.9 shall be submitted to the Town Planning Office and Mecklenburg County Land Use and Environmental Services Agency. Digital and/or print copies are to be submitted to the Planning Office and Mecklenburg County Land Use and Environmental Services Agency along with any applicable fees as may be required by each agency.

2. The Plan Review Committee shall have sixty (60) days from the date of receipt of the Preliminary Plan by the Planning Office in which to review, comment and approve the Preliminary Plan if all requirements of this Title are met. All proposed street names and the proposed subdivision name shall be sent to local emergency agencies for comments and to Mecklenburg County Land Use and Environmental Services Agency for approval. If necessary, the applicant shall submit a revised Preliminary Plan to the Planning Office and to the County Land Use and Environmental Services Agency. The Plan Review Committee shall review the revised Preliminary Plan and, if all issues have been resolved, the Preliminary Plan will then be signed by County Land Use and Environmental Services Agency as meeting all required standards.

3. BOARD OF COMMISSIONERS ACTION. The Preliminary Plan shall be transmitted to the Board of Commissioners within thirty (30) days following the Plan Review Committee's determination that all required standards have been met. The Board of Commissioners shall approve or approve with conditions the Preliminary Plan. If the Preliminary Plan is conditionally approved, the minutes of the Board of Commissioners meeting shall state the measures necessary for the Final Plat to be approved.

4. EXPIRATION. Such Preliminary Plan approval shall be effective for no more than one (1) year from the date of approval unless, upon written request by the Applicant, the Board of Commissioners grants an extension of time for not more than one (1) additional year. The time frame for expiration does not change with successive owners.

C. RELEASE OF GRADING PERMIT. Preliminary Plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. The release of the grading permit may be authorized by the Mecklenburg County Land Use and Environmental Services Agency prior to the approval of the Preliminary Plan if the Plan Review Committee has signed it as meeting all required standards and the matter(s) staying the approval of the Preliminary Plan are not related to nor will have any effect on the need for grading on the site. Once the Preliminary Plan is approved, further approvals under this provision are not required for grading permits for individual sites within the subdivision.

155.405.8 Final Plat Requirements and Procedures

A. FINAL PLAT REQUIRED. Prior to recording a Final Plat, a Final Plat must be prepared and submitted to the Town Planning Office for review and approval by the Planning Director or designee.

B. REQUIRED INFORMATION FOR FINAL PLAT. The Final Plat shall include the information identified in § 155.405.9.

C. FINAL PLAT REVIEW PROCESS.

1. PREREQUISITES FOR FINAL PLAT SUBMITTAL. No Final Plat will be accepted for review unless the subdivider shall have:

   a. Obtained approval of the Sketch Plan for Minor Subdivisions, or the Preliminary Plan by the Board of Commissioners for Major Subdivisions in accordance with this Title; and,

   b. Completed the installation of required improvements in accordance with the approved Preliminary Plan and the requirements of this Title, including all required improvements to any existing street shown on the Preliminary Plan, and which improvements have been reviewed and inspected and approved by the Town Engineer and Mecklenburg County Land Use and Environmental Services Agency; or,

   c. Filed any required financial guarantees in a form acceptable to the Town and in an amount determined by the Mecklenburg County Land Use and Environmental Services Agency and/or Town Public Works Director as appropriate, with said guarantees sufficient to assure the completion of the required subdivision improvements and any required improvements to any existing street shown on the Preliminary Plan. These financial guarantees include but are not limited to: transportation infrastructure, storm water improvements, landscaping, open space, street lighting, and recreational lands.

   The Final Plat may include all or only a portion of the subdivision as proposed and approved in the Preliminary Plan provided that all required improvements to any existing street shown on the Preliminary Plan have been completed or a guarantee in an amount and in such form as approved by the Town for such improvements prior to such Final Plat approval.

2. PLAN REVIEW COMMITTEE ACTION. Within one (1) year of approval of the Sketch Plan (for Minor Subdivisions) the subdivider shall submit the Final Plat. For Major Subdivisons, a Final Plat may

be submitted for the full development or for a portion of the subdivision as proposed and approved on the Preliminary Plan, provided that all required improvements to any existing street shown on the Preliminary Plan are provided for prior to any Final Plat approval. The Final Plat shall be prepared in accordance with the specifications of § 155.405.9.

3. MECKLENBURG COUNTY LAND USE AND ENVIRONMENTAL SERVICES AGENCY ACTION. The official plat(s) for recording, together with required copies and "as built" drawings and electronic copies as required, shall be presented to the Mecklenburg County Land Use and Environmental Services Agency, who shall sign the Final Plat(s) within thirty (30) days after submission as being in compliance with this Title.

4. EFFECT OF APPROVAL. The approval of a Final Plat shall not be deemed to constitute or cause the acceptance by the Town of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Town may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes
within the corporate limits. Acceptance or dedication of lands or facilities shall not place on the Town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, operate, repair or maintain any street. The Town has no obligation to open any street even after acceptance of dedication.

5. TOWN ACTION. Upon Mecklenburg County Land Use and Environmental Services Agency determination that all requirements for Final Plat approval have been met, the Town Public Works Director/Town Engineer shall determine any required financial guarantees for streets, storm water improvements or landscaping and receive such guarantees from the subdivider. The Town Planning Director shall determine and receive any fees due for open space. When all financial requirements to the Town have been completed, the Planning Director or designee shall sign the Final Plat as approved by the Town, and shall certify the Final Plat as meeting requirements for recordation.

6. RECORDING THE FINAL PLAT. The subdivider shall file the approved Final Plat with the Register of Deeds for Mecklenburg County for recording within thirty (30) days after the date of approval; otherwise, the approval shall be null and void. The subdivider shall provide copies of the recorded plat to the Town in such number and form as determined by the Planning Director within five (5) business days following recording of the Final Plat.

155.405.9 Contents of the Sketch Plan, Preliminary Plan and Final Plat

A. REQUIRED INFORMATION. Any person proposing to subdivide any parcel of land in the Town shall file with the Planning Director and Mecklenburg County Land Use and Environmental Services Agency a Sketch Plan, Preliminary Plan and a Final Plat as required and described in this § 155.405 in a quantity and form as required by the Planning Director. The Sketch Plan, Preliminary Plan and a Final Plat shall include the following information:

GENERAL INFORMATION:	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
Title Block containing the following information:			
▪ Name of proposed subdivision **[formerly § 152.25.H]**	■	■	■
▪ Owner's name **[formerly § 152.25.H]**	■	■	■
▪ Location (including Town, county, state) **[former 152.26.A.4]**	■	■	■
▪ Date or dates the survey was conducted and the plat prepared		■	■
▪ A scale of drawing expressed in feet per inch listed in words and graphics and which scale shall not be smaller than one hundred feet (100') to the inch **[formerly § 152.25.I]**	■	■	■
▪ Name, address, registration number, and seal of the Registered Land Surveyor **[formerly § 152.25.H]**		■	■
▪ The name of the subdivider	■	■	■
A vicinity map showing the location and relationship between the proposed subdivision and surrounding area **[formerly § 152.25.L]**		■	■
Corporate limits, county lines if on the proposed subdivision	■	■	■
The names, addresses, and telephone numbers of all owners, mortgagees, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision **[formerly § 152.25.H]**		■	
The registration numbers and seals of the professional engineers		■	■
Date of preparation of the drawing **[formerly § 152.25.I]**	■	■	■
North arrow and orientation **[formerly § 152.25.I]**	■	■	■
The boundaries of the tract or portion to be subdivided, distinctly and accurately represented with all dimensions shown **[formerly § 152.25.A]**	■		
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands **[formerly § 152.26.A.1]**			■
The names of owners of adjoining property	■	■	
The names of any adjoining subdivisions of record or proposed and under review		■	■
Traffic impact analysis		■	
Site calculations, including:			
▪ Total acreage of the tract to be subdivided	■	■	■
▪ Acreage in parks, recreation and open space areas, and non-residential areas	■	■	■
▪ Total number of parcels created	■	■	■
▪ Acreage/square footage of the smallest lot in the proposed subdivision	■	■	■
▪ All applicable certificates as required at § 155.405.9.B			■
▪ All mapping shall comply with GS 47-30		■	■
▪ A digital copy of the plat in a file format acceptable to the Town	■	■	■
A declaration of understanding, on form provided at §155.405.11, that zoning variances associated with the building envelope on any lots within the proposed subdivision are not anticipated (Am. Ord. 2025A, passed 6-9-14)	■		

Maximum sheet or page size for all maps or drawings submitted shall be twenty four inches (24") by thirty six inches (36")	■	■	■
A signed declaration of intent to provide land dedication for public recreation and/or fees-in-lieu for each new single-family lot	■		

EXISTING CONDITIONS:	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
The zoning classification of the tract to be subdivided and on each adjoining property	■	■	
Existing property lines on the tract to be subdivided and within one hundred fifty feet (150') on all adjoining property		■	
Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and within one hundred fifty feet (150') on all adjoining property **[formerly § 152.25.A]**	■	■	
The location of any archeological features	■	■	
Wooded areas, marshes, swamps, rock outcroppings, ponds, lakes, streams or streambeds, wetlands, and any other natural features affecting the site	■	■	
Original contours at intervals not greater than two feet (2') for the entire area to be subdivided and extending into adjoining property for a distance of three hundred feet (300') at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum when a benchmark is located within two thousand feet (2,000') of the proposed subdivision **[formerly § 152.25.C]**	■	■	
The exact location of the flood hazard, floodway, and floodway fringe from the Flood Insurance Map or surveys of the property in question **[formerly § 152.25.E]**	■	■	■
Tree survey and vegetation survey	■	■	
The location, sizes, inverts, dimension and material type of all existing sanitary sewer, water main and storm sewer utilities within the proposed subdivision and immediately adjacent to the proposed subdivision **[formerly § 152.25.B]**	■	■	
SWIM buffers, as required	■	■	■

PROPOSED CONDITIONS:	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
Building lines (setbacks) for each lot **[formerly § 152.25.E]**		■	■
Proposed lot lines, with approximate dimensions **[formerly § 152.25.E]**	■	■	
The lots numbered consecutively throughout the proposed subdivision		■	■
The following information and data concerning proposed streets:			
▪ Existing and platted streets on and within one hundred fifty feet (150') of adjoining properties and in the proposed subdivision	■	■	
▪ Rights-of-way, location, and dimensions, in accordance with § 155.701 **[formerly § 152.25.E]**	■	■	■
▪ Pavement widths **[formerly § 152.25.E]**		■	
▪ Approximate grades		■	
▪ Design engineering for all corners and curves		■	
▪ Typical street cross-sections showing width and construction **[formerly § 152.25.J]**		■	
▪ Existing and proposed street names **[formerly § 152.25.H]**	■	■	■

PROPOSED CONDITIONS *(Continued)*::	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
▪ Type of street dedication; all streets shall be designated either public or private	■	■	■
Proposed profiles of roadways. Where a proposed street is an extension of an existing street, the profile shall be extended to include three hundred feet (300') of the existing roadway and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where that street may be expected to extend into the adjoining tract of land, the profile shall be extended to include three hundred feet (300') of the adjoining tract **[formerly § 152.25.K]**		■	
Proposed Grading Plan showing proposed contours for the full-width of all street rights-of-way, along drainage channels, and in all other portions of the subdivision where extensive grading is planned. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary. **[formerly § 152.25.D]**		■	
The location and dimension of all of the following, if proposed:			
▪ Utility and other easements		■	■
▪ Riding trails		■	
▪ Natural buffers		■	
▪ Pedestrian or bicycle paths		■	
▪ Parks and recreation areas with specific type indicated **[formerly § 152.25.E]**		■	■
▪ Areas to be dedicated to or reserved for public use **[formerly § 152.25.E]**		■	■
▪ Areas to be used for purposes other than residential with the zoning classification of each stated		■	
▪ The future ownership of recreation and open space lands in the proposed subdivision	■	■	
The location of all proposed storm water retention and water quality facilities, best management practices, and rain gardens	■		■
The location of all proposed storm drains and retention facilities, best management practices, rain gardens, swales and appurtenances with grades, inverts and sizes indicated, together with a map of the drainage area(s) above or below the proposed storm drains, and a copy of the data used in determining the sizes of drainage pipes and structures. These drawings shall be coordinated with the Streetscape Trees to clearly indicate the proposed placement of any storm water feature does not conflict with any existing or proposed new streetscape tree. **[formerly § 152.25.G]**		■	
The location, type, and design of proposed traffic calming devices, which shall be coordinated with and approved by the Town Public Works Director **[formerly § 152.25.F]**		■	
Street lighting plan, as outlined in § 155.609		■	
The proposed method of water supply and sewer disposal. Where public water or public sewer is not available for extension to each lot in the subdivision, a written statement from the Mecklenburg County Department of Environmental Health shall be submitted with the Preliminary Plan indicating that each lot has adequate land area and soil conditions to accommodate the proposed methods of water supply and sewage disposal. **[formerly § 152.25.M]**		■	
Profiles based upon mean sea level datum for sanitary sewers and storm sewers		■	
The accurate location of monuments which must be established at or near the corners of all blocks including coordinates computed from the North Carolina Plane Rectangular Coordinate System, provided a control monument is within two thousand five hundred feet (2,500') of the subdivision. These monuments shall be concrete posts not less than thirty inches (30") long, four inches (4") at the top and six inches (6") at the bottom with a copper pin in the top to mark the location of the designated point. The monuments shall be placed flush with the level of the ground. The corners of all lots and parcels shall be marked with iron posts driven flush with the ground. Iron posts shall be placed where lot boundaries intersect railroad and State Department of Transportation rights-of-way. **[formerly § 152.26.A.5]**			■

PROPOSED CONDITIONS *(Continued)*:	SKETCH PLAN	PRELIMINARY PLAT	FINAL PLAT
Sufficient surveying data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, boundary lines of reserved or dedicated areas, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distance for the center line of curved property lines that are not the boundary line of curved streets required or of record in Mecklenburg County. All dimensions shall be measured to the nearest one-tenth foot and all angles to the nearest minute. The maximum allowable error of linear closure shall not be in excess of 1:10,000. In closed traverses, the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller **[formerly § 152.26.A.3]**			■
A copy of the proposed conditions, covenants and restrictions or similar deed restrictions (such restrictions are mandatory when private recreation areas or open space are established in the proposed subdivision).		■	■
Where land disturbing activity is one acre or more in size, a copy of the erosion control plan submitted to the appropriate office of the North Carolina Department of the Environment and Natural Resources, which complies with GS 113A, Article 4, Sedimentation and Pollution Control Act of 1973. Evidence of approval shall be provided prior to submittal of the Final Plat for approval		■	
Topographic maps with contour intervals no greater than two feet (2') at a scale no less than one inch (1") equals fifty feet (50')		■	
404 Wetlands areas as determined by the US Army Corps of Engineers		■	
A timetable for estimated phasing, if intended, and completion of grading, infrastructure improvements, and landscaping and exterior lighting within public rights-of-way and land to be dedicated to the public in the area covered by the Preliminary Plan **[formerly § 152.25.O]**		■	
When any portion of the property included in a plat must adhere to the requirements of Chapter 8, Post Construction Ordinance and/or § 155.704, then the specific notations or management plan as called for in that regulation must be included on the Final Plat drawing, and a copy of the operation and maintenance agreement and BMP Maintenance Plan stamped by Mecklenburg County Register of Deeds Office with deed book and page numbers must be provided with the plat. (Ord. 1585, passed 8-13-07) **[formerly § 152.26.A.6]**			■
Construction traffic bond submitted		■	
Construction traffic routing plan		■	
Subdivision improvement guarantee, in accordance with § 155.405.10 **[formerly § 152.26.A.8, relocated to § 155.405.10]**			■
Tree maintenance and /or replacement guarantee, in accordance with § 155.405.10 **[formerly § 152.26.A.10, relocated to § 155.405.10]**			■
Recreation Land fees-in-lieu when new single-family units are created			■
Any other information considered by either the subdivider or the Planning Director or designee to be pertinent to the review of the Final Plat. **[formerly § 152.26.A.7]**			■

B. REQUIRED CERTIFICATIONS FOR FINAL PLAT. In addition to the information and data required in § 155.405.9.A, the Final Plat shall include the following certifications:

1. OWNERSHIP AND DEDICATION CERTIFICATE.

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I (we) dedicate all sewer lines and all water lines to the Charlotte- Mecklenburg Utility Department, if applicable.

_____ _____

Date *Owner(s)*

2. CERTIFICATE OF SURVEYORS RESPONSIBILITIES AND ACCURACY.

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, Page _____, and/or other description); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1:_____; that this plat was prepared in accordance with NCGS § 47-30 as amended Witness my original signature, registration number and seal this _____ day of_____, 20____.

_____

_____

Surveyors Signature
Registration Number

3. TOWN APPROVAL CERTIFICATE.

I hereby certify that this subdivision plat has been found to comply with the subdivision requirements of the Town of Matthews Unified Development Ordinance and is approved for recording in the office of the Register of Deeds for Mecklenburg County. Streets, utilities, and other public improvements have been installed in an acceptable manner and according to Town specifications as shown on this plat, or a financial guarantee has been posted to ensure installation and completion of such improvements. The Town accepts the dedication of streets, easements, public parks, and open space as indicated, but the Town assumes no responsibility to open or maintain any streets, easements, rights-of-way, or other lands shown for public purposes until in the opinion of the Board of Commissioners of the Town of Matthews it is in the public interest to do so. Said approval expires if not recorded on or before _____(date) and must be resubmitted for approval by the Town.

_____ _____

Date *Planning Director or designee, Town of Matthews*

4. BMP MAINTENANCE CERTIFICATE.

The property in this subdivision plat contains water quality features that must be maintained according to the Operations and Maintenance Agreement and Plan recorded in Deed Book_____and Page_____.

5. ENGINEERING REQUIREMENTS CERTIFICATE.

The streets, storm drainage and other required improvements have been installed in an acceptable manner and in accordance with Town specifications and standards or a guarantee in an acceptable amount and form has been received.

_____ _____

Date *Mecklenburg County LUESA*

6. REVIEW OFFICER'S CERTIFICATE.

State of North Carolina)
County of Mecklenburg)

I,_____, Review Officer of Mecklenburg County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____ _____

Date *Review Officer*

7. SEWAGE DISPOSAL SYSTEMS CERTIFICATE. *(This Certificate is required when the proposed sewage disposal system is not to be provided by the Charlotte Mecklenburg Utility Department)*

I hereby certify that the sewage disposal system installed, or proposed for installation, in_____subdivision fully meets plans and specifications approved by the North Carolina Department of Environment and Natural Resources.

_____ _____

Date *Professional Engineer*

8. NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATE. (*This Certificate is required when the proposed subdivision has frontage along a street under the jurisdiction of the North Carolina Department of Transportation)*

APPROVED:

_____ _____

Date *District Engineer*

C. GUARANTEES. In the event the Final Plat involves the installation and construction of public improvements required by this Title, the subdivider shall provide in a form acceptable to the Town and Mecklenburg County Land Use and Environmental Services Agency a subdivision improvement guarantee in the manner

prescribed in § 155.405.10.

D. AS-BUILT DRAWINGS REQUIRED. AutoCAD compatible digital as-built drawings and plans of all water system, sewer system, and storm drainage system facilities shall be prepared by the subdivider and submitted to the Town Engineer and Mecklenburg County Land Use and Environmental Services Agency at the time of request for Final Plat. Where financial guarantees are provided in lieu of completed improvements at the time of Final Plat approval, then the as-built drawings shall be required at time of the release of any surety for required improvements. These as-built plans must show all easements and/or rights-of-way to demonstrate that the facilities are properly placed. **[formerly § 152.26.A.9]**

155.405.10 Subdivision Improvement Guarantees

A. PURPOSE AND INTENT. Final approval of a Final Plat is subject to i) installation of or provision for all improvements required by this Title, or ii) the subdivider filing a financial guarantee in lieu of completing, installing and dedication of all improvements prior to Final Plat approval, and iii) the performance of all other obligations required by this Title and in accordance with this § 155.405.10.

B. TYPES OF GUARANTEES. For the purpose of this Section, there shall be the following types of subdivision improvement guarantees (the "Guarantee"):

1. Type 1 Guarantee, shall refer to a subdivision improvement guarantee required for the approval of a Final Plat following construction, installation and provision of improvements required by this Title, except the final one inch (1") surface course when paving according to Chapter 7, and before issuance of any building permits in the subdivision.

2. Type 2 Guarantee, shall refer to a subdivision improvement guarantee required for the approval of a Final Plat prior to construction, installation and provision of improvements required by this Title.

3. Type 3 Guarantee, shall refer to all other guarantees required by this Title.

C. GUARANTEE REQUIREMENTS.

1. TYPE 1 GUARANTEE. Prior to release of the final plat for recordation and before issuance of any building permits, a surety bond, letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit, in an amount determined by Mecklenburg County Land Use and Environmental Services Agency shall be filed with the County. This performance guarantee will assure that the final one-inch surface course will be applied to each street once the street has met the conditions outlined in Chapter 7 for acceptance for maintenance. The delayed application of the surface course shall be considered as a testing period for the streets installed in order that any defects or deficiencies will have had at least one full cycle of seasons in which to appear, except as provided for in Chapter 7 where the Board of Commissioners waives the one (1) year waiting period. In the event that defects or deficiencies do appear, the developer shall repair those defects in a manner approved by the Town Public Works Director, Town Engineer, and Mecklenburg County Land Use and Environmental Services Agency prior to applying the final one-inch surface course. **[formerly § 152.24.G]**

2. TYPE 2 GUARANTEE. Where the improvements required by this Title have not been completed prior to the submission of the Final Plat for approval, the approval of the Final Plat shall be subject to the subdivider filing a surety bond, letter of credit, or other form of guarantee that provides equivalent security with Mecklenburg County Land Use and Environmental Services Agency and/or the Town Public Works Director, in an amount to be determined by the appropriate agency, with sureties satisfactory to the Town guaranteeing the installation and construction of the required improvements. Upon completion of the improvements as required by this Title, written notice shall be given by the subdivider to Mecklenburg County Land Use and Environmental Services Agency and the Town Engineer. Upon receipt of this notice, Mecklenburg County Land Use and Environmental Services Agency and the Town Engineer shall cause an inspection of the improvements to be made and, if all outstanding items have been satisfactorily resolved, shall, within thirty (30) days of the date of notice, authorize in writing the release of the surety given. **[formerly § 152.26.A.8]**

3. TYPE 3 GUARANTEE. The amount of Type 3 Guarantees shall be determined as follows:

A. TREE MAINTENANCE AND REPLACEMENT GUARANTEE. Where the improvements required by this Title include a future guarantee for tree maintenance and/or replacement, the approval of the Final Plat shall be subject to the subdivider filing a surety bond, cash bond, or irrevocable letter of credit with the Town in an amount to be determined by the Town to guarantee tree life and health for three (3) years. Upon conclusion of the three (3) year period, written notice shall be given to the Town by the subdivider, at which time the Town Public Works Director shall cause an inspection of the trees within thirty (30) days of the date of the notice, and upon satisfactory completion, shall authorize in writing the release of the surety given. (Ord. No. 1618, passed 4-14-08) **[formerly § 152.26.A.10]**

B. (RESERVED)

D. AS-BUILT DRAWINGS REQUIRED. As a condition of release of any Guarantee, AutoCAD compatible digital as-built drawings and plans of all water system, sewer system, and storm drainage system facilities shall be prepared by the subdivider and submitted to the Town Public Works Director and Mecklenburg County Land Use and Environmental Services Agency at the time of request for release of any surety for required improvements. These plans shall show all easements and/or rights-of-way to demonstrate that the required improvements and facilities are properly placed.

(Ord. 2025A, passed 6-9-14; Am. Ord. 2141, passed 4-11-16)

155.405.11

DECLARATION OF UNDERSTANDING THAT
ZONING VARIANCES ARE NOT ANTICIPATED IN THIS SUBDIVISION
FOR THE PURPOSE OF INADEQUATE BUILDABLE AREA

Date _____

Name of Developer _____

Name of Subdivision _____

Location of Subdivision _____

The above-named subdivision is being developed within the zoning and subdivision jurisdiction of the Town of Matthews.

The above-named developer, by signing this statement, agrees that he/she is aware of the zoning dimensional requirements for potential structures likely to be constructed within the above-named development, and does not anticipate any zoning variances to be requested on individual lots due to insufficient buildable area.

1. This declaration is intended to verify that the lots being designed in the above-named subdivision will have adequate building envelopes, after applying all required limiting factors that can reasonably be expected to be known prior to construction of dwelling unit or other structures, including but not limited to: setbacks, yards, easements, floodplain lines, septic drain fields and reserve fields, demolition disposal sites, on-site parking, etc.

   The zoning on this property is: _____

   The dimensional requirements of this/these zoning district(s) are:

   Min. lot size _____ _____

   Min. lot width _____ _____

   Min./Max front setback _____ _____

   Min. side yard _____ _____

   Min. rear yard _____ _____

   Min./Max. height _____ _____

   Other (specify) _____ _____

   (Attach additional pages if multiple zoning districts are involved)

2. It is understood that the developer of the subdivision may or may not be involved in any subsequent design or siting of buildings and structures, and is not guaranteeing all possible structural configurations will fit each lot.

3. Where the developer of the land will not be the ultimate user, the developer, by signing this declaration, agrees to inform buyers of lots, dwellings, or other interests, that this subdivision was designed to meet zoning dimensional requirements, and that variances to zoning dimensional requirements were not anticipated based on the physical layout design of the property.

_____

Signature of Developer Title Date

_____

Development Company

(Am. Ord. 2025A, passed 6-9-14)

Chapter 5. Use Districts

155.501. Zoning Districts Established

[formerly known as § 153.050]

In order to carry out the recommendations of the Matthews Land Use Plan and the purposes and provisions of this Title, the Town of Matthews is divided into the following zoning and use districts. Districts are grouped as Traditional/Parallel Traditional, Conditional-Only, or Overlay districts.

155.501.1 Traditional Districts

A. Traditional zoning districts are those which have generally been in use in the Town of Matthews for many years and are being brought forward with limited revisions. They are generally listed from most restrictive to least restrictive. Traditional districts generally allow a group of uses matching their descriptive title, as well as many less intensive uses. Each Traditional district has an individual set of dimensional requirements, and will automatically refer to other chapters within this Title for minimum requirements of parking, lighting, landscaping, and other development criteria. Traditional districts may also have an individual set of development standards.

B. Traditional zoning districts are:

Residential Single-Family	Residential Multi-Family	Nonresidential
R-20	R-15MF	R/I
R-15	R-12MF	O
R-12		HUC
R-9		B-1
R-MH		B-3
		B-D
		B-H
		I-1
		I-2

C. Each Traditional zoning district has its individual purpose and intent statement at § 155.502. Whenever appropriate, each Traditional zoning district shall follow the development criteria at §§ 155.604.1 and 155.604.2 Table of Dimensional Standards, § 155.606 for landscaping, § 155.607 for parking, § 155.608 for signs, and § 155.609 for exterior lighting. When a use is identified as allowed under prescribed conditions for a Traditional district, then the prescribed conditions explained at §155.506 shall also apply to

that use in the Traditional zoning district. **[formerly portions of § 153.054 through § 153.062]**

155.501.2 Parallel Traditional Districts

A. The provision for Parallel Traditional zoning districts is established to address those situations where an allowed use within a particular Traditional district may be acceptable at a specific location when additional voluntary conditions are offered. The process of designating a Parallel Traditional district allows the Board of Commissioners to approve a proposal for a specific use or list of uses with reasonable conditions to assure compatibility with surrounding properties. Any use permitted under this process must also conform to the development regulations for the corresponding Traditional zoning district. **[formerly § 153.200(C)]**

B. Potential uses which may be considered for a Parallel Traditional zoning district are restricted to those uses permitted in the corresponding Traditional zoning district. Uses permitted in Parallel Traditional zoning districts are subject to all applicable development standards and requirements for that use listed in the corresponding Traditional district.

C. The application for a Parallel Traditional zoning district must contain information and/or site plans which indicate all the principal and accessory uses which are or may be proposed to be developed on the site. Subsequent to the approval of a Parallel Traditional zoning district, only those principal and accessory uses indicated on the approved plan may be constructed and operated on the site.

D. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time. Where a limited selection of uses is offered but a definite physical layout and/or related details of development design have not yet been determined, voluntary conditions for subsequent site plan and elevation plan approval may be incorporated into the conditions for approval.**[formerly § 153.200(C)]**

E. Applications for Parallel Traditional zoning district designation shall be considered only if the application is made by the owner of the property or his/her authorized agent. All applications must include a schematic plan drawn to scale and supporting text which will become a part of the ordinance amendment. The application should include at least the items listed below.

1. A boundary survey showing the total acreage, present zoning classifications, date, and north arrow.
2. The owners' names, addresses, and the tax parcel identification numbers of all adjoining properties, those properties across a public street from and all properties which have any portion less than one hundred foot (100') distant from any portion of the tax parcels being requested for rezoning.
3. All existing easements, reservations, and rights-of-way, and all yards required for the zoning district requested.
4. Delineation of areas within the regulatory floodplain as shown on official FEMA flood maps for Mecklenburg County.
5. Proposed uses of land and structures. An application may either be a concept plan which includes a commitment to subsequent site plan and elevation plan approval, or a site specific site plan showing defined footprints for physical improvements to the site.
   a. Conceptual plan with later site plan and elevation approvals: For residential uses this should include the number of units and an outline of the area where the structures will be located. For nonresidential and mixed uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located. An estimated schedule for build-out, and proposed phasing shall be included.
   b. Site specific plans: The allowed use(s); location; approximate square footage; and approximate dimensions of each proposed structure shall be placed on a scale drawing of the site, along with required and provided parking; pedestrian amenities; storm water facilities; loading facilities; solid waste and recycling facilities; required and provided landscaping and screening which will include walls, fences or planting areas as well as treatment of any existing natural features; recreational amenities and open space; proposed number, type, and location of signs; and any other physical improvements proposed for the site.
6. Traffic, parking, and circulation plans for motorized vehicles, bicycles and pedestrians, showing the proposed locations and arrangement of parking spaces, sidewalks and pathways, loading area

and dumpster maneuvering space, fire truck access and turn-around locations, and access points to adjacent streets. For conceptual plans, a commitment to submittal of the full circulation plan with any required site plan and elevation plan.

7. A traffic impact analysis is required at time of a request for a Parallel Traditional zoning district or revision to an existing Parallel Traditional zoning district if the subject site is for, or could accommodate, fifty (50) or more dwelling units, or for any nonresidential or mixed use development that meets one or more of the following: covers more than two (2) acres; includes more than three (3) building pads; provides an assembly area for more than four hundred (400) persons; involves office or sales floor area greater than twenty thousand (20,000) gross square feet; is within one hundred fifty (150) lineal feet of any intersection of two (2) designated thoroughfares; within five hundred (500) lineal feet of any public road intersection currently operating as a Level of Service D, E, or F; and/or involves service or delivery vehicles in excess of one (1) ton.**[formerly § 153.201(A) & (B) & Zoning Application Instructions]**

F. Following Board of Commissioners approval of a Parallel Traditional zoning district, the property shall be identified on the zoning maps by the appropriate Parallel Traditional district designation. This designation is the underlying Traditional district designation plus the letters "(CD)". **[formerly § 153.203]**

G. If an application for a Parallel Traditional zoning district is approved, all conditions attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. **[formerly § 153.201(D)]**

H. Any modifications to an approved plan, any revisions to commitments or conditions of development, or any changes in the permitted principal or accessory uses shall be treated the same as changes to the zoning map and shall be processed as an amendment as provided in § 155.401.1 and § 155.401.4. Minor changes in the detail of an approved plan which will not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted or increase the density or intensity of development, or will not increase the off-street parking ratio or reduce the yards provided at the boundary of the site may be approved as an Administrative Amendment as provided in § 155.401.5.A. Approved Parallel Traditional districts which choose to incorporate requirements for subsequent site plan and/or elevation plan approval by the Board of Commissioners shall follow the process as given in § 155.401.5.B. **[formerly § 153.201(E)]**

155.501.3 Conditional-Only Districts

A. Conditional-Only zoning districts have been created to accommodate specific development goals in strategic locations throughout the Town of Matthews boundaries as explained in the Matthews Land Use Plan. These Conditional-Only districts are eligible for designation on parcels of land only when the property owner initiates a request for the designation along with a specific plan for development. Development within a Conditional-Only zoning district shall be in conformance with the voluntary conditions imposed at time of zoning approval.

B. Conditional-Only zoning districts are:

R-VS Residential - Varied Styles

CrC Crestdale Conservation

SRN Small Residential Neighborhood

C-MF Concentrated Multi-Family

MUD Mixed Use Development

TS Transit Supportive

B-1SCD Shopping Center

ENT Family Entertainment

AU Adult Uses

C. Each Conditional-Only zoning district has its individual purpose and intent statement at § 155.503. Unless specifically exempted elsewhere in this Title, each Conditional-Only district shall follow the development criteria at § 155.604.3, 4, and/or 5 Table of Dimensional Standards, § 155.606 for landscaping, § 155.607 for parking, § 155.608 for signs, and § 155.609 for exterior lighting. When a use is allowed under prescribed conditions for a Conditional-Only district, then the prescribed conditions explained at § 155.506

shall also apply to the use in the Conditional-Only zoning districts.

D. Applications for Conditional-Only zoning district designation shall be considered only if the application is made by the owner of the property or his/her authorized agent. All applications must include a schematic plan drawn to scale and supporting text which will become a part of the zoning conditions applied to the site. The application should include at least the items listed below.

1. A boundary survey showing the total acreage, present zoning classifications, date, and north arrow.

2. The owners' names, addresses, and the tax parcel identification numbers of all adjoining properties, those properties across a public street from and all properties which have any portion less than one hundred foot (100') distant from any portion of the tax parcels being requested for rezoning.

3. All existing easements, reservations, and rights-of-way, and all yards required for the zoning district requested.

4. Delineation of areas within the regulatory floodplain as shown on official FEMA flood maps for Mecklenburg County.

5. Proposed uses of land and structures. An application may either be a concept plan which includes a commitment to subsequent site plan and elevation plan approval, or a site specific site plan showing defined footprints for physical improvements to the site.

   a. Conceptual plan with later site plan and elevation approvals: For residential uses this should include the number of units and an outline of the area where the structures will be located. For nonresidential and mixed uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located. An estimated schedule for build-out, and proposed phasing shall be included.

   b. Site specific plans: The allowed use(s); location; approximate square footage; and approximate dimensions of each proposed structure shall be placed on a scale drawing of the site~~;~~, along with required and provided parking; pedestrian amenities; storm water facilities; loading facilities; solid waste and recycling facilities; required and provided landscaping and screening which will include walls, fences or planting areas as well as treatment of any existing natural features; recreational amenities and open space; proposed number, type, and location of signs; and any other physical improvements proposed for the site.

6. Traffic, parking, and circulation plans for motorized vehicles, bicycles and pedestrians, showing the proposed locations and arrangement of parking spaces, sidewalks and pathways, loading area and dumpster maneuvering space, fire truck access and turn-around locations, and access points to adjacent streets. For conceptual plans, a commitment to submittal of the full circulation plan with any required site plan and elevation plan.

7. A traffic impact analysis is required at time of a request for a Conditional-Only zoning district or revision to an existing Conditional-Only zoning district if the subject site is for, or could accommodate, fifty (50) or more dwelling units, or for any nonresidential or mixed use development that meets one (1) or more of the following: covers more than two (2) acres; includes more than three (3) building pads; provides an assembly area for more than four hundred (400) persons; involves office or sales floor area greater than twenty thousand (20,000) gross square feet; is within one hundred fifty (150) lineal feet of any intersection of two (2) designated thoroughfares; within five hundred (500) lineal feet of any public road intersection currently operating as a Level of Service D, E, or F; and/or involves service or delivery vehicles in excess of one (1) ton**.[formerly § 153.201(A) & (B) & Zoning Application Instructions]**

E. In considering an application for a Conditional-Only zoning district, the Board of Commissioners may attach reasonable and appropriate conditions to the location, nature, and extent of each use, as mutually agreed upon by the property owner or his/her authorized agent. In evaluating an application, the Board of Commissioners may consider: whether the request is reasonable and consistent with the policies and objectives of the Matthews Land Use Plan and other adopted plans or studies covering the subject site; what potential adverse impacts could be created on the surrounding area; what land use, transportation, economic, employment, social, and environmental amenities and benefits may result from completion of

the proposed development plans. **[formerly 153.201(C)(1) & (2)]**

F. Following Board of Commissioners approval of a Conditional-Only zoning district, the property shall be identified on the zoning maps by the appropriate Conditional-Only district designation. **[formerly § 153.203]**

G. If an application for a Conditional-Only zoning district is approved, all conditions attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. **[formerly § 153.201(D)]**

H. Any modifications to an approved plan, any revisions to commitments or conditions of development, or any changes in the permitted principal or accessory uses shall be treated the same as changes to the zoning map and shall be processed as an amendment as provided in § 155.401.1 and § 155.401.4. Minor changes in the detail of an approved plan which will not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted or increase the density or intensity of development, or will not increase the off-street parking ratio or reduce the yards provided at the boundary of the site may be approved as an Administrative Amendment as provided in § 155.401.5.A. Approved Conditional-Only zoning districts which choose to incorporate requirements for subsequent site plan and/or elevation plan approval by the Board of Commissioners shall follow the process as given in § 155.401.5.B. **[formerly § 153.201(E)]**

I. EARLY DESIGNATION. Applications for zoning designation to the CrC, SRN, C-MF, MUD, TS, or ENT Conditional-Only districts may be submitted for consideration prior to design for specific development activity under the following standards:

1. This option may be used to designate parcels to the TS Transit Supportive District when a parcel for a transit station location has been identified by the appropriate transit agency, and any parcel requesting such early designation is within two thousand five hundred feet (2,500') of the transit station parcel.

2. This option may be used to designate parcels to the ENT Family Entertainment District when they are identified in an adopted small area plan as being within the geographic boundary of the proposed entertainment focused mixed use neighborhood or within the county Sportsplex.

3. This option may be used to designate parcels to the CrC Crestdale Conservation District when the parcels are within or adjacent to the land area traditionally considered to be part of the Crestdale community.

4. This option may be used to designate parcels to the MUD Mixed Use Development, SRN Small Residential Neighborhood, or C-MF Concentrated Multi-Family Districts when the Matthews Land Use Plan or an adopted small area plan identifies the affected parcels as being located where a mixed use, urban-scale neighborhood would be appropriate.

5. Any application for early designation to one of the listed Conditional-Only districts shall include conditions in written and illustrative formats which may include but are not limited to: a list of expected land uses; styles/types of structures; architectural themes; proposed streetscaping treatment; proposed pedestrian and bicycle facilities; public amenities to be provided; minimum and/or maximum build-out; building envelopes; and a statement that a site plan and/or elevation plan will be reviewed and approved by the Board of Commissioners prior to any land disturbing activity on the site.

6. At the time any property owner or agent for an owner of a parcel or parcels with early designation desires to begin any land-disturbing activity, they shall submit all plans and documents as detailed in this § 155.501.3 above plus § 155.401.6 and shall meet standards at § 155.503.2 for the CrC district, § 155.503.3 for the SRN district, § 155.503.4 for the C-MF district, § 155.503.5 for the MUD district, § 155.503.6 for the TS district, or § 155.503.8 for the ENT district, along with their request for a site plan and/or elevation plan review and approval by the Board of Commissioners. The site plan and/or elevation plan documents shall include a listing of all the conditions adopted as a part of the early designation (as listed in § 155.501.3.I.5 immediately above), and indicate how each one is being met. This complete submission package shall be reviewed by Town staff in the same way as is done for a full rezoning application, with a report and recommendations provided by Town staff to the Board of Commissioners. The site plan and/or elevation plan approval shall follow the process outlined at § 155.401.5.B. No permits shall be issued and no land-disturbing activity on-site may take place until the site plan and/or elevation plan has

received approval from the Board of Commissioners.

155.501.4 Overlay Districts

A. Overlay zoning districts are created to provide a unique and consistent set of standards for physical development of set geographic areas. These contained areas have special features which need to be preserved and protected in order to allow these locations to fulfill their potential as special economic or environmental assets of the Town. Generally the development criteria provided for each Overlay district shall be applied in addition to, or on top of, the underlying zoning designation. When standards of an Overlay district conflict with the underlying zoning district's standard, such as yard requirements, then the provisions in this Title will indicate which standard supersedes the other.

B. Overlay zoning districts are:

DO Downtown Overlay

HO Highway 51 Overlay

C. Each Overlay zoning district has its individual purpose and intent statement at § 155.504, followed by the unique and unifying standards for that Overlay district.

155.502. Traditional Districts and Parallel Districts Created

155.502.1. Single-Family Residential District (R-20)

A. The R-20 Single-Family Residential District is established to provide an environment exclusively for single-family housing at a very low density of population and structures. Specified nonresidential uses of public or semi-public nature are permitted in this district. The regulations for this district are designed to maintain a suitable environment for family living. The map symbol and short name for this Single Family Residential District shall be "R-20". **[formerly part of regulation known as § 153.054]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.1, apply to the R-20 District. Uses allowed within the R-20 district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-20 district are listed at § 155.506.

155.502.2. Single-Family Residential District (R-15)

A. The R-15 Single-Family Residential District is established to provide an environment exclusively for single-family housing at a low density of population and structures. Specified nonresidential uses of public or semi-public nature are permitted in this district. The regulations for this district are designed to maintain a suitable environment for family living. The map symbol and short name for this Single Family Residential District shall be "R-15". **[formerly part of regulation known as § 153.054]**

B. Lot development and design standards, as outlined in 155.605 and dimensional standards of § 155.604.1, apply to the R-15 District. Uses allowed within the R-15 district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-15 district are listed at §155.506.

155.502.3. Single-Family Residential District (R-12)

A. The R-12 Single-Family Residential District is established to provide an environment for single-family housing at a low density of population and certain nonresidential uses of public or semi-public nature. The regulations for these district~~s~~ are designed to maintain a suitable environment for family living. The map symbol and short name for this Single Family Residential District shall be "R-12". **[formerly part of regulation known as § 153.054]**

B. Lot development and design standards, as outlined in §155.605 and dimensional standards of § 155.604.1, apply to the R-12 District. Uses allowed within the R-12 district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-12 district are listed at §155.506.

155.502.4. Single-Family Residential District (R-9)

A. The R-9 Single-Family Residential District is established to provide an environment for single-family housing at various densities of population and certain nonresidential uses of public or semi-public nature.

The regulations for this district are designed to maintain a suitable environment for family living. The map symbol and short name for this Single-Family Residential District shall be "R-9". **[formerly part of regulation known as § 153.054]**

B. Lot development and design standards, as outlined in § 155.605 and dimensional standards of § 155.604.1, apply to the R-9 District. Uses allowed within the R-9 district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-9 district are listed at § 155.506.

155.502.5. Manufactured Home District (R-MH)

A. The Manufactured Home District is established to provide areas for the orderly development and growth of new and existing manufactured home parks and manufactured home subdivisions. Appearance, dimensional, and housing quality standards are so designed that uses within this District may be soundly and permanently developed and maintained in such a way as not to be harmful to adjacent properties. The map symbol and short name for the Manufactured Home District shall be "R-MH". **[formerly known as § 153.057]**

B. Uses allowed within the R-MH district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-MH district are listed at § 155.506.

C. Manufactured home subdivisions shall follow the lot development and design criteria as outlined in § 155.605.1.A.4. Dimensional standards at § 155.604.1 apply to manufactured home subdivisions. (Ord. No. 2083, passed 5-11-15)

D. MANUFACTURED HOME PARKS shall comply with the following requirements:

1. MANUFACTURED HOME PARK STANDARDS AND REQUIREMENTS.

a. MINIMUM SIZE. Manufactured Home Park tract size shall be five (5) acres.

b. MINIMUM FRONTAGE. Minimum Manufactured Home Park tract lot frontage shall be one hundred feet (100') along a public road.

c. PERIMETER SETBACK. Manufactured home sites and park structures shall be set back at least fifty feet (50') from any abutting public street right-of-way line, and at least thirty feet (30') from any abutting property line.

d. REQUIRED RECREATION AREA. At least ten percent (10%) of the total area of a manufactured home park shall be devoted to recreational use by the residents of the park, including space for community recreation buildings, gardens, outdoor play areas, swimming pools, ball courts, and the like. Space for required landscaping shall not be included for purposes of meeting this requirement.

e. There must be at least six (6) manufactured home spaces available at first occupancy.

f. ROADS. Private, hard-surfaced roads are required within a manufactured home park. Each manufactured home space shall be directly accessible from an internal private road, with no direct access to public streets. Internal private roads must have a minimum pavement width of twenty feet (20').

g. UTILITIES. Each manufactured home park created under this section shall be provided with approved water supply systems and sewerage disposal systems.

h. PARKING. Each manufactured home space shall be provided with two (2) off-street parking spaces, and there shall be one visitor space provided for every three (3) manufactured home spaces, located within two hundred feet (200') of the manufactured home space they are intended to serve. In addition, each laundry facility shall be provided with one parking space for every five (5) manufactured home spaces in the manufactured home park

i. LANDSCAPING REQUIREMENTS. Manufactured home parks shall comply with the landscaping requirements in § 155.606.

j. SIGNS. Signs are permitted in a manufactured home park in accordance with § 155.608.

2. STANDARDS AND REQUIREMENTS FOR INDIVIDUAL MANUFACTURED HOME SPACES.

a. LOT AREA. Each manufactured home space shall have an area of at least four thousand

five hundred (4,500) square feet.

b. LOT FRONTAGE. Each manufactured home space shall have a minimum of forty five (45) lineal feet of lot frontage along an internal park road.

c. BUILDING SEPARATION. Manufactured homes shall be separated from each other by not less than twenty feet (20') at any point. Any addition to manufactured homes shall be considered integral parts of the structure and shall comply with these spacing requirements.

d. DWELLING UNIT CONSTRUCTION STANDARDS. Manufactured homes must meet or exceed the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction. In addition, each manufactured home shall meet the following criteria:

i. All manufactured homes shall be set up in accordance with the standards set by the North Carolina Department of Insurance;

ii. The towing apparatus, wheels, axles, and transporting lights shall be removed;

iii. Each manufactured home shall have a continuous masonry, metal, or plastic curtain around its entire base which is unpierced except for required ventilation and access.

e. OUTDOOR STORAGE. No storage shall be allowed on or around a manufactured home space other than in a completely enclosed storage facility. This requirement does not include the storage of operable grills, bicycles, and other similar items that are clearly incidental to the dwelling unit. (Ord. 946, passed 12-8-97) **[formerly § 153.057]**

155.502.6. Multi-Family Residential District (R-15MF)

A. The R-15 Multi-Family Residential District is established to provide an environment for a variety of residential uses, including single-family houses, duplexes, individual multi-family buildings, and apartment building complexes. Densities of development are controlled by minimum lot area requirements for initial and all subsequent dwelling units. Dedication of public and private recreational space is based on the number of dwelling units created. Certain nonresidential uses of a public or semi-public nature are also permitted. The map symbol and short name for the Multi-Family Residential District shall be "R-15MF". **[formerly part of regulation known as § 153.055]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.1, apply to the R-15MF District. Uses allowed within the R-15MF district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-15MF district are listed at § 155.506.

155.502.7. Multi-Family Residential District (R-12MF)

A. The R-12 Multi-Family Residential District is established to provide an environment for a variety of residential uses, including single-family houses, duplexes, individual multi-family buildings, and apartment building complexes. Densities of development are controlled by minimum lot area requirements for initial and all subsequent dwelling units. Dedication of public and private recreational space is based on number of dwelling units created. Certain nonresidential uses of a public or semi-public nature are also permitted. The map symbol and short name for the Multi-Family Residential District shall be "R-12MF". **[formerly part of regulation known as § 153.055]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.1, apply to the R-12MF District. Uses allowed within the R-12MF district are given in the Table of Allowed Uses at § 155.505.1. Supplementary standards which may be applicable to certain uses within the R-12MF district are listed at § 155.506.

155.502.8. Residential/Institutional District (R/I)

A. The Residential/Institutional District is established to allow complementary development of certain institutional or public uses in predominantly residential areas. Uses in this District are generally considered compatible with residential growth but are of a significant size or scale which requires extra conditions in order to lessen their impact on neighboring residences. It is intended that uses permitted in this District be scattered within single-family or multi-family zoning districts. The map symbol and short name for the Residential/Institutional District shall be "R/I". **[formerly known as § 153.056]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the R/I District. Uses allowed within the R/I district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the R/I district are listed at § 155.506., such as but not limited to §155.506.6 Child Care Homes and Child Day Care Facilities, §155.506.7 Institutional Uses In Residential Settings, §155.506.8 Recreational Uses In or Adjacent to Residential Settings, §155.506.13 Cemeteries, Mausoleums, Columbarium, and Crematorium, §155.506.15 Commercial Indoor and /or Outdoor Tennis and Racket Clubs and Associated Swimming Pools, §155.506.16 Continuing Care Retirement Communities (CCRC), §155.506.17 Skilled Care (Nursing Home) Facility, and §155.506.18 Motorcycle Safety Training Course.

155.502.9. Office District (O)

A. The Office District is established to provide areas which are conducive to the establishment and continuance of offices, institutions, and commercial activities not involving the sale of merchandise and, generally, of small scale and intensity. Standards are so designed that this district, in some instances, may be established as a buffer between residential districts and any other use districts. The map symbol and short name for the Office District shall be "O". **[formerly part of regulation known as § 153.058]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the O District. Uses allowed within the O district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the O district are listed at § 155.506.

155.502.10. Historic Urban Core District (HUC)

A. The Historic Urban Core District is established for a defined downtown commercial core area only. The boundaries of this area were determined through a study and development of a master plan for the downtown and its future growth. This area includes the properties that have historically provided the concentration of business uses for a small community - primarily retail, office, and civic, including an existing designated Historic District, and minimal expansion land that is likely to exhibit the same intensity of development. In addition to being the heart of the larger community, this district's purpose is to allow and encourage a mix of uses and buildings at a greater density of lot coverage than other nonresidential districts in outlying portions of the Town while preserving and complementing the existing small town downtown character. This district is intended to create and enhance cross connection between properties, especially for pedestrians. The map symbol and short name for the Historic Urban Core District shall be "HUC." **[formerly part of regulation known as § 153.061]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the HUC District. Uses allowed within the HUC district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the HUC district are listed at § 155.506.

C. Due to the unique character of the downtown center core, and the desire to protect and encourage its continued aesthetic attraction as a historic yet economically viable commercial concentration of uses, the following standards and criteria given in the Downtown Design Standards and Streetscape Improvements apply within the HUC district.

1. Build-to lines for Type I streets shall be 0' from the right-of-way to not more than twenty feet (20') from back of curb/edge of pavement.
2. Build-to lines for Type II, III, or IV streets shall be thirty feet (30') to forty five feet (45') from back of curb/edge of pavement.
3. Minimum setback on other properties shall be twenty feet (20') from back of curb/edge of pavement.
4. Maximum setback on other properties shall be forty feet (40') from back of curb/edge of pavement.
5. For street frontages with existing curb lines or edge of pavement that is being revised with development of the site, then the above setback dimensions shall be measured from the revised street edge.
6. Maximum floor area shall be as provided:

	Retail/Business/Office Uses	Mixed Use Building
1 story (if over 50% 1 story)	25,000 sqft	25,000 sq ft[1]
2 story (if over 50% 2 story)	28,000 sqft	28,000 sq ft[1]
3 story (if over 50% 3 story)	32,000 sqft	32,000 sq ft[1]

[1] Residential uses may cover up to fifty percent (50%) of total floor area in a mixed use building, or up to fifty percent (50%) of total floor area of all habitable structures on a single lot, whichever is applicable; however the first floor "retail" provision in 7 below also applies.

7. First floor uses: In order to stimulate pedestrian activity at the street level in the heart of the downtown core, the first floor (street level) must devote fifty percent (50%) of the gross floor area to "retail" activities. The term "retail", for this paragraph only, includes not only the sales of merchandise at retail but may also be construed to mean personal services such as beauty salons and barber shops, shoe repair, restaurants, galleries, and similar uses that rely on consistent walk-in traffic, but not drive-through financial services.

8. Streetscape trees shall be required as given in the Streetscape Improvements, when a specific schematic is applicable to a development site, or shall follow the standards of §155.606.3.

9. Landscape perimeter planting and site perimeter screening as generally required at §155.606.4 and §155.606.6.A are not required for nonresidential and mixed use buildings in the HUC district. Screening requirements for loading or service areas, as given in §155.606.6.B shall apply within the HUC district.

10. Parking lot landscaping requirements in §155.606.5.A shall apply in the HUC district.

11. Development of any use or combination of uses in the HUC district must conform to the parking and loading standards in § 155.607, except as listed here:

    a. For retail, financial institutions, and restaurants: one (1) parking space per each four hundred (400) square feet of floor area or fractional portion devoted to those uses.

    b. For nonresidential uses fronting on a Type I street and located at or less than the maximum build-to line as established in C.1 or C.2 above and as prescribed in the Downtown Design Guidelines: no off-street parking is required.

    c. For office uses: one (1) parking space per each four hundred (400) square feet of floor area or fractional portion devoted to that use.

    d. Parking of motor vehicles is not permitted in the area between the front property line (right-of-way line) and the front of a building, although driveways providing access to a parking area may be installed across this space perpendicular to the street and front of building. (Ord. 945, passed 11-10-97; Am. Ord. 2025A, passed 6-9-14)**[formerly know as §153.061(E), (F), (H), and (I).]**

155.502.11. Neighborhood Business District (B-1)

A. The Neighborhood Business District is established to create and protect business centers for the retailing of merchandise such as groceries, prescription medicine, and household items and for the provision of professional services for the convenience of dwellers of nearby residential areas. Standards are so designed that uses within this district may be soundly and permanently developed and maintained in such a way as not to be harmful to adjacent residential properties. The map symbol and short name for the Neighborhood Business District shall be "B-1". **[formerly part of regulation known as § 153.060]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the B-1 District. Uses allowed within the B-1 district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the B-1 district are listed at § 155.506.

155.502.12. High Rise Business District (B-3)

A. The High Rise Business District is established to provide areas in which a variety of retail uses, professional and business services, office and limited wholesaling/warehousing concerns, plus other complementary uses, may be established. The development standards for this district are designed to create concentrations of uses with similar needs for increased building height located generally adjacent to major highways, higher density residential, or mixed use development. The map symbol and short name for the

High Rise Business District shall be "B-3." **[formerly part of regulation known as § 153.060]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the B-3 District. Uses allowed within the B-3 district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the B-3 district are listed at § 155.506.

155.502.13. Distributive Business District (B-D)

A. The Distributive Business District is established to provide areas in which distributive uses, such as warehouses, office and wholesaling concerns, plus other complementary uses may be established and may be given assurances of wholesome surroundings in the future. The development standards for this district are designed also to aid in preventing the creation of traffic congestion and traffic hazards on highways and to aid in protecting nearby residential areas from detrimental aspects of uses permitted within this district. The map symbol and short name for the Distributive Business District shall be "B-D." **[formerly part of regulation known as § 153.060]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the B-D District. Uses allowed within the B-D district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the B-D district are listed at § 155.506.

155.502.14. Highway Business District (B-H)

A. The Highway Business District is established to create and protect business areas for the retailing of merchandise, which may include establishments generating high volume or frequent customer traffic, and for carrying on professional and business services~~,~~ often serving a large population. This type of district will be located generally adjacent to major thoroughfares. The map symbol and short name for the Highway Business District shall be "B-H." **[formerly part of regulation known as § 153.060]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the B-H District. Uses allowed within the B-H district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the B-H district are listed at § 155.506.

155.502.15. Light Industrial District (I-1)

A. The Light Industrial District is established to create and protect industrial areas for the provision of light manufacturing and the distribution of products at wholesale. The standards established for this district are designed to promote sound, permanent light industrial development and also to protect nearby residential areas from the undesirable aspects of industrial development. Whenever possible, areas of this zoning category are separated from residential areas by natural or structural boundaries, such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries, and similar features. The map symbol and short name for the Light Industrial District shall be "I-1 District." **[formerly part of regulation known as § 153.062]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the I-1 District. Uses allowed within the I-1 district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the I-1 district are listed at § 155.506.

C. The minimum setback for uses in the I-1 district may be reduced by 50% when the following requirements are met:

1. No parking is proposed or allowed between the primary use building and the street.
2. The site is part of a larger unified development.
3. The buildings fronting the street are designed with four-sided architecture to address the street.Four-sided architecture is defined as having the following characteristics:
   a. No expanses of blank walls greater than 25’ in length allowed. A blank wall is a façade that does not add to the character of the streetscape and does not contain windows or doors or sufficient ornamentations, decoration, or articulation (such as alternating materials, brick patterns, or similar architectural features).
   b. Provide an operable doorway entrance from the street side along with a pedestrian walkway to that door.

c. All mechanical and HVAC equipment must be screened from view from the street, whether located on the roof or ground. Such equipment may not be located between the building and the street. (Am. Ord. 2059, passed 12-8-14)

155.502.16. General Industrial District (I-2)

A. The General Industrial District is established to create and protect wholesaling and industrial areas for manufacturing, processing and assembling of parts and products, distribution of products at wholesale, transportation terminals, outside storage of large equipment, supplies, or product, and a broad variety of specialized commercial and industrial operations. Whenever possible, areas of this zoning category are separated from residential areas by natural or structural boundaries, such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries and similar features. The map symbol and short name for the General Industrial District shall be "I-2 District." **[formerly part of regulation known as § 153.062]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.2, apply to the I-2 District. Uses allowed within the I-2 district are given in the Table of Allowed Uses at § 155.505.2. Supplementary standards which may be applicable to certain uses within the I-2 district are listed at § 155.506.

155.503. Conditional-Only Districts Created

155. 503.1. Residential Varied Style District (R-VS)

A. The Residential Varied Style District is established to create beneficial contemporary single-family housing opportunities at higher densities, configurations and styles not traditionally found in Matthews, such as zero-lot line homes, single-family attached including townhouses, patio homes, duplexes, pinwheel design, and similar styles. This district is primarily intended to be utilized in three situations: *i*) near the downtown as detailed in the Downtown Master Plan; *ii*) at specific sites identified by the Land Use Plan as exhibiting unique criteria offering an opportunity for an alternative to traditional detached single-family development; and *iii)* upon request when the proposed site can be demonstrated to accommodate the increased density, exhibits a thoughtful, imaginative use of the land, and demonstrates reasonable and appropriate land use relationships, both within the development itself and with surrounding areas adjacent to the development. All development of land within the Residential – Varied Style – district shall comply with a site plan approved at the time of R-VS designation. The map symbol and short name for the Residential Varied Style District shall be "R-VS". **[formerly known as § 153.205]**

B. Lot development and design standards as outlined in § 155.605 apply to the R-VS District. Dimensional standards may vary depending on the type of housing and the size of the overall tract, as given at § 155.604.3 and § 155.604.4. Uses allowed within the R-VS district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the R-VS district are listed at § 155.506. Except where the standards given within this subsection § 155.503.1 specifically for the R-VS district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the R-VS district.

C. ADDITIONAL STANDARDS UNIQUE TO THE R-VS DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Residential – Varied Styles district shall comply with the following requirements. Where the provisions in this § 155.503.1 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. An R-VS District may be located anywhere within the Town in conformance with one or more of the qualifications listed in § 155.503.1.A. above.

2. MINIMUM TOTAL PROJECT AREA: An R-VS designation shall be a minimum of one-half (1/2) acre, and able to accommodate a minimum of six (6) dwelling units when utilizing the dimensional requirements given in § 155.605.

D. EARLY DESIGNATION. The R-VS district is not eligible for early designation. Each request for R-VS designation shall include a site plan showing, at a minimum, proposed lot lines and building envelopes, new streets and alleys, improvements to existing streets, and type or style of dwelling or nonresidential use on each proposed lot. Written details of number of units, other relevant housing criteria, and proposed

conditions are required with the site plan drawing.

E. REVIEW CRITERIA**.** In evaluating applications for R-VS designation, the Board of Commissioners shall consider the following:

1. Access to public streets and the adequacy of those streets to carry anticipated traffic.
2. On-site circulation for both pedestrian and vehicular traffic.
3. Adequacy of existing community facilities such as water, sewer, police, and fire protection.
4. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
5. The appropriateness of the proposal in relationship to the policies and objectives of the Matthews Land Use Plan and to a more detailed small area plan, if available.

F. SITE PLAN LAYOUT DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the R-VS district.
2. STREET NETWORK.
   a. When part of the development of an R-VS site, the interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.
   b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets.
   c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.
   d. Sidewalks and street trees must be provided on both sides of all streets.
   e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a "Y" turn-around and should provide pedestrian connectivity to the maximum extent practicable.
   f. Private streets and gated streets are prohibited. All streets must be dedicated to the public, although alleys may be private.
   g. Alleys. Alleys are encouraged to provide vehicular access to off-street parking for individual lots in the R-VS District. Alley entrances should generally align. Variations in alley alignment is encouraged to prevent long stretches of alleys. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.
   h. A streetscape and lighting plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street and night-time illumination under the tree canopy for safety and ambiance for pedestrians, with adequate illumination for vehicular traffic.
3. BLOCKS. When new street intersections are created with an R-VS designation, the block lengths shall meet the standards provided in Chapter 7.
4. PARKING. No parking of vehicles shall be permitted in the required setback for single-family attached groups of more than six (6) units or for any nonresidential uses. On corner lots, parking will not be permitted in the street side yard closer than six feet (6') to the public right-of-way. Additional parking for guests within the R-VS development is encouraged, either on-street or in small lots of no more than eight (8) spaces in any lot.

G. BUILDING DESIGN GUIDELINES. All buildings in an R-VS district shall be architecturally compatible in appearance and quality through the use of similar building materials, colors, architectural features and

styles. An identified set of architectural styles or specific architectural elements may be utilized to create an overall design theme.

1. Every nonresidential building must be separated from any other building by a distance of twenty five feet (25').
2. A single-family attached dwelling group must be separated by sixteen feet (16') from any other single-family attached dwelling group.
3. A single-family attached dwelling group must be separated by twenty feet (20') from any other style of housing.

H. FLEXIBLE DESIGN. The R-VS district establishes minimum standards for development and design. Those standards however might not always be appropriate to the particular development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the R-VS district in § 155.503.1 may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.2. Crestdale Conservation District (CrC)

A. The Crestdale Conservation District (CrC) is established to protect and preserve the character and atmosphere of the Crestdale neighborhood, a neighborhood of significant historical and cultural value. The Crestdale Conservation District accommodates single-family housing, small scale multi-family housing, and certain nonresidential uses which fit with the character of the Crestdale neighborhood. The Crestdale neighborhood possesses unique land use, design, and other distinctive characteristics but these regulations are intended to maintain an environment suitable for single-family living. The ongoing maintenance of the Crestdale Conservation District is intended to: *i)* protect and stabilize property values; *ii)* preserve desirable and unique physical features; *iii)* prevent blighting caused by intense or undesirable land uses; *iv)* promote compatible new development; *v)* protect natural open space; *vi)* preserve existing tree cover; and *vii)* preserve local history. The map symbol and short name for the Crestdale Conservation District shall be "CrC". **[formerly known as § 153.067.A]**

CrC district designation may result from the creation and adoption of a general concept plan or small area plan which becomes an appendix in the Matthews Land Use Plan. Such a small area plan may include the area traditionally considered to be the historic Crestdale community, or may also include land that could form an expanded neighborhood. Any small area plan which is used to encourage the designation of parcels into the CrC district shall identify how those parcels can share the character and goals of the Crestdale neighborhood, and how they have or will have pedestrian and vehicular connectivity to the historic Crestdale core community. The small area plan may include required elements such as minimum required street and pedestrian networks to assure interconnectivity.

As a Conditional-Only District, parcels of land may be zoned to this category following the procedures explained at § 155.501.3.C. and D., at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined in § 155.501.3.I., prior to any specific plan due to their location within the geographic area identified for this zoning designation, with the condition that prior to any land disturbing activity other than single family detached homes on individual lots, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the CrC District. Uses allowed within the CrC district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the CrC district are listed at § 155.506. Except where the standards given within this subsection § 155.503.2 specifically for the CrC district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the CrC district.

C. ADDITIONAL STANDARDS UNIQUE TO THE CRC DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Crestdale Conservation District shall comply with the following requirements. Where the provisions of this Section conflict with the provisions of other Sections of this Title, this Section shall prevail.

1. LOCATION. The CrC district shall only be applied within and near the geographic area historically and generally considered to be Crestdale. This area is intersected by East Charles Street/Tank

Town Road, Matthews School Road, and Crestdale Road, or a future road connection to East John Street or the Sportsplex/proposed family entertainment neighborhood, and sites within the area must use one or more of these streets to gain access in and out of the neighborhood.

2. LANDSCAPING REGULATIONS. Landscaping in the Crestdale Conservation District should maintain a natural appearance and as such should not appear to have an artificially-created or planned layout. The area historically has had a very open feeling with little delineation of property boundaries which might be found in more traditional developments, therefore requiring vegetation buffers along property lines would not fit with Crestdale's atmosphere. The preferred approach towards landscaping in Crestdale would be the protection of existing trees. The landscaping required on nonresidential properties and suggested for residential sites are listed below.

   a. STREETSCAPE PLANTING. Streetscape trees shall be encouraged on all residential properties and are required on all nonresidential properties in the Crestdale area. Large maturing trees should be placed no greater than fifty feet (50') apart and small maturing trees shall be placed no further than forty feet (40') apart. Trees may be of a variety listed in § 155.606.10 and flowering trees are preferred. Any property of at least forty feet (40') in width shall have at least one (1) streetscape tree planted. To maintain vehicular safety no tree shall be planted within fifteen feet (15') of a driveway or in a sight triangle at street intersections.

   b. PERIMETER LANDSCAPING. The intent in the CrC district is to encourage an environment without physical property boundaries. Perimeter landscaping is not required or desirable.

   c. FENCING PROHIBITED. Fencing at property boundaries shall not be permitted on nonresidential properties unless required by local, state, or federal law.

   d. PARKING LOT LANDSCAPING. Landscaping as required in § 155.606.4 shall be required for parking lots for the purpose of reducing aesthetic impacts of paving or removing the natural vegetation from large areas; to reduce the noise, heat, glare, and dust associated with parking lots; and to control the direction and velocity of surface water runoff.

   e. Screening on properties used for nonresidential purposes shall be required to prevent the view of storage, trash receptacles, and loading areas from adjoining properties and public streets. Parking lots shall be screened to prevent their unobstructed view from adjacent residential properties. The preferred location of screening is close to the object being screened. Fencing may be used to screen trash receptacles and loading areas. Fencing alone cannot be used as screening but a combination of fencing and vegetation is acceptable. Vegetation must be on the side opposite the new development.

   f. PRESERVATION OF EXISTING SITE VEGETATION. It is the intent of the town to retain existing trees and natural vegetation areas on the site. Any living deciduous trees at least eight inches (8") DBH, coniferous trees at least twelve inches (12") DBH, and dogwoods, redbuds, and American hollies larger than two inches (2") DBH anywhere outside of the building envelope shall be preserved to the greatest extent possible. These existing trees can be used to meet any landscaping requirements set forth in this Title.

      i. Existing trees outside of the building envelope shall be marked as protected trees and shall be staked, fenced, or otherwise clearly marked and protected from vehicular movement and material storage during construction or land-disturbing activity.

      ii. A minimum of fifteen (15) small or large maturing trees shall be retained or planted on the parcel for each acre or proportional area disturbed by development. Required planting or screening should be included in calculating this overall requirement.

3. FENCING AND WALLS. Fencing and walls are not encouraged in the CrC District. On residential properties, no wall or fence may exceed six feet (6') in height within any required yard, and shall not exceed twenty five percent (25%) opacity. This wall and fence height/opacity limitation does not apply to walls and fences not in any required yard or setback, or those constructed around electric and gas substations, sewage treatment plants, pressure regulator stations, buildings to house pumps and lift stations, and similar structures; or municipal reservoirs and water storage tanks. Walls and fences related to these uses may be subject to landscape screening provisions

elsewhere in this Title. (Ord. 1241, passed 8-12-02)

4. RESIDENTIAL DEVELOPMENT OPTIONS FOR PROPERTIES GREATER THAN FIVE (5) ACRES.

a. OPTION 1: LOT DEVELOPMENT STANDARDS. The following standards apply to single family dwelling units, and homes with home based businesses.

i. Minimum Lot Area: 6,000 square feet

ii. Minimum Lot Width: 50 feet

iii. Minimum Set Back: 25 feet

iv. Minimum Rear Yard: 25 feet

v. Minimum Side Yard: 5 feet, or 0 feet. Use of a zero lot line is permissible only if a ten foot (10') separation can be maintained between the lot line and the adjacent home, so this option would require a ten foot (10') side yard for the opposite side yard on the lot. In addition, a five foot (5') maintenance easement shall be provided to maintain the wall abutting the adjacent property. No windows, heating or cooling equipment are permitted along the zero lot line side of the dwelling and the property.

vi. Maximum Height: 35 feet

b. OPTION 2: LOT DEVELOPMENT STANDARDS. The following standards apply to single family dwelling units, accessory apartments within a single-family home, accessory apartments separate from, but on the same lot as a single family house, and homes with home based businesses.

i. Minimum Lot Area: 12,000 square feet

ii. Minimum Lot Width: 70 feet

iii. Minimum Set Back: 30 feet

iv. Minimum Rear Yard: 50 feet

v. Minimum Side Yard: 10 feet

vi. Maximum Height: 35 feet

c. OPEN SPACE REQUIREMENTS. Lots developed under Option 1 must preserve thirty percent (30%) and lots developed under Option 2 must preserve ten percent (10%) of the total land area as public open space. This open space can be left in a natural state or can be used for active and passive recreational purposes. For the purpose of this § 155.503.2, areas designated as open space shall meet these qualifications:

i. Is not encumbered with any substantial structure, except those that are accessory to the recreational use of the open space, and such structures shall not cover more than five percent (5%) of the total open space.

ii. Is not contained in any street right-of-way, easements, parking areas, sidewalk, or public facilities area.

iii. The open space shall be defined on a subdivision plat. If confined to rear lots, it shall be legally and logically accessible to the public.

iv. The open space must be free from litter and noxious weeds.

v. The open space shall be set aside in one of two ways:

- Dedicated to the Town if requested by the Town to be used as public open space for parks, greenway, or other public use.
- Shall be protected by legal arrangements, satisfactory to the Town, sufficient to assure its maintenance and preservation for the purpose intended. Covenants or other acceptable legal arrangements shall specify: ownership of the open space; method of maintenance; responsibility of maintenance; membership and assessment provision; guarantees that any association formed to own and or maintain the open space could not be dissolved without the consent of the Town; and

other provisions determined necessary by the Town.

vi. At least one-half (50%) of the open space required to be set aside under this section shall be useable, meaning an area that is capable of being used and enjoyed for passive or active recreation. For any wooded area, the only cutting of trees permitted shall be for walking/jogging trails, and where an arborist has determined in a written report that a tree is diseased and dying, dead, or in a declining state that would render it unsafe in a public use area. Additional landscaping and tree planting is allowed.

vii. The open space area that is for active recreation may contain such improvements as athletic courts, and/or fields, picnic facilities, and playground equipment or tot lots. Athletic fields shall be planted in grass with the exception of the infield area of a baseball or softball field which may be left exposed.

5. RESIDENTIAL DEVELOPMENT STANDARDS FOR PROPERTIES LESS THAN FIVE (5) ACRES. The following standards apply to single family dwelling units, accessory apartments within a single-family home, accessory apartments separate from, but on the same lot as a single family house, and homes with home based businesses.

a. Minimum Lot Area: 7,500 square feet

b. Minimum Lot Width: 65 feet

c. Minimum Set Back: 25 feet

d. Minimum Rear Yard: 30 feet

e. Minimum Side Yard: 8 feet

f. Maximum Height: 35 feet

6. CRESTDALE SITE PLAN AND/OR ELEVATION PLAN APPROVAL FOR USES OTHER THAN SINGLE FAMILY DWELLINGS. A property owner may submit a site plan and/or elevation plan application to the Town Planning office for review and recommendation at any time. Unless specifically allowed to submit only a site plan or only an elevation plan, both are typically required at the same time. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. The site plan and/or elevation plan shall then be forwarded to the Matthews Board of Commissioners with staff report and recommendations for final approval, as explained at § 155.401.5.B.

In approving a site plan and/or elevation plan, the Board of Commissioners may attach such reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Section and the general purpose of the CrC District, in addition to those specified in this Title.

7. Site Plan and/or Elevation Plan Application Submission Documents:

a. DWELLINGS: SINGLE-FAMILY ATTACHED DWELLINGS, TWO-FAMILY; ACCESSORY DWELLING UNIT, AND ACCESSORY APARTMENT: (Ord. No. 1145, passed 1/8/01)

i. Completed application.

ii. Sketched site plan drawn to scale of no less than one inch (1”) equals one hundred feet (100’).

iii. Statement of purpose describing the intended use.

iv. A sketch of the structure with a description of materials to be used on the exterior, including siding and roofing material.

v. A boundary survey showing total acreage of the property.

vi. The owner’s name(s) and addresses and existing land use(s) of all adjoining properties.

b. ALL OTHER APPLICATIONS: In addition to the foregoing, all other applications shall also include the following minimum information:

i. A landscape, screening, and lighting plan.

ii. If the intended use is to be licensed by a state or federal agency, a copy of the license requirements and explanation of how they will be met.

iii. A site plan, drawn to scale, showing driveway location(s), sidewalk, edge of public street pavement, required parking, interior parking and vehicular circulation, pedestrian connections between street and buildings and/or to adjacent properties with complementary planned or existing uses, and driveways or street intersections within one hundred fifty feet (150') of the site.

iv. A statement of hours of operation and number of employees.

8. ADDITIONAL REQUIREMENTS FOR SPECIFIC USES. In addition to the lot development standards in this Title, the following uses shall comply with the following standards. Where the requirements of this § 155.503.2 are in conflict with any other provision of this Title, this Section shall prevail.

a. CHURCHES OR PLACES OF WORSHIP.

i. LOT DEVELOPMENT STANDARDS:

- Minimum Lot Size: 1 acre for churches with seating in largest assembly room for up to 299 persons, or four (4) acres for churches with 300 or more seating capacity in largest assembly room
- Minimum Lot Width: 100 feet
- Minimum Setback: 40 feet
- Minimum Rear Yard: 30 feet
- Minimum Side Yard: 20 feet
- Maximum Height: 50 feet

ii. Protection of existing site vegetation is encouraged.

iii. OFF-STREET PARKING. Parking shall be to the side or rear of the primary structure and shall comply with the requirements of § 155.607. A pick-up and drop-off area at or near the front entrance shall be permitted.

iv. ACCESSORY BUILDINGS.

- Siding materials used alone or in combination shall be wood, masonry, architectural metal panels or other such similar aesthetically pleasing materials.
- Roofing materials shall be asphalt shingles or architectural metal panels.

v. The development's main entrance must not be on a minor residential street.

vi. LANDSCAPE PLAN REQUIRED. The landscaping plan is in conformance with the regulations set forth in § 155.606.

vii. ACCESSORY USES. Accessory uses on the same property may include but are not limited to:

- Child day care facilities:
  - Serve a maximum of one hundred twenty five (125) children.
  - Shall meet all state and federal laws governing such a facility.
  - A minimum of one hundred fifty (150) square feet of secured outdoor recreation space must be provided for each child.
- Assisted living facilities, homes for the aged, rest homes, nursing homes and adult day care centers:
  - May serve a maximum of one hundred (100) persons.
  - A minimum of one hundred fifty (150) square feet of secured outdoor recreation space must be provided for each resident and a minimum of four hundred (400) square feet of private outdoor recreation space must be provided for each individual

apartment unit.

- Must meet all North Carolina state license requirements for its facility type.

- Dwellings: single-family attached, duplex, and single-family detached:
  - Must look considerably like a single-family detached dwelling.
  - Only one (1) entrance shall be on the front elevation. All other entrances shall be on the side or rear of the building.
  - Maximum of twenty four (24) residential units.
  - Dwelling units may be individually owned with no conveyance of property with ownership, therefore units shall be exempt from all lot size requirements.
- Outdoor recreational facilities including tennis and basketball courts.
- Parks.
- Picnic areas.
- Pavilion areas.

viii. A master facilities vision plan with multiple phases of proposed development may be offered for initial site plan review and approval, with future phases in conceptual form only. Site plan review by the Board of Commissioners shall be required for all future phases to verify conformance with the approved master facilities vision plan. (Ord. 1240, passed 7-8-02)

b. CHILD DAY CARE FACILITIES.

i. LOT DEVELOPMENT STANDARDS:

- Minimum Lot Size: 12,000 square feet
- Maximum Lot Size: 2 acres
- Minimum Lot Width: 70 feet
- Minimum Setback: 35 feet
- Minimum Rear Yard: 35 feet
- Minimum Side Yard: 10 feet
- Maximum Height: 35 feet

ii. Must meet all requirements of § 155.506.6.

iii. Protection of existing site vegetation is encouraged.

iv. OFF-STREET PARKING. Off-street parking shall comply with the requirements of § 155.607.

v. Serve a maximum of thirty (30) children.

vi. Shall meet all state and federal laws governing such a facility.

vii. LANDSCAPE PLAN REQUIRED. The landscaping plan is in conformance with the regulations set forth in § 155.606.

C. SKILLED CARE FACILITIES, ADULT CARE FACILITIES, AND ADULT DAY CARE CENTERS.

i. LOT DEVELOPMENT STANDARDS:

- Minimum Lot Size: 12,000 square feet
- Maximum Lot Size: 2 acres
- Minimum Lot Width: 70 feet
- Minimum Setback: 35feet

- Minimum Rear Yard: 35 feet
- Minimum Side Yard: 10 feet
- Maximum Height: 35 feet

ii. Protection of existing site vegetation is encouraged.

iii. OFF-STREET PARKING. Off-street parking shall comply with the requirements of § 155.607.

iv. May serve a maximum of thirty (30) persons.

v. Each twenty four (24) hour residential structure may contain only five (5) individual apartment units and these structures must be separated by twenty feet (20'), on all sides, from all other structures.

vi. A minimum of one hundred fifty (150) square feet of secured outdoor recreation space must be provided for each resident or maximum capacity of day attendees, plus a minimum of four hundred (400) square feet of private outdoor recreation space must be provided for each individual apartment unit.

vii. Must meet all North Carolina state license requirements for its facility type.

viii. Must not be located within five hundred feet (500') of another skilled care facility, adult care facility, or adult day care center.

ix. LANDSCAPE PLAN REQUIRED. The landscaping plan is in conformance with the regulations set forth in § 155.606.

d. COMMERCIAL USES (limited to the inside of buildings with no drive-through or drive-in service):

i. LOT DEVELOPMENT STANDARDS:

- Minimum Lot Size: 6,000 square feet
- Maximum Lot Size: 15,000 square feet
- Minimum Lot Width: 50 feet
- Minimum Setback: 20 feet
- Minimum Rear Yard: 30 feet
- Minimum Side Yard: 10 feet
- Maximum Height: 25 feet
- Maximum Building Footprint Area: 2,000 square feet

ii. Protection of existing site vegetation is encouraged.

iii. OFF-STREET PARKING. Off-street parking shall comply with the requirements of § 155.607.

iv. Alcoholic beverages and adult materials shall not be sold.

v. Commercial developments are limited to non-local streets, Class V and higher.

vi. Hours of operation shall be limited to between 8 am and 8 pm.

vii. LANDSCAPE PLAN REQUIRED. The landscaping plan is in conformance with the regulations set forth in § 155.606.

viii. All dumpster receptacles are adequately screened from public view, except for those receptacles normally meant for patron use.

ix. The structure shall use building and roofing materials similar to typical single family dwellings, and shall significantly appear as a single family home.

e. DWELLINGS: SINGLE-FAMILY ATTACHED AND DUPLEX/TWO-FAMILY DWELLINGS. (Ord. No. 1145, passed 1/8/01)

i. LOT DEVELOPMENT STANDARDS:

- Minimum Lot Size: 4,500 square feet per dwelling

- Minimum Lot Width: 45 feet per dwelling
- Minimum Setback: 25 feet
- Minimum Rear Yard: 25 feet
- Minimum Side Yard: 0 feet on attached sides, 5 feet on unattached sides
- Maximum Height: 35 feet

ii. Protection of existing site vegetation is encouraged.

iii. Must look considerably like a single-family detached dwelling.

iv. Only one entrance shall be on the front elevation. All other entrances shall be on the side or rear of the building.

f. ACCESSORY APARTMENT, CONSTRUCTED WITHIN A SINGLE-FAMILY HOME.

i. LOT DEVELOPMENT STANDARDS:

The lot development standards given in § 155.503.2.C.4 or 5 above shall be used, whichever one applies.

ii. MAXIMUM NUMBER: Only one (1) accessory apartment, for a total of two (2) dwelling units per lot shall be permitted.

iii. MAXIMUM FLOOR AREA: The accessory unit shall not exceed fifty percent (50%) of the total heated square feet of the primary dwelling unit, and shall not exceed nine hundred (900) square feet in heated area.

iv. There shall be no more than one (1) person for every three hundred (300) square feet of heated floor area.

v. OFF-STREET PARKING: One (1) additional off-street parking space shall be provided for an accessory apartment.

vi. At least one unit shall be owner occupied.

vii. Any additions to the primary structure must portray the character of a single family home and materials used must be similar in composition and appearance to those of the original building. A building may not be expanded by more than twenty percent (20%) for the purpose of adding an accessory apartment.

viii. If an additional door is added to provide access to the accessory apartment it shall not be installed on the front elevation of the building.

g. ACCESSORY APARTMENT ON A LOT WITH, BUT SEPARATE FROM, A SINGLE-FAMILY DETACHED HOUSE.

i. LOT DEVELOPMENT STANDARDS:

The lot development standards given in § 155.503.2.C.4 or 5 above shall be used, whichever one applies.

ii. MAXIMUM NUMBER: Only one (1) accessory apartment, for a total of two (2) dwelling units per lot shall be permitted.

iii. LOCATION ON LOT: The accessory apartment must be located within the area of the lot allowed for principal dwellings (the building envelope).

iv. MAXIMUM FLOOR AREA: The accessory apartment shall not exceed fifty percent (50%) of the total heated square feet of the primary dwelling unit, and shall not exceed nine hundred (900) square feet in heated area.

v. There shall be no more than one (1) person for every three hundred (300) square feet of floor space.

vi. OFF-STREET PARKING: One (1) additional off-street parking space shall be provided for an accessory apartment.

vii. The primary dwelling unit shall be owner occupied.

viii. The accessory unit shall be compatible, in appearance, with the principal

dwelling unit. The accessory unit must be located behind the front plane of the primary structure.

ix. The primary structure may not have an accessory apartment.

x. The primary structure and the secondary structure shall be separated by at least ten feet (10'). (Ord. No. 977, passed 5-26-98)

D. FLEXIBLE DESIGN. The CrC district establishes minimum standards for development and design. Those standards however may not always be appropriate to a particular segment or building within the development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the CrC district in § 155.503.2 may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.3. Small Residential Neighborhood District (SRN)

A. The Small Residential Neighborhood (SRN) District is established to provide an alternative residential environment from a traditional single-family detached subdivision pattern which incorporates various styles of housing intermingled and at differing densities, with an overall density averaging under twenty (20) dwellings per acre. Improved open space, wooded natural areas, common gardening space, and non-street walking and biking connections are all encouraged to be interwoven into the neighborhood design. A limited amount of nonresidential uses may be incorporated into the proposed development when it can clearly serve the residents within the SRN site through employment opportunities, or by providing civic uses or needed routine services, such as day care or dry cleaners, but not predominately the sale of merchandise. The map symbol and short name for the Small Residential Neighborhood District shall be "SRN".

Consideration of SRN district designation may result from the creation and adoption of a general concept plan or small area plan which becomes an appendix in the Matthews Land Use Plan. Such a small area plan may include all the area of one SRN proposed district, or may include a larger geographic location. Any small area plan which is used as a basis for designation of an SRN district will identify the need for alternative styles and higher density residential development in the vicinity of the proposed location, and show existing or future pedestrian connectivity to a proposed SRN site. The small area plan may include required elements such as minimum required street and pedestrian main networks to assure connectivity to a mix of other uses within a walkable distance.

As a Conditional-Only District, parcels of land may be zoned to this category following the procedures explained at § 155.501.3.C. and D., at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined in § 155.501.3.I., prior to any specific plan due to their location as an area identified by the Matthews Board of Commissioners for this zoning designation, with the condition that prior to any land disturbing activity, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the SRN District. Uses allowed within the SRN district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the SRN district are listed at § 155.506. Except where the standards given within this subsection § 155.503.3 specifically for the SRN district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the SRN district.

C. OTHER STANDARDS UNIQUE TO THE SRN DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Small Residential Neighborhood district shall comply with the following requirements. Where the provisions in this § 155.503.3 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. An SRN district may be located anywhere in the Town limits where the Board of Commissioners determines a mix of housing styles will create a beneficial environment both within the district and to the surrounding neighborhoods.

2. MINIMUM TOTAL PROJECT AREA. An SRN designation shall be a minimum of one (1) acre, and include a minimum of six (6) dwelling units when utilizing the dimensional requirements given in

§ 155.605.A.

3. OPEN SPACE REQUIREMENT. The SRN district project shall include an open space system featuring pedestrian amenities. The open space system may include areas devoted to post construction, water quality and/or storm water detention measures, any required or provided landscaping or screening areas, SWIM buffers, greenways or environmental protection features.

D. EARLY DESIGNATION. Where a parcel has received the designation of SRN prior to a full development proposal on it, as outlined at § 155.501.3.I, sufficient drawings and documents to clearly prove compliance to the design elements listed in § 155.503.3.E through G below shall be submitted to the Matthews Planning office for review and recommendation in the same way as a rezoning application is handled by Town staff. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. Submission of a request for site plan and/or elevation plan approval shall then be forwarded to the Matthews Board of Commissioners. The Board of Commissioners shall receive a report with recommendations from Town Planning staff on how well the proposal meets the intent of the district and the design criteria listed below, and determine when the proposal meets the requirements and can be approved.

E. REVIEW CRITERIA. In evaluating applications for SRN designation, the Board of Commissioners shall consider the following:

1. Access to public streets and the adequacy of those streets to carry anticipated traffic.
2. On-site circulation for both pedestrian and vehicular traffic.
3. The amount, variety, and accessibility of passive open space, pedestrian and bicycle amenities, and active recreation parkland within the site and in the immediate surrounding areas.
4. Adequacy of existing community facilities such as water, sewer, police, and fire protection.
5. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
6. The appropriateness of the proposal in relationship to the policies and objectives of the Matthews Land Use Plan and to a more detailed small area plan, if available.

F. SITE PLAN LAYOUT DESIGN**.**

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the SRN district.
2. STREET NETWORK.
   a. When part of the development of an SRN site, the interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.
   b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. Intersections between arterials and collectors must have centerline offsets of at least one hundred fifty feet (150’). This requirement does not apply to intersections between alleys and local streets.
   c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.
   d. Sidewalks and street trees must be provided on both sides of all streets.
   e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a “Y” turn-around and should provide pedestrian connectivity to the maximum extent practicable.
   f. Private streets and gated streets are prohibited. All streets must be dedicated to the public, although alleys may be private.

g. Alley Access. Alleys are encouraged to provide vehicular access to off-street parking for individual dwellings in the SRN district. Alley entrances should generally align, but internal deflections or variations in the alley network to prevent excessive lengths or monotonous views of the rear of structures are encouraged. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. A thematic and cohesive streetscape planting and lighting plan shall be prepared for the SRN district at time of initial designation. The streetscape plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street. Street trees give special character and coherence to each street. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.

i. FRONTS AND REARS. Building facades are the public "face" of every building. Owners and occupants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street. The private, interior portions of the development allow residents to have private and semi-private (for apartment and condominium buildings) gardens and courtyards.

3. BLOCKS. When new street intersections are created with an SRN designation, the block lengths shall meet the standards provided in Chapter 7.

4. PARKING.

a. No parking of vehicles shall be permitted in the required setback for single-family attached groups in straight line row formation of three (3) or more units, for any multi-family buildings, or for any nonresidential uses.

b. On corner lots, parking will not be permitted in the street side yard closer than six feet (6') to the public right-of-way.

c. Parking along alleys is allowed, may be at 90 degree, angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the alley. Where 90 degree or angled spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions such as doors, planters, bollards, mechanical equipment, light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of designated parking spaces.

d. Additional parking for guests within the SRN development is encouraged, either on-street or in small lots of no more than eight (8) spaces in any lot.

G. BUILDING DESIGN GUIDELINES.

1. GENERAL BUILDING DESIGN PRINCIPLES. All buildings in an SRN district shall be architecturally compatible in appearance and quality through the use of similar or complementary building materials, colors, architectural features and styles. An identified set of architectural styles or specific architectural elements may be utilized to create a unique and unifying design theme.

2. A single-family attached dwelling group must be separated by sixteen feet (16') from any other single-family attached dwelling group.

3. A single-family attached dwelling group must be separated by twenty feet (20') from any other style of housing.

4. Every nonresidential building must be separated from any other building by a distance of twenty five feet (25').

H. FLEXIBLE DESIGN. The SRN district establishes minimum standards for development and design. Those standards however might not always be appropriate to the particular development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the SRN district in § 155.503.~~1~~3 may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.4. Concentrated Multi-Family District (C-MF)

A. The Concentrated Multi-Family District is established to provide for a variety of multi-family residential uses at considerably higher densities and within an urban setting not traditionally found in Matthews. This district is intended primarily for housing in the form of attached units, individual multi-family buildings, and planned multi-family complexes with front entrances located close to public streets, and in close proximity to existing or planned transit stops, arterial streets, or the downtown. The district is intended to be employed either as small scattered locations or in larger tracts, but any location shall be designed to accommodate a minimum average of twelve (12) dwelling units per acre with no maximum density established by this code. Location and number of parking spaces is based on various standards that can be met by the development site and its surroundings. Provision and improvement of public and/or private recreational space is based on location and number of dwelling units created. Certain nonresidential uses of a public or semi-public nature are also permitted and strongly encouraged to be incorporated in the overall design. The map symbol and short name for the Concentrated Multi-Family District shall be "C-MF".

Consideration of C-MF district designation may result from the creation and adoption of a general concept plan or small area plan which becomes an appendix in the Matthews Land Use Plan. Such a small area plan may include all the area of one C-MF proposed district, or may include a larger geographic location. Any small area plan which is used to encourage the designation of a C-MF district shall identify the need for higher density residential development in the vicinity of the proposed location, and show existing or future pedestrian connectivity to a proposed C-MF site. The small area plan may include required elements such as minimum required street and pedestrian main networks to assure connectivity to a mix of other uses within a walkable distance.

As a Conditional-Only District, parcels of land may be zoned to this category following the procedures explained at § 155.501.3.C. and D., at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined in § 155.501.3.I., prior to any specific plan due to their location as an area identified by the Matthews Board of Commissioners for this zoning designation, with the condition that prior to any land disturbing activity, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the C-MF District. Uses allowed within the C-MF district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the C-MF district are listed at § 155.506. Except where the standards given within this subsection § 155.503.4 specifically for the C-MF district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the C-MF district.

C. OTHER STANDARDS UNIQUE TO THE C-MF DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Concentrated Multi-Family district shall comply with the following requirements. Where the provisions in this § 155.503.4 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. A C-MF district shall meet one (1) or more of the following:

   a. have frontage on an existing or proposed major or minor thoroughfare;

   b. at least one-third (1/3) of the site must be within 2,400 lineal feet of a designated transit station or transit stop shelter; or

   c. be located within one-half (1/2) mile of the intersection of Trade and John Streets in Downtown. In addition, the Board of Commissioners shall identify though small area plans within the Matthews Land Use Plan, where higher density housing of a C-MF district will create a beneficial environment both within the district and to the surrounding neighborhoods.

2. MINIMUM TOTAL PROJECT AREA: A C-MF designation shall be either:

   a. a minimum of three (3) acres, and include a minimum of thirty six (36) dwelling units when adjacent to a thoroughfare or near a transit station; or

   b. less than one and one-half (1½) acres when within one-half (1/2) mile of the intersection of Trade and John Streets. Any C-MF location shall utilize the dimensional requirements given in § 155.604.3 to determine capacity for maximum build-out density.

3. EXTERIOR PROJECT EDGE. Outside of the downtown area, The C-MF district shall provide an

exterior project edge of at least sixty feet (60') when abutting single-family residentially zoned or developed properties. An exterior project edge of at least twenty five feet (25') will be established along abutting properties assigned to any other zoning category. The exterior project edge does not apply to those portions of the project which front on a public street. For C-MF designations within the downtown less than one and one-half (1 ½) acres in size, the exterior project edge shall be twenty feet (20') abutting single-family residentially zoned or developed properties and ten feet (10') abutting other zoning categories. Buildings fronting a public street shall not be set back further from the outside edge of right-of-way, including transitional right-of-way when applicable, more than twelve feet (12'), and shall have pedestrian pathways to one (1) or more doors from the sidewalk. No building, parking, maneuvering, loading or service areas may be located within an exterior project edge.

4. MINIMUM PROJECT EDGE SETBACKS. The minimum distance from any abutting property zoned and developed for single-family residential purposes to any building within the project site under forty five feet (45') in height must be at least one hundred feet (100'). The minimum distance from any abutting undeveloped property which is zoned for single-family residential purposes to any building within the project site under forty five feet (45') in height must be at least fifty feet (50'). The minimum distance from any abutting property zoned for single-family residential purposes to any building within the project site forty five feet (45') in height or higher must be increased by one foot for every one foot in added building height over forty five feet (45'). The minimum distance from any abutting property zoned for any other uses to any building within the project site under forty five feet (45') in height must be at least twenty five feet (25'). The minimum distance from any abutting property zoned for any other uses to any building within the project site forty five feet (45') in height or higher must be increased by one foot (1') for every two feet (2') in added building height over forty five feet (45'). These minimum separation distances do not apply to buildings abutting public streets or to C-MF designations within the downtown that are less than one and one-half (1 ½) acres in size.

5. OPEN SPACE REQUIREMENT. A C-MF designation of three (3) or more acres shall include an open space system featuring pedestrian amenities which must be connected to pedestrian and bicycle facilities in the surrounding neighborhoods. The open space system may include areas devoted to post construction, water quality and/or storm water detention measures, any required or provided landscaping or screening areas, SWIM buffers, greenways or environmental protection features. A minimum of one thirty fifth (1/35) of an acre of open space must be provided for every dwelling unit created. The open space shall generally be located as a single tract within the C-MF designated site and at least one-half (1/2) of it shall be usable by residents and the public for recreation. When the open space requirement cannot feasibly be accomplished on-site, then an off-site location of equivalent size and within one-half (1/2) mile shall be identified as an alternative public park site. This off-site property shall be deeded or dedicated to the Town after it is improved as a park. (Am. Ord. 2025A, passed 6-9-14)

D. EARLY DESIGNATION. Where a parcel has received the designation of C-MF prior to a full development proposal on it, as outlined at § 155.501.3.I, sufficient drawings and documents to clearly prove compliance to the design elements listed in § 155.503.4.E through G below shall be submitted to the Matthews Planning office for review and recommendation in the same way as a rezoning application is handled by Town staff. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. Submission of a request for site plan and/or elevation plan approval shall then be forwarded to the Matthews Board of Commissioners. The Board of Commissioners shall receive a report with recommendations from Town Planning staff on how well the proposal meets the intent of the district and the design criteria listed below, and determine when the proposal meets the requirements and can be approved.

E. REVIEW CRITERIA. In evaluating applications for C-MF designation, the Board of Commissioners shall consider the following:

1. Access to public streets and the adequacy of those streets to carry anticipated traffic.

2. On-site circulation for both pedestrian and vehicular traffic.

3. The amount, variety, and accessibility of passive open space, pedestrian and bicycle amenities, and active recreation parkland within the site and in the immediate surrounding areas.

4. Adequacy of existing community facilities such as water, sewer, police, and fire protection.

5. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.

6. The appropriateness of the proposal in relationship to the policies and objectives of the Matthews Land Use Plan and to a more detailed small area plan, if available.

F. SITE PLAN LAYOUT DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the C-MF district.

2. STREET NETWORK.

a. The interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. Intersections between arterials and collectors must have centerline offsets of at least one hundred fifty feet (150'). This requirement does not apply to intersections between alleys and local streets.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets.

e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a "Y" turn-around and should provide pedestrian connectivity to the maximum extent practicable.

f. Private streets and gated streets are prohibited. All streets must be dedicated to the public, although alleys may be private.

g. Alleys are encouraged to provide vehicular access to off-street parking in the C-MF district. Alley entrances should generally align. Variations in alley alignment is encouraged to prevent long stretches of alleys. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. A thematic and cohesive streetscape planting and lighting plan shall be prepared for tracts of three (3) acres or larger at time of initial C-MF designation. Small sites of one and one-half (1-1/2) acres or less shall include street trees and lighting consistent with surrounding development. The streetscape plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street. Street trees give special character and coherence to each street. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.

i. Building facades are the public "face" of every building. Owners and occupants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use realm. Any interior portions not visible from the public use realm allow residents to have private and semi-private gardens and courtyards.

3. BLOCKS. When a C-MF designation will create new streets or extend streets, the block lengths shall meet the standards provided in Chapter 7.

4. PARKING. No parking of vehicles shall be permitted in the required setback or between buildings

and any public street, in order to allow the structures to be located at or near the public right-of-way and provide visual screening of parking.

a. Location of Off-Street Parking. Parking may be located within buildings, behind buildings, in separate garage structures located to the rear of residential buildings and interior to a C-MF site, or along interior alleys. When parking is located beside or between buildings so that it is visible from a public street or sidewalk, a wall or hedge between three (3') and four and one-half (4-1/2') feet shall be provided to block view of parked vehicles from any public street or pedestrian pathway. Access to off-street parking shall be provided by alleys or private driveways. Parking along alleys is allowed, may be at 90 degree, angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the alley. Where 90 degree or angled spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of designated parking spaces.

b. PARKING STRUCTURES. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the C-MF district. Partially enclosed parking spaces may be created with habitable space cantilevered over them at the rear of a building, or along the side of a building when a solid wall blocks view of parked vehicles from any public street or pedestrian pathway.

c. SHARED PARKING. Where nonresidential uses are within or immediately adjacent to a C-MF site, shared parking may be utilized.

i. Shared location of cumulative required spaces. Owners and developers are encouraged to design a shared parking system for C-MF dwellings and nearby nonresidential uses to distribute the daily and twenty four (24) hour parking load in a joint effort in shared parking lots or structures. A written agreement between property owners explaining what parcels or buildings shall utilize shared parking, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office.

ii. Shared use of same spaces. Shared parking of required parking spaces may be permitted with approval from the Planning Director as provided in § 155.607.2.G.6 of this Title.

5. BUILDINGS FRONTING ON PUBLIC STREETS. Buildings within a C-MF site shall provide a "front door" appearance toward any public street, which will require pedestrian scale doors and windows, with pedestrian walkways from the streetside sidewalk to the buildings and between buildings when appropriate. When a building is located directly across a street from significantly different style, use, or scale of lots or buildings, the principal facade on the C-MF building must be varied with a change of architectural expression that reflects the widths of the narrower lots or smaller buildings. These changes in expression shall include a break in façade plane and/or roofline, and may also incorporate other vertical elements running from sidewalk to roof, such as a change in fenestration, style or texture. These changes must soften the visual effect of larger scale buildings directly across the street from narrower buildings.

G. BUILDING DESIGN GUIDELINES.

1. GENERAL BUILDING DESIGN PRINCIPLES. The principles listed at § 155.603 shall be adhered to when designing any development within the C-MF district. All buildings within the C-MF district must be architecturally compatible in appearance and quality through the use of similar building materials, colors, architectural features and styles. An identified set of architectural styles or specific architectural elements may be utilized to create an overall design theme.

2. EXTERIOR BUILDING WALLS.

   a. Primary exterior wall materials, which shall cover at least seventy five percent (75%) of each façade, excluding any glazed areas, shall consist of brick, other masonry, or native stone (or synthetic equivalent).

   b. Secondary materials, which may cover up to twenty five percent (25%) of each façade, excluding any glazed areas, may include hardiboard siding, wood siding, and stucco.

   c. Accent materials and trim may cover up to ten percent (10%) of each façade excluding any glazed areas. Such accents and trim materials may include pre-cast masonry (for trim and cornice elements only), Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only), metal (for beams, lintels, trim elements and ornamentation only), and split-faced block (only for piers, foundation walls and chimneys). All accent and trim materials shall be identified on elevation plans.

   d. Colors of all non-glazing exterior materials on any building shall be limited to no more than three (3), unless the building is both larger in overall size than sixty thousand (60,000) square feet and at least three (3) stories in height. Such larger buildings may employ up to five (5) distinct colors on its exterior facades. For the purpose of this standard, the term color shall also refer to two (2) clearly different shades of the same color, such as a light green and a dark green, or a pastel pink and a burgundy red.

   e. Alternative percentages of listed materials or types of materials may be requested by the Flexible Design Provisions at § 155.503.4.H. at the time of initial district designation, or through the Administrative Amendment process for an individual building after it has received site plan and elevation plan approval.

3. CONFIGURATIONS AND TECHNIQUES FOR EXTERIOR WALLS: The following configurations and techniques are permitted.

   a. WALLS

      i. Wall openings shall correspond to interior space and shall not span across building structure such as the floor structural and mechanical thickness.

      ii. Material changes shall be made within a constructional logic as where an addition (of a different material) is built onto the original building.

   b. WOOD SIDING AND WOOD SIMULATION MATERIALS

      i. Lap siding (horizontal) configuration

      ii. Smooth or rough-sawn finish (no faux wood grain)

   c. BRICK, BLOCK AND STONE. Must be detailed and in an appropriate load-bearing configurations.

   d. STUCCO (cementitious finish). Smooth or sand only, no roughly textured finish.

   e. STORY HEIGHT. The ground story of residential buildings shall be a minimum of ten feet (10') tall. The ground story of nonresidential and mixed-use buildings must be from twelve feet (12') to eighteen feet (18') tall. Buildings with parking at the ground level and residential units above shall have their first floor a minimum of ten feet (10') tall. Each story above the ground story shall be at least eight feet (8') tall. Any upper story taller than twelve feet (12') will count as two (2) stories. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

   f. Minimum stories. All multi-family buildings with more than six (6) dwelling units shall be at least two (2) stories in height.

   g. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

4. ROOFS AND PARAPETS. Buildings in the C-MF district at or under three (3) stories in height shall not utilize a flat roof design, unless located in the downtown and adjacent or across the street from a nonresidential structure. The design standards for roofs and parapets are as follows:

a. Roof Materials. The following materials are permitted.

i. Clay or concrete (faux clay)

ii. Tile (barrel or flat roman)

iii. Slate (equivalent synthetic or better)

iv. Metal (standing seam, equivalent or better)

v. Dimensional Asphalt shingles

vi. Cedar Shingles

vii. Cornices and soffits may be a combination of wood, vinyl, and/or metal.

b. Parapets shall generally not extend above the top of a flat or single pitch (shed) roof more than six feet (6') fronting a public street. Parapets may be used to visually screen roof-top mechanical equipment, and a utilitarian penthouse structure may be attached to the interior side of a parapet extension in order to screen equipment. Parapets shall appear from the exterior as part of the exterior wall, and as such shall be composed of the same materials and limited to the same colors and finishes as the materials of the exterior walls. When a parapet also serves as a security railing for any activity on a rooftop, a parapet not facing a public street may incorporate different materials than the exterior wall from which it extends, such as glass, metal mesh, and poles. When a parapet faces a public street and also serves as a security railing for a rooftop activity, such as a green roof or open air patio, then the parapet may be designed such that it has openings in its vertical surface to allow visibility and air flow through it. Such openings shall not be lower than three feet (3') from the roof surface nor exceed eighteen inches (18") in width.

c. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

5. CONFIGURATIONS AND TECHNIQUES. The following configurations and techniques are permitted:

a. PITCHED ROOFS. Pitch is exclusive of roofs behind parapets.

i. Simple hip and gable roofs shall be symmetrically pitched between 4:12 and 10:12.

ii. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

iii. Eaves, when provided, must overhang eighteen (18) to thirty inches (30") on a principal building for the initial four (4) stories. For each additional story; six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of seven feet (7').

iv. Eaves on accessory buildings, dormers, and other smaller structures must overhang at least eight inches (8").

v. Timber eaves and balcony brackets must be a minimum of four-by-four inches (4" by 4") in dimension.

b. PARAPET AND CORNICE STANDARDS.

i. Allowed only for sites where the roof material is not visible from any adjacent street.

ii. Buildings without visible roof surfaces and overhanging eaves may create an overhang with a cornice projecting horizontally between six (6") and twelve inches (12") beyond the building walls on the primary structure for the initial four (4) stories. For each additional story; six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of six feet (6').

c. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been

approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

6. WINDOWS AND DOORS. The standards for windows and doors are as follows:

   a. Windows shall be of anodized aluminum, wood, clad wood, vinyl, or steel.

   b. Window glass shall be clear or lightly-tinted and non-reflective, with light transmission at the ground story at least seventy five percent (75%) and for the upper stories at least sixty percent (60%), with modification as necessary to meet any applicable building and energy code requirements.

   c. Specialty windows, with a maximum of one per thirty (30) lineal feet along any façade facing any public street or public use realm, per story is allowed. A specialty window may utilize stained, opalescent, or translucent glass, or glass block, and shall not exceed forty eight (48) square feet in area. Mirrored glass shall not be used when visible from any public street or public use realm.

   d. Operable windows and doors onto patios and balconies are allowed for residential units on any story.

   e. Window screens shall be black or gray. Screen frames shall match window frame material or be dark anodized.

   f. Doors designed primarily for pedestrian use shall be of wood, clad wood, or steel and may include glass panes. Doors designed for vehicular use may be of any material and style consistent with the architectural detail of the building.

   g. Double-height entryways (those that span more than one [1] story) are not allowed.

7. CONFIGURATIONS AND TECHNIQUES FOR DOORS AND WINDOWS. The following are permitted:

   a. The horizontal dimension of the opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

   b. Windows may be ganged horizontally.

   c. Bay or bow windows, curved corner windows, or windows at corner of buildings are allowed on all stories for residential units.

   d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window at one-half the width, even if inoperable.

   e. Windows on any story above the ground story may be double-hung, single-hung, awning, or casement windows. Fixed windows are permitted only as specialty windows or when a component of a system including an operable window within a single wall opening.

   f. Residential units shall have panes of glass no larger than sixty inches (60”) vertical by thirty six inches (36”) horizontal when vertically oriented, or no larger than forty eight inches (48”) vertical by sixty inches (60”) horizontal when horizontally oriented, except where opening to an outdoor balcony or patio. When necessary to meet building codes for egress purposes windows may exceed the dimensions given here.

   g. Nonresidential windows and doors at the street level shall not have individual panes of glass larger than eight feet (8’) in height by four feet (4’) wide.

   h. All window pane surface area of ground story nonresidential buildings shall allow views into the building interior for a depth of at least eight feet (8’) where the interior space is retail, restaurant, office, or similar area accessible to the public. This shall not include restrooms, or restricted employee-only accessed areas, such as a kitchen, inventory storage, or loading dock. Windows shall not be made opaque by window treatments except for operable sunscreen devices within the conditioned space.

   i. Garage doors or operable coverings over vehicle use (service/loading) wall openings shall not face the primary public street unless they are set back from the building façade and from the public right-of-way at least twenty feet (20’).

   j. Doors shall not be recessed more than three feet (3’) behind the shop-front windows and, in any case, shall have a clear view and path to a forty five degree (45°) angle past the perpendicular from each side of the door.

k. FIRST FLOOR ELEVATION ENTRANCES. Nonresidential uses shall have their primary public walk-in entrances level with, to no greater than six inches (6") above the adjacent walkway. When a nonresidential use has more than one (1) primary public entrance and more than a one foot (1') difference in finished grade at various doorways, then the entrance adjacent to a public street shall meet this requirement. Residential buildings shall have their first habitable story at least eighteen inches (18") above the adjacent public walkway. Residential buildings with multiple doors shall meet this height standard for doors facing public streets. Exceptions may be allowed through a site plan review, when a written explanation is provided to indicate the basis for alternate design.

l. Awnings and canopies are encouraged at entrance doorways for weather protection.

m. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

8. SIGNAGE. In addition to the sign standards at § 155.608 and any provisions of an overlay district, when applicable, the following standards apply in the C-MF district:

a. Where a building is designed to house multiple businesses or uses, each capable of desiring identification signage, the building shall provide a master sign plan prior to receiving a Certificate of Occupancy. The master sign plan shall be reviewed and approved by the Town Board of Commissioners as provided at § 155.608.9. It shall include a designated horizontal sign band for all nonresidential uses on the ground or street level story, and identify where the building name may be placed. The sign band for the ground story level shall not be higher than sixteen feet (16') or lower than nine feet (9') above the adjacent public sidewalk, street or public use realm.

b. Individual letters placed within the designated first floor sign band shall not exceed eighteen inches (18") in height or width and three inches (3") in relief for any buildings placed at, or within ten feet (10') of the adjacent public street. Company logos and other non-word elements may be placed within the sign band. All words, logos, and related elements used within the sign band to identify a business shall be arranged so that together they fit within a rectangular area up to sixty (60) square feet per business enterprise.

c. Company logos or names may be placed or painted within ground floor office windows.

d. A masonry or bronze plaque bearing the building name may be placed in the building's parapet wall or under the eaves, and above the upper story windows. The building name identification may alternatively be sculpted into the building façade. Any such plaque or sculpted material shall not exceed eighteen (18) square feet and shall be limited to the façade incorporating the primary pedestrian entrance. When the building exceeds three stories in height, the building name identification area may be increased by two (2) square feet for each additional story when the identification is placed at or above the top habitable story. The building name may also be displayed on a separate masonry or bronze plaque or sculpted into the building wall material at the ground story level and shall not exceed four (4) square feet.

e. Projecting signs placed perpendicular to the building facade and identifying a business enterprise or residential use within the building may be placed within ten feet (10') of an associated street level door in the designated first story sign band or on exterior walls of the second story, not to exceed twenty four feet (24') in height. Projecting signs shall not exceed twenty four (24) square feet in area or extend further than four feet (4') from the façade, and shall have a minimum of seven feet six inches (7'6") clear height above any sidewalk, plaza, or public use realm.

f. Because all buildings are expected to be at or close to the public street, sidewalk, or a public use realm, no freestanding signs are allowed for individual buildings. Freestanding signs may be employed as gateway identification markers to the development as identified in a master sign plan.

9. AWNINGS, CANOPIES, AND ARCADES: When an awning, canopy, or arcade is incorporated into a

building, the following requirements shall apply:

a. A minimum of ten feet (10') clear height shall be provided for any awning, canopy, or arcade above any sidewalk, plaza, or public use realm.

b. Awnings may extend from the front façade of the building up to one-half (1/2) of the width of the sidewalk area below, not to exceed nine feet (9'), whichever is less. If this extension reaches into the public right-of-way, an encroachment agreement with the Town or State is required. In no case shall an awning interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

c. Canopies and arcades may extend from the front façade of the building up to the full width of the sidewalk area below. If this extension reaches into the public right-of-way, an encroachment agreement from the Town or State is required. In no case shall a canopy interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

d. Awnings may be made of canvas or treated canvas material, may be designed to retract against the wall of the building, and shall not include any shiny or reflective materials.

e. Canopies and arcades may be made of wood, metal, or glass, or a combination of these or similar permanent rigid materials, and shall not include any shiny or reflective materials.

f. No internal illumination shall be projected through an awning, canopy, or arcade.

10. MECHANICAL EQUIPMENT AND STORAGE ITEMS. The following shall be placed behind and away from any front or corner side building line, outside of any required sight triangle of any street or driveway intersection, not be stored or located within any street, and be screened from view from the public use realm:

a. Air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, storage tanks, garbage dumpsters and compressors, and similar free-standing equipment shall not be installed or placed within any area on the site considered public use realm. Any line of view of such items from the public realm shall be provided with plant materials or other hardscape items to visually screen them.

b. Backflow preventers as required by the public utility company should not hinder use of, or block pedestrian flow through, the public use realm, and they shall be covered and screened from view.

c. Utility meters for individual residential or nonresidential uses that are installed on or near a building wall and must be regularly accessed for data collection shall be screened from view from the public realm through the use of a fence, wall, evergreen landscape materials, or other visual block. When vegetation is used, it shall be evergreen or coniferous species with a minimum height at planting of three feet (3'), and expected to grow to a height to shield view of the mechanical equipment from the public realm within four (4) growing seasons.

d. Garbage and recycling containers, and similar items which must be stored and then moved on an ongoing schedule for servicing shall be stored in a location that is completely screened from view from the public realm to a minimum height of six feet (6') through the use of a fence, wall, or other visual block. The usual storage location and the temporary staging area for servicing of such containers shall be designed and identified as part of the site plan process.

e. Roof mounted equipment shall be placed behind and away from any front or corner side building line and be screened from view from the public realm. Screening may be accomplished by parapet walls, utilitarian penthouse structures attached to the interior of a parapet extension, equipment covers, or similar. These items may also be set back from the edge of a building at least ten feet (10') and camouflaged by color matching the roof when they do not exceed two feet (2') in height.

f. Skylights, roof vents and stacks, exhaust fans, plumbing for green roofs, elevator mechanism, and other items or equipment with permanent placement on the roof of a building shall be physically separated from any portion of a rooftop that is designed for

access and use by the residents of the building.

H. FLEXIBLE DESIGN. The C-MF district establishes minimum standards for development and design. Those standards however might not always be appropriate to the particular development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the C-MF district in § 155.503.4 may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.5. Mixed-Use District (MUD)

A. The Mixed-Use District is established to create the opportunity for master planning of sites for mixed- and/or multiple-use development. The Mixed-Use District is intended to be used on multi-acre sites with unique locational criteria such as at interstate interchanges, intersections of major highways, and/or transit stations. This district offers an opportunity for creative site development, planning and design standards while ensuring appropriate land use relationships to surrounding areas. The map symbol and short name for the Mixed-Use District shall be "MUD". **[formerly part of regulation known as § 153.208]**

Consideration of MUD district designation may result from the creation and adoption of a general concept plan or small area plan which becomes an appendix in the Matthews Land Use Plan. Such a small area plan may include all the area of one MUD district, or may include a larger geographic location. Any small area plan which is used to encourage the designation of a MUD district shall identify the need for a mixed- or multiple-use urban and walkable environment, and may provide unique characteristics or thematic elements to be preserved or enhanced in the vicinity. The small area plan may include required elements if the build-out is to be phased over time, such as initial required street and pedestrian main networks to assure connectivity, or a minimum/maximum amount of certain types of land uses to guarantee a full range mix of uses.

As a Conditional-Only District, parcels of land may be zoned to this category following the procedures explained at § 155.501.3.C. and D., at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined in § 155.501.3.I., prior to any specific plan due to their location as an area identified by the Matthews Board of Commissioners for this zoning designation, with the condition that prior to any land disturbing activity, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the MUD District. Uses allowed within the MUD district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the MUD district are listed at § 155.506. Except where the standards given within this subsection § 155.503.5 specifically for the MUD district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the MUD district.

C. OTHER STANDARDS UNIQUE TO THE MIXED-USE DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Mixed Use District ("MUD District") shall comply with the following requirements. Where the provisions in this § 155.503.5 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. A MUD District shall have frontage on an existing or proposed major or minor thoroughfare.

2. MINIMUM TOTAL PROJECT AREA. A MUD designation shall be a minimum of fifteen (15) acres. Build-out of the overall development may be constructed in multiple phases over time.

3. EXTERIOR PROJECT EDGE. The MUD District shall provide an exterior project edge of at least one hundred feet (100') will be established along abutting single-family residentially zoned and developed properties. An exterior project edge of at least fifty feet (50') will be established along abutting single family residentially zoned properties which are undeveloped. An exterior project edge of at least fifteen feet (15') will be established along abutting properties assigned to any other zoning category. The exterior project edge does not apply to those portions of the project which front on a public street. No building, parking, maneuvering, loading or service areas may be located within an exterior project edge.

4. MINIMUM PROJECT EDGE SETBACKS. The minimum distance from any abutting property zoned

and developed for residential purposes to any building within the project site under forty five feet (45') in height must be at least one hundred feet (100'). The minimum distance from any abutting undeveloped property which is zoned for residential purposes to any building within the project site under forty five feet (45') in height must be at least fifty feet (50'). The minimum distance from any abutting property zoned for residential purposes to any building within the project site forty five feet (45') in height or higher must be increased by one foot (1') for every one foot (1') in added building height over five feet (45'). The minimum distance from any abutting property zoned for nonresidential purposes to any building within the project site under five feet (45') in height must be at least fifteen feet (15'). The minimum distance from any abutting property zoned for nonresidential purposes to any building within the project site forty five feet (45') in height or higher must be increased by one foot (1') for every two feet (2') in added building height over forty five feet (45'). These minimum separation distances do not apply to buildings abutting public streets. However, such buildings must comply with the setback requirements established under § 155.604.3.

5. OPEN SPACE REQUIREMENT. The MUD District project shall include an open space system featuring pedestrian amenities. The open space system may include areas devoted to post construction, water quality and/or storm water detention measures, any required or provided landscaping or screening areas, SWIM buffers, greenways or environmental protection features. Any proposal for a MUD District shall include a comprehensive open space plan along with the implementation schedule for the open space system. The open space system may be constructed in multiple phases over time.

D. EARLY DESIGNATION. Where a parcel has received the designation of MUD prior to a full development proposal on it, as outlined at § 155.501.3.I, sufficient drawings and documents to clearly prove compliance to the design elements listed in § 155.503.5.E through G below shall be submitted to the Matthews Planning office for review and recommendation in the same way as a rezoning application is handled by Town staff. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. Submission of a request for site plan and/or elevation plan approval shall then be forwarded to the Matthews Board of Commissioners. The Board of Commissioners shall receive a report with recommendations from Town Planning staff on how well the proposal meets the intent of the district and the design criteria listed below, and determine when the proposal meets the requirements and can be approved.

E. REVIEW CRITERIA**.** Proposals for mixed- and multiple-use development may be eligible for rezoning to the MUD District only if they incorporate the principles of urban community design, including:

1. A highly interconnected street network, dispersing traffic and providing safe convenient routes for pedestrians and bicyclists.
2. High-quality public spaces, with all building facades having windows and doors facing tree-lined streets, plazas, squares, or neighborhood parks.
3. Compact development, creating a walkable urban environment and conserving land and energy through reduced automobile usage and advanced techniques such as stormwater infiltration.
4. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility.
5. Resilient and sustainable neighborhoods, adaptable over time to improved public transit and to changing economic conditions.

F. SITE PLAN LAYOUT DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the MUD district.
2. STREET NETWORK.
   a. The interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. Intersections between arterials and collectors must have centerline offsets of at least one hundred fifty feet (150'). This requirement does not apply to intersections between alleys and local streets.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where arcades are provided which would restrict adequate space for natural tree canopy growth.

e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a "Y" turn-around and should provide pedestrian connectivity to the maximum extent practicable.

f. Private streets and gated streets are prohibited. All streets must be dedicated to the public, although alleys may be private.

g. ALLEYS AND SERVICE ACCESS. A clearly-defined network of rear and side alleys is encouraged to provide vehicular access to off-street parking and service/loading facilities for individual lots in the MUD District. Alley entrances should generally align so as to provide ease of ingress for service vehicles, but internal deflections or variations in the alley network are encouraged to prevent excessive or monotonous views of the rear of structures resulting from long stretches of alleys. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. THE STREETSCAPE. A thematic and cohesive streetscape planting and lighting plan shall be prepared for the MUD district at time of initial designation. The streetscape plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street. Street trees give special character and coherence to each street. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.

i. FRONTS AND REARS. Building facades are the public "face" of every building. Owners and occupants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use realm. The private, interior portions of the lots (toward the alley) allow commercial operators to utilize these spaces as efficient working environments unseen by the public and allow residents to have private and semi-private (for apartment and condominium buildings) gardens and courtyards.

3. BLOCKS. Except as otherwise provided, block perimeters may not exceed eight hundred (800) lineal feet as measured along the edges of each street right-of-way forming the block. Blocks may alternatively be broken by a civic space provided that lot is at least fifty feet (50') wide and will provide perpetual pedestrian access between the blocks and to any lots that front the civic space. Smaller blocks are encouraged to promote walkability.

Block perimeters may exceed this limit, up to a maximum of four thousand (4,000) lineal feet, only if one or more of the following conditions apply:

a. The block has at least one block face on an arterial street; or

b. The block face contains valuable natural features or significant historic resources that should not be crossed by a street.

4. PARKING. While public street cross sections may include on-street parking on many streets and parking requirements may be reduced within the MUD district, a substantial amount of required parking will need to be provided on private property, either on the same parcel as the associated use or on a nearby parcel.

a. MINIMUM VEHICULAR PARKING STANDARDS. The following minimum requirements are established in the MUD district:

i. Nonresidential uses: 1 space per 300 square feet of gross floor area.

ii. Planned multiple-family development:

Size of Unit	Spaces Required Per Unit
1,249 square feet or less	1.00
1,250 square feet or more	1.25

iii. All other residential uses as permitted in the MUD District are required to provide off-street motor vehicle parking in accordance with the minimum standards set forth in § 155.607.2 of this Title.

b. BICYCLE PARKING. Bicycle parking spaces shall be provided in accordance with § 155.607.2.D of this Title.

c. LOCATION OF OFF-STREET PARKING. To the maximum extent practicable, off-street parking spaces must be located within buildings or behind buildings so that buildings screen parking areas from sidewalks and streets. In no case may parking be located in the setback or yard in front of a building. Parking lots in non-streetside (interior of block) side yards may be allowed provided these lots are placed a minimum of twenty feet (20') from lot lines adjoining rights-of-way, excluding alleys. Access to off-street parking shall be provided by private driveways or shared alleys. Parking along alleys is allowed, may be at 90 degree, angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the alley. Where 90 degree or angled spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20')in width, with no obstructions such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of designated parking spaces. Cross access is required between adjoining rear/side parking lots.

d. The required minimum number of off-street parking spaces may be provided in any location within the MUD District project area. However, each construction phase of the MUD project must comply with the off-street parking requirements of this § 155.503.5.

e. SHARED PARKING.

i. Shared location of cumulative required spaces. Owners and developers are encouraged to design a shared parking system for part or all of a MUD District to distribute the daily and twenty four (24) hour parking load in a joint effort in shared parking lots or structures. Shared internal parking facilities increase building and public use coverage fronting streets within the district. Shared off-site parking facilities may initially be surface lots that may be converted to structured parking if and when intensity of development within the district reaches a level where structured parking becomes economically viable to the surrounding uses. A written agreement between property owners explaining what parcel or parcels shall utilize structured parking, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office. Conversion of surface parking to structured parking shall provide documentation that minimum required spaces continue to be provided for all included properties.

ii. Shared use of same spaces. Shared parking of required parking spaces may be permitted with approval from the Planning Director as provided in § 155.607.2.G.6 of this Title.

f. Where on-street or public parking lot spaces are located within four hundred feet (400') of a building entrance, up to a twenty five percent (25%) reduction to required on-site parking may be allowed for new construction.

g. New on-street parking spaces developed adjacent to and in conjunction with a new building may be counted toward the minimum on-site parking requirements for that building. Any such on-street parking spaces may only be attributed to meeting minimum

parking requirements for one new building.

h. PARKING STRUCTURES. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings. Structured parking is permitted and encouraged in mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the MUD District. Partially enclosed parking spaces may be created with habitable space cantilevered over them at the rear of a building, or along the side of a building when a solid wall blocks view of parked vehicles from any public street or pedestrian pathway.

5. USES UNABLE TO UTILIZE STREETFRONT FENESTRATION. When certain uses such as a theater or planetarium cannot comply with the required door and window standards for primary facades, then they may be constructed in a manner that they will be separated from adjacent streets by a use or uses that will create the necessary openings in the exterior wall surface.

a. Indoor public assembly space may be created when appropriate for the related use, such as a ticket and concessions area and customer lobby for a theater, or an exhibition and display space for a museum. Adequate windows and door openings would be required in this space along the exterior wall, allowing view from the public realm to an occupied and active interior space.

b. Liner buildings may be used. When designed to provide visual enclosure for a particular use from a public street or public use area, they may be detached from or attached to the building(s) they are concealing. Liner buildings must meet the primary façade transparency requirements in § 155.503.5.G.

c. Liner buildings may be used for any purpose allowed on the lot on which they are located except exclusively for parking.

6. WIDE BUILDINGS. When a wide building is placed directly across a street from significantly narrower lots or buildings, the principal façade on the wide building must be varied with a change of architectural expression that reflects the widths of the narrower lots. These changes in expression may be a vertical element running from sidewalk to roof, a change in fenestration or style, color, or texture, or a break in façade plane or roof line. These changes may be subtle or significant, but must soften the visual effect of very wide buildings directly across the street from narrower buildings.

G. BUILDING DESIGN GUIDELINES.

1. GENERAL BUILDING DESIGN PRINCIPLES. The principles listed at § 155.603 shall be adhered to when designing any development within the MUD district. All buildings within the MUD District project must be architecturally compatible in appearance and quality through the use of similar building materials, colors, architectural features and styles. An identified set of architectural styles or specific architectural elements may be utilized to create an overall design theme.

2. EXTERIOR BUILDING WALLS.

a. Primary exterior wall materials, which shall cover at least seventy five percent (75%) of each façade, excluding any glazed areas, shall consist of brick, other masonry, or native stone (or synthetic equivalent).

b. Secondary materials, which may cover up to twenty five percent (25%) of each façade, excluding any glazed areas, may include hardiboard siding, wood siding, and stucco.

c. Accent materials and trim may cover up to ten percent (10%) of each façade excluding any glazed areas. Such accents and trim materials may include pre-cast masonry (for trim and cornice elements only), Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only), metal (for beams, lintels, trim elements and ornamentation only), and split-faced block (only for piers, foundation walls and chimneys). All accent and trim materials shall be identified on elevation plans.

d. Colors of all non-glazing exterior materials on any building shall be limited to no more than three (3), unless the building is both larger in overall size than sixty thousand (60,000) square feet and at least three (3) stories in height. Such larger buildings may

employ up to five (5) distinct colors on its exterior facades. For the purpose of this standard, the term color shall also refer to two (2) clearly different shades of the same color, such as a light green and a dark green, or a pastel pink and a burgundy red.

e. Alternative percentages of listed materials or types of materials may be requested by the Flexible Design Provisions at § 155.503.5.H. at the time of initial district designation, or through the Administrative Amendment process for an individual building after it has received site plan and elevation plan approval.

3. CONFIGURATIONS AND TECHNIQUES FOR EXTERIOR WALLS: The following configurations and techniques are permitted.

a. WALLS

i. The horizontal dimension of the wall opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

ii. Wall openings shall not span vertically more than one (1) story.

iii. Wall openings shall correspond to interior space and shall not span across building structure such as the floor structural and mechanical thickness.

iv. Material changes shall be made within a constructional logic—as where an addition (of a different material) is built onto the original building.

b. WOOD SIDING AND WOOD SIMULATION MATERIALS

i. Lap siding (horizontal) configuration

ii. Smooth or rough-sawn finish (no faux wood grain)

c. BRICK, BLOCK AND STONE. Must be detailed and in an appropriate load-bearing configurations.

d. STUCCO (cementitious finish). Smooth or sand only, no roughly textured finish.

e. STORY HEIGHT. The ground story of nonresidential and mixed-use buildings must be from twelve feet (12') to eighteen feet (18') tall. The ground story of residential buildings shall be a minimum of ten feet (10') tall. Each story above the ground story shall be at least eight feet (8') tall. Any upper story taller than twelve feet (12') will count as two (2) stories. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

f. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

4. ROOFS AND PARAPETS. The design standards for roofs and parapets are as follows:

a. Roof Materials. The following materials are permitted.

i. Clay or concrete (faux clay)

ii. Tile (barrel or flat roman)

iii. Slate (equivalent synthetic or better)

iv. Metal (standing seam, equivalent or better)

v. Dimensional Asphalt shingles

vi. Cedar Shingles

vii. Cornices and soffits may be a combination of wood, vinyl, and/or metal.

b. Parapets shall generally not extend above the top of a flat or single pitch (shed) roof more than six feet (6') fronting a public street. Parapets may be used to visually screen roof-top mechanical equipment, and a utilitarian penthouse structure may be attached to the interior side of a parapet extension in order to screen equipment. Parapets shall appear from the exterior as part of the exterior wall, and as such shall be composed of the same materials and limited to the same colors and finishes as the materials of the exterior walls. When a parapet also serves as a security railing for any activity on a rooftop, a parapet

not facing a public street may incorporate different materials than the exterior wall from which it extends, such as glass, metal mesh, and poles. When a parapet faces a public street and also serves as a security railing for a rooftop activity, such as a green roof or open air dining, then the parapet may be designed such that it has openings in its vertical surface to allow visibility through it. Such openings shall not be lower than three feet (3') from the roof surface nor exceed eighteen inches (18") in width.

c. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

5. CONFIGURATIONS AND TECHNIQUES. The following configurations and techniques are permitted:

a. PITCHED ROOFS. Pitch is exclusive of roofs concealed behind parapets.

i. Simple hip and gable roofs shall be symmetrically pitched between 4:12 and 10:12.

ii. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

iii. Eaves, when provided, must overhang eighteen inches (18") to thirty inches (30") on a principal building for the initial four (4) stories. For each additional story; six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of seven feet (7').

iv. Eaves on accessory buildings, dormers, and other smaller structures must overhang at least eight inches (8").

v. Timber eaves and balcony brackets must be a minimum of four-by-four inches (4" by 4") in dimension.

b. PARAPET AND CORNICE STANDARDS.

i. Allowed only for sites where the roof material is not visible from any adjacent street.

ii. Buildings without visible roof surfaces and overhanging eaves may create an overhang with a cornice projecting horizontally between six inches (6") and twelve inches (12") beyond the building walls on the primary structure for the initial four (4) stories. For each additional story, six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of six feet (6').

c. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

6. WINDOWS AND DOORS. The standards for windows and doors are as follows:

a. Windows shall be of anodized aluminum, wood, clad wood, vinyl, or steel.

b. Window glass shall be clear or lightly-tinted and non-reflective, with light transmission at the ground story at least ninety percent (90%) and for the upper stories at least seventy five percent (75%), with modification as necessary to meet any applicable building and energy code requirements.

c. Specialty windows, with a maximum of one per thirty (30) lineal feet along any façade facing any public street or public use realm, per story is allowed. A specialty window may utilize stained, opalescent, or translucent glass, or glass block, and shall not exceed forty eight (48) square feet in area. Mirrored glass shall not be used on any ground story façade or on any story when visible from any public street or public use realm.

d. Operable windows and doors onto patios and balconies are allowed for residential units on any story, and for nonresidential and mixed use buildings above the ground story.

e. Window screens shall be black or gray. Screen frames shall match window frame

material or be dark anodized.

f. Doors designed primarily for pedestrian use shall be of wood, clad wood, or steel and may include glass panes. Doors designed for vehicular use may be of any material and style consistent with the architectural detail of the building.

g. Double-height entryways (those that span more than one [1] story) are not allowed.

7. CONFIGURATIONS AND TECHNIQUES FOR DOORS AND WINDOWS. The following are permitted:

a. The horizontal dimension of the opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

b. Windows may be ganged horizontally (maximum five [5] per group) if each grouping is separated by a mullion, column, pier or wall section that is at least seven inches (7") wide.

c. Windows shall be no closer than thirty inches (30") to building corners (excluding bay windows).

d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window at one-half the width, even if inoperable.

e. Windows on any story above the ground story may be double-hung, single-hung, awning, or casement windows. Fixed windows are permitted only as specialty windows or when a component of a system including an operable window within a single wall opening.

f. Residential buildings or residential floors of mixed use buildings shall have panes of glass no larger than thirty six inches (36") vertical by thirty inches (30") horizontal. The maximum pane size for office uses is forty eight (48") vertical by forty (40") horizontal. When necessary to meet building codes for egress purposes windows may exceed the dimensions given here.

g. Nonresidential windows and doors at the street level shall not have individual panes of glass larger than eight feet (8') in height by four feet (4') wide.

h. All window pane surface area of ground story nonresidential buildings shall allow views into the building interior for a depth of at least eight feet (8') where the interior space is retail, restaurant, office, or similar area accessible to the public. This shall not include restrooms, or restricted employee-only accessed areas, such as a kitchen, inventory storage, or loading dock. Windows shall not be made opaque by window treatments except for operable sunscreen devices within the conditioned space.

i. Garage doors or operable coverings over vehicle use (service/loading) wall openings shall not face the primary public street unless they are set back from the building façade and from the public right-of-way at least twenty feet (20').

j. Doors shall not be recessed more than three feet (3') behind the shop-front windows and, in any case, shall have a clear view and path to a forty five degree (45°) angle past the perpendicular from each side of the door.

k. FIRST FLOOR ELEVATION ENTRANCES. Nonresidential and mixed use buildings shall have their primary public walk-in entrances level with, to no greater than six inches (6") above the adjacent walkway. When a nonresidential or mixed use building has more than one primary public entrance and more than a one foot (1') difference in finished grade at various doorways, then the entrance adjacent to a public street shall meet this requirement. Residential buildings shall have their first habitable story at least eighteen inches (18") above the adjacent public walkway. Residential buildings with multiple doors shall meet these height standards for doors facing public streets. Exceptions may be allowed through a site plan review, when a written explanation is provided to indicate the basis for alternate design.

l. Arcades, awnings, and canopies are encouraged along the front of buildings facing public streets and the public use realm.

m. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment

may be submitted which shall automatically require Town Board final determination.

8. SIGNAGE. The standards for signs are as follows:

a. Where a building is designed to house multiple businesses or uses, each capable of desiring identification signage, the building shall provide a master sign plan prior to receiving a Certificate of Occupancy. The master sign plan shall be reviewed and approved by the Town Board of Commissioners as provided at § 155.608.9. It shall include a designated horizontal sign band for all uses on the ground or street level story, and designated locations for identification of businesses in upper level stories and for identifying the building name itself. The sign band for the ground story level shall not be higher than sixteen feet (16') or lower than nine feet (9') above the adjacent public sidewalk, street or public use realm.

b. Individual letters placed within the designated first floor sign band shall not exceed eighteen inches (18") in height or width and three inches (3") in relief for any buildings placed at, or within ten feet (10') of the adjacent public street. Company logos and other non-word elements may be placed within the sign band. All words, logos, and related elements used within the sign band to identify a business shall be arranged so that together they fit within a rectangular area up to sixty (60) square feet per business enterprise.

c. Company logos or names may be placed or painted within ground floor or second story office windows.

d. Attached signs for buildings designed and used as a single business enterprise or a multi-family residential building:

i. Any combination of letters, logos, and other elements shall be considered one sign for any building up to sixty thousand (60,000) square feet GFA and/or up to three stories. This sign shall fit within a rectangular area not to exceed one hundred (100) square feet, and not to exceed ten feet (10') in height. This single sign is allowed per each building façade that is at an eighty (80) or greater degree angle from an adjacent building façade.

ii. Any combination of letters, logos, and other elements shall be considered one sign for any building equal to or greater than sixty thousand (60,000) square feet GFA and more than three (3) stories. This sign shall fit within a rectangular area not to exceed two hundred fifty (250) square feet, and not to exceed sixteen feet (16') in height.

e. A masonry or bronze plaque bearing the building name may be placed in the building's parapet wall or under the eaves, and above the upper story windows. The building name identification may alternatively be sculpted into the building façade. Any such plaque or sculpted material shall not exceed eighteen (18) square feet and shall be limited to the façade incorporating the primary pedestrian entrance. The building name may also be displayed on a separate masonry or bronze plaque or sculpted into the building wall material at the ground story level and shall not exceed four (4) square feet.

f. Projecting signs placed perpendicular to the building facade and identifying a business enterprise or residential use within the building may be placed within ten feet (10') of an associated street level door in the designated first story sign band or on exterior walls of the second story, not to exceed twenty four feet (24') in height. Projecting signs shall not exceed twenty four (24) square feet in area or extend further than four feet (4') from the façade, and shall have a minimum of seven feet six inches (7'6") clear height above any sidewalk, plaza, or public use realm.

g. Because all buildings are expected to be at or close to the public street, sidewalk, or a public use realm, no freestanding signs are anticipated for individual buildings. Freestanding signs may be employed as gateway identification markers to various subareas at the exterior boundaries of and within the MUD District as locations are determined by the approved general concept plan.

9. AWNINGS, CANOPIES, AND ARCADES: When an awning, canopy, or arcade is incorporated into a

building, the following requirements shall apply:

a. A minimum of ten feet (10') clear height shall be provided for any awning, canopy, or arcade above any sidewalk, plaza, or public use realm.

b. Awnings may extend from the front façade of the building up to one-half (1/2) of the width of the sidewalk area below, not to exceed nine feet (9'), whichever is less. If this extension reaches into the public right-of-way, an encroachment agreement with the Town or State is required. In no case shall an awning interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

c. Canopies and arcades may extend from the front façade of the building up to the full width of the sidewalk area below. If this extension reaches into the public right-of-way, an encroachment agreement from the Town or State is required. In no case shall a canopy interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

d. Awnings may be made of canvas or treated canvas material, may be designed to retract against the wall of the building, and shall not include any shiny or reflective materials.

e. Canopies and arcades may be made of wood, metal, or glass, or a combination of these or similar permanent rigid materials, and shall not include any shiny or reflective materials.

f. No internal illumination shall be projected through an awning, canopy, or arcade.

10. MECHANICAL EQUIPMENT AND STORAGE ITEMS. The following shall be placed behind and away from any front or corner side building line, outside of any required sight triangle of any street or driveway intersection, not be stored or located within any street, and be screened from view from the public use realm:

a. Air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, storage tanks, garbage dumpsters and compressors, and similar free-standing equipment shall not be installed or placed within any area on the site considered public use realm. Any line of view of such items from the public realm shall be provided with plant materials or other hardscape items to visually screen them.

b. Backflow preventers as required by the public utility company should not hinder use of, or block pedestrian flow through, the public use realm, and they shall be covered and screened from view.

c. Utility meters for individual residential or nonresidential uses that are installed on or near a building wall and must be regularly accessed for data collection shall be screened from view from the public realm through the use of a fence, wall, evergreen landscape materials, or other visual block. When vegetation is used, it shall be evergreen or coniferous species with a minimum height at planting of three feet (3'), and expected to grow to a height to shield view of the mechanical equipment from the public realm within four (4) growing seasons.

d. Garbage and recycling containers, and similar items which must be stored and then moved on an ongoing schedule for servicing shall be stored in a location that is completely screened from view from the public realm to a minimum height of six feet (6') through the use of a fence, wall, or other visual block. The usual storage location and the temporary staging area for servicing of such containers shall be designed and identified as part of the site plan process.

e. Roof mounted equipment shall be placed behind and away from any front or corner side building line and be screened from view from the public realm. Screening may be accomplished by parapet walls, utilitarian penthouse structures attached to the interior of a parapet extension, equipment covers, or similar. These items may also be set back from the edge of a building at least ten feet (10') and camouflaged by color matching the roof when they do not exceed two feet (2') in height.

f. Skylights, roof vents and stacks, exhaust fans, plumbing for green roofs, elevator mechanism, and other items or equipment with permanent placement on the roof of a building shall be physically separated from any portion of a rooftop that is designed for

access and use by the residents, occupants, or customers of the building.

H. FLEXIBLE DESIGN. The MUD District establishes minimum standards for development and design. Those standards however might not always be appropriate to the particular development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the MUD district in § 155.503.5 may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.6. Transit-Supportive District (TS)

A. The Transit-Supportive District is established to create beneficial new mixed-use development opportunities at higher densities and intensities of use not customarily found in Matthews specifically to provide a pedestrian-oriented physical environment that reduces vehicle miles traveled within the district and accommodates the physical needs of public transit services. This district is intended to be established within one thousand three hundred (1,300') to two thousand five hundred feet (2,500') of a transit station or park and ride facility and may be established in advance of public transit service if located in accordance with the Matthews Land Use Plan along an existing, planned or proposed transit service corridor. The Transit-Supportive District is characterized by density and a diversity of land uses in mixed-use buildings with off-street parking in parking structures, wide sidewalks, on-street parking, and public plazas. The map symbol and short name for the Transit-Supportive District shall be "TS District".

A general concept plan will be created and adopted for each identified transit station location, and will become an appendix in the Matthews Land Use Plan. Each transit station small area plan may offer unique focus elements based on the specific character of the surrounding land uses and transportation network. Elements anticipated in all transit station small area plans include placing the densest uses that will generate the most walkable interfaces closest to the stations, with primary entrances to commercial and service uses highly accessible to transit passengers as well as neighborhood residents. These transit station general concept plans may include required elements if the build-out may be phased over time, such as initial required street and pedestrian main networks to assure connectivity, or a minimum/maximum amount of certain types of land uses to guarantee a full range mix of uses. The suggested maximum boundaries of each distinct TS district location may be identified in the station general concept plans.

As a Conditional-Only District, parcels of land may be zoned to this category at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined at § 155.501.3.I to this category prior to any specific plans due to their proximity to an identified existing or future transit station or park and ride facility, with the condition that prior to any land disturbing activity, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the TS district. Uses allowed within the TS district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the TS district are listed at § 155.506. Except where the standards given within this subsection § 155.503.6 specifically for the TS district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the TS district.

C. ADDITIONAL STANDARDS UNIQUE TO THE TRANSIT-SUPPORTIVE DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Transit-Supportive District ("TS District") shall comply with the following requirements. Where the provisions in this Section conflict with the provisions of other Sections of this Title, this Section shall prevail.

1. LOCATION REQUIREMENTS. The TS District must have frontage on an existing or proposed public transit route and be located within a ten (10) minute walk (two thousand five hundred feet [2,500']) of an existing or approved future transit stop or station. A parcel not adjacent to the public transit corridor but within a ten (10) minute walking distance of an existing improved transit stop or station may also qualify for designation to the TS District. No development may occur on a parcel zoned TS until a general concept plan for the nearby transit station area is approved.

2. MINIMUM TOTAL PROJECT AREA: There is no minimum project area.

3. EXTERIOR PROJECT EDGE. Because the TS District is established to provide and enhance

connectivity between a transit stop or station and its environs and because the edge of the District should be a seamless transition with adjoining districts, an exterior project edge is not required. However, land uses and building typologies in the TS District shall closely mimic the land uses and building typologies on adjacent property or land uses shown on the Matthews Land Use Plan on adjacent property.

4. DEVELOPMENT STANDARDS. Development permitted within the TS District shall comply with the standards for building typologies permitted in the TS District as provided in § 155.605 of this Title, and the urban design principles in § 155.503.6.F and G. below.

D. EARLY DESIGNATION PROCESS. Where a parcel has received the designation of TS prior to a full development proposal on it, as outlined at § 155.501.3.I, sufficient drawings and documents to clearly prove compliance to the design elements listed in § 155.503.6.E through G below shall be submitted to the Matthews Planning office for review and recommendation in the same way as a rezoning application is handled by Town staff. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. Submission of a request for site plan and/or elevation plan approval shall then be forwarded to the Matthews Board of Commissioners. The Board of Commissioners shall receive a report with recommendations from Town Planning staff on how well the proposal meets the intent of the district and the design criteria listed below, and determine when the proposal meets the requirements and can be approved.

E. REVIEW CRITERIA. Proposals for transit-supportive development may be eligible for rezoning to the TS District only if they incorporate the principles of transit-supportive design, including:

1. A highly interconnected street network, dispersing traffic and providing safe convenient routes for pedestrians and bicyclists.
2. High-quality public spaces, with all building facades having windows and doors facing tree-lined streets, plazas, squares, or neighborhood parks.
3. Compact development, creating a walkable urban environment and conserving land and energy through reduced automobile usage and advanced techniques such as stormwater infiltration.
4. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility.
5. Resilient and sustainable neighborhoods, adaptable over time to improved public transit and to changing economic conditions.

F. SITE PLAN LAYOUT GENERAL DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. Principles listed at § 155.602 shall be adhered to when designing any development within the TS district

   a. Buildings form the public realm that is primarily streets and pedestrian pathways.
   b. The street is a coherent space, with consistent building form. This agreement of buildings facing across the public realm contributes to a clear public space and identity.
   c. Buildings oversee the street with active fronts. This overview of the public realm contributes to vital and safe public space.
   d. Land should be clearly public or private in public view and under surveillance or private and protected.
   e. Buildings are designed for communal encounters, and must be designed for the urban situation within the Town. Views are directed to the public space as much as possible.
   f. Vehicle storage/parking, (not including on-street parking), garbage storage and collection, and mechanical equipment are kept away from the public realm.

2. STREET NETWORK.

   a. The interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.

   b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other

streets. Intersections between arterials and collectors must have centerline offsets of at least one hundred fifty feet (150'). This requirement does not apply to intersections between alleys and local streets.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where arcades are provided which would restrict adequate space for natural tree canopy growth.

e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a "Y" turn-around and should provide pedestrian connectivity to the maximum extent practicable.

f. Private streets and gated streets are prohibited. All streets must be dedicated to the public.

g. ALLEYS AND SERVICE ACCESS. A continuous network of rear and side alleys must provide vehicular access to off-street parking and service/loading facilities for individual lots in the TS District. Alley entrances should generally align so as to provide ease of ingress for service vehicles, but internal deflections or variations in the alley network are encouraged to prevent excessive or monotonous views of the rear of structures resulting from long stretches of alleys. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. THE STREETSCAPE. A streetscape planting and lighting plan shall be prepared for each block face of each public street as any adjacent parcel is designated into the TS district. The streetscape plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street. Street trees give special character and coherence to each street. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.

i. FRONTS AND REARS. Building facades are the public "face" of every building. Owners and occupants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use realm. The private, interior portions of the lots (toward the alley) allow commercial operators to utilize these spaces as efficient working environments unseen by the public and allow residents to have private and semi-private (for apartment and condominium buildings) gardens and courtyards.

3. BLOCKS. Except as otherwise provided, block perimeters may not exceed eight hundred (800) lineal feet as measured along the edges of each street right-of-way forming the block. Blocks may alternatively be broken by a civic space provided that lot is at least fifty feet (50') wide and will provide perpetual pedestrian access between the blocks and to any lots that front the civic space. Smaller blocks are encouraged to promote walkability.

a. Block perimeters may exceed this limit, up to a maximum of four thousand (4,000) lineal feet, only if one or more of the following conditions apply:

i. The block has at least one block face on an arterial street; or

ii. The block face contains valuable natural features or significant historic resources that should not be crossed by a street.

b. Any single block face wider than six hundred feet (600') must include a publicly dedicated sidewalk, passage, or trail at least twelve feet (12') in width that connects to another street.

4. OFF-STREET PARKING. While public street cross sections may include on-street parking on many streets and parking requirements may be reduced within the TS district, a substantial amount of required parking will need to be provided on private property, either on the same parcel as the associated use or on a nearby parcel.

a. PARK-ONCE SYSTEM. An owner/developer is encouraged to implement a park-once system of shared parking for part or all of a TS District to distribute the commercial parking load between on-street parking and shared parking lots or structures. An extensive park-once system may be submitted for approval as an alternative parking plan.

In order to reduce the amount of separate surface parking lots which can visually and spatially dominate development and therefore adversely affect desired density of build-out, vehicle parking shall have both a short-term and a long-term plan. Any development project proposed in the TS District shall show how it can provide for its share of parking needs when initially constructed, as well as a longer-term future demand. Off-site parking within shared parking facilities shall be allowed and is encouraged in order to increase building and/or public use coverage fronting streets within the district. At the time of initial approval, a development proposal shall identify whether the project will include one or more of the following, either upon initial construction or at a later phase: twenty (20) or more residential units; six thousand (6,000) square feet or more of business or retail space; fifty (50) or more seating accommodations in a restaurant; or any public assembly or recreational use facility that can accommodate fifty (50) or more persons (participants or attendees). Any proposed development meeting any of the given categories shall agree to participation in the district-wide shared parking program. This shared parking program may allow multiple separate buildings or development projects to allocate a certain percentage of their required parking to a shared off-site parking facility, and may require property owners to participate in a special assessment process to build structured parking when certain district build-out levels are reached. Shared off-site parking facilities may initially be surface lots that shall be converted to structured parking when district density levels are reached. A written agreement between property owners explaining what parcel or parcels may utilize parking on a separate parcel, now and/or in the future, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office prior to any land disturbing activity or any permit being issued for a parcel that requires off-site parking to meet minimum parking standards.

b. LOCATION OF OFF-STREET PARKING. To the maximum extent practicable, off-street parking spaces must be located within buildings or behind buildings so that buildings screen parking areas from sidewalks and streets. In no case may parking be located in the setback or yard in front of a building. Parking lots in non-streetside (interior of block) side yards may be allowed provided these lots are placed a minimum of twenty feet (20') from lot lines adjoining rights-of-way, excluding alleys. Parking in shared off-site lots shall be within one thousand feet (1,000') of the property.

C. ACCESS TO OFF-STREET PARKING. Alleys must be the primary source of vehicular access to off-street parking. Parking along alleys or lanes may be 90 degree, angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the alley. Where 90 degree or angled spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of designated parking spaces. Cross access is required between adjoining rear/side parking lots.

d. PARKING STRUCTURES. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings. Structured parking is permitted and encouraged on liner buildings and mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the TS District. Partially enclosed parking spaces may be created with habitable space cantilevered over them at the rear of a building, or along the side of a building when a solid wall blocks view of parked vehicles from any public street or

pedestrian pathway.

5. USES UNABLE TO UTILIZE STREETFRONT FENESTRATION. When certain uses such as a theater, parking, or planetarium cannot comply with the required door and window standards for primary facades, then they may be constructed in a manner that they will be separated from adjacent streets by liner buildings.

   a. Liner buildings must be at least two (2) stories in height with not less than twenty feet (20') in depth.

   b. Liner buildings may be detached from or attached to the building(s) they are concealing.

   c. Liner buildings may be used for any purpose allowed on the lot on which they are located except exclusively for parking.

   d. Liner buildings must meet the primary façade transparency requirements in § 155.503.6.G.

6. WIDE BUILDINGS. When a wide building is placed directly across a street from significantly narrower lots or buildings, the principal facade on the wide building must be varied with a change of architectural expression that reflects the widths of the narrower lots. These changes in expression may be a vertical element running from sidewalk to roof, a change in fenestration or style, color, or texture, or a break in facade plane or roof line. These changes may be subtle or significant, but must soften the visual effect of very wide buildings directly across the street from narrower buildings.

   a. STORY HEIGHT. The ground story of nonresidential and mixed-use buildings must be from twelve feet (12') to eighteen feet (18') tall. The ground story of residential buildings shall be a minimum of ten feet (10') tall. Each story above the ground story shall be at least eight feet (8') tall. Any upper story taller than twelve feet (12') will count as two (2) stories. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

   b. FIRST FLOOR ELEVATION ENTRANCES. Nonresidential and mixed use buildings shall have their primary public walk-in entrances level with, to no greater than six inches (6") above the adjacent walkway. When a nonresidential or mixed use building has more than one primary public entrance and more than a one foot (1') difference in finished grade at various doorways, then the entrance adjacent to a public street shall meet this requirement. Residential buildings shall have their first habitable story at least eighteen inches (18") above the adjacent public walkway. Residential buildings with multiple doors shall meet these height standards for doors facing public streets. Exceptions may be allowed through a site plan review, when a written explanation is provided to indicate the basis for alternate design.

   c. LINER BUILDINGS. The character of some uses of land, such as theaters and parking structures, would preclude their buildings from complying with the door and window requirements for primary facades. Such buildings may be constructed in a manner that they will be separated from adjacent streets (but not alleys) by liner buildings. Liner buildings:

      i. Must be at least two (2) stories in height with not less than twenty feet (20') in depth;

      ii. May be detached from or attached to the buildings they are concealing;

      iii. May be used for any purpose allowed on the lot on which they are located except for parking; and

      iv. Must meet the primary facade transparency requirements in the preceding subsection.

G. GENERAL BUILDING DESIGN PRINCIPLES.

1. The principles listed at § 155.603 shall be adhered to when designing any development within the TS district. An identified set of architectural styles or specific architectural elements may be utilized to create an overall design theme.

2. EXTERIOR BUILDING WALLS

a. Primary materials, which shall cover at least seventy five percent (75%) of each façade, excluding any glazed areas, shall consist of brick, other masonry, or native stone (or synthetic equivalent).

b. Secondary materials, which may cover up to twenty five percent (25%) of each façade, excluding any glazed areas, may include hardiboard siding, wood siding, and stucco.

c. Accent materials and trim may cover up to ten percent (10%) of each façade excluding any glazed areas. Such accents and trim materials may include pre-cast masonry (for trim and cornice elements only), Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only), metal (for beams, lintels, trim elements and ornamentation only), and split-faced block (only for piers, foundation walls and chimneys). All accent and trim materials shall be identified on elevation plans.

d. Colors of all non-glazing exterior materials on any building shall be limited to no more than three, unless the building is both larger in overall size than sixty thousand (60,000) square feet and at least three (3) stories in height. Such larger buildings may employ up to five (5) distinct colors on its exterior facades. For the purpose of this standard, the term color shall also refer to two (2) clearly different shades of the same color, such as a light green and a dark green, or a pastel pink and a burgundy red.

e. Alternative percentages of listed materials or types of materials may be requested by the Flexible Design Provisions at § 155.503.6.H. at the time of initial district designation, or through the Administrative Amendment process for an individual building after it has received site plan and elevation plan approval.

3. CONFIGURATIONS AND TECHNIQUES FOR EXTERIOR WALLS: The following configurations and techniques are permitted.

a. WALLS

i. The horizontal dimension of the wall opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

ii. Wall openings shall not span vertically more than one (1) story.

iii. Wall openings shall correspond to interior space and shall not span across building structure such as the floor structural and mechanical thickness.

iv. Material changes shall be made within a constructional logic—as where an addition (of a different material) is built onto the original building.

b. WOOD SIDING AND WOOD SIMULATION MATERIALS

i. Lap siding (horizontal) configuration

ii. Smooth or rough-sawn finish (no faux wood grain)

c. BRICK, BLOCK AND STONE. Must be detailed and in an appropriate load-bearing configurations.

d. STUCCO (cementitious finish). Smooth or sand only, no roughly textured finish.

4. ROOFS AND PARAPETS. Roofs and parapets should demonstrate a commonsense recognition of the climate by utilizing appropriate pitch, drainage, and materials in order to provide visual coherence to the Station Area. The design standards for roofs and parapets are as follows:

a. ROOF MATERIALS. The following materials are permitted.

i. Clay or concrete (faux clay)

ii. Tile (barrel or flat roman)

iii. Slate (equivalent synthetic or better)

iv. Metal (standing seam, equivalent or better)

v. Dimensional Asphalt shingles

vi. Cedar Shingles

vii. Cornices and soffits may be a combination of wood, vinyl, and/or metal.

b. Parapets shall generally not extend above the top of a flat or single pitch (shed) roof more

than six feet (6')fronting a public street. Parapets may be used to visually screen roof-top mechanical equipment, and a utilitarian penthouse structure may be attached to the interior side of a parapet extension in order to screen equipment. Parapets shall appear from the exterior as part of the exterior wall, and as such shall be composed of the same materials and limited to the same colors and finishes as the materials of the exterior walls. When a parapet also serves as a security railing for any activity on a rooftop, a parapet not facing a public street may incorporate different materials than the exterior wall from which it extends, such as glass, metal mesh, and poles. When a parapet faces a public street and also serves as a security railing for a rooftop activity, such as a green roof or open air dining, then the parapet may be designed such that it has openings in its vertical surface to allow visibility through it. Such openings shall not be lower than three feet (3') from the roof surface nor exceed eighteen inches (18") in width.

5. CONFIGURATIONS AND TECHNIQUES. The following configurations and techniques are permitted:

a. PITCHED ROOFS. Pitch is exclusive of roofs concealed behind parapets.

i. Simple hip and gable roofs shall be symmetrically pitched between 4:12 and 10:12.

ii. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

iii. Eaves, when provided, must overhang eighteen (18) to thirty inches (30") on a principal building for the initial four (4) stories. For each additional story; six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of seven feet (7').

iv. Eaves on accessory buildings, dormers, and other smaller structures must overhang at least eight inches (8").

v. Timber eaves and balcony brackets must be a minimum of four-by-four inches (4" x 4") in dimension.

b. PARAPET, CORNICE AND COPING STANDARDS.

i. Allowed only for sites where the roof material is not visible from any adjacent street.

ii. Buildings without visible roof surfaces and overhanging eaves may create an overhang with a cornice projecting horizontally between six (6") and twelve inches (12") beyond the building walls for the on the primary structure for the initial four (4) stories. For each additional story; six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of six feet (6').

iii. SKYLIGHTS, ROOF VENTS, MECHANICAL EQUIPMENT, AND SIMILAR UTILITARIAN ITEMS. Skylights, roof vents, stacks, mechanical equipment, plumbing apparatus for green roofs, and other mechanical or utility equipment with permanent placement on the roof of a building shall be screened from view from any public street or public use area. Screening may be accomplished by parapet walls, utilitarian penthouse structures attached to the interior of a parapet extension, equipment covers, or similar. These items may also be set back from the edge of a building at least ten feet (10') and camouflaged by color matching the roof when they do not exceed two feet (2') in height.

6. WINDOWS AND DOORS. The placement, type, and size of windows and doors help to establish the scale and vitality of the public realm. For nonresidential and mixed use buildings, they allow interplay between the business interiors and the street or public realm space. For residential buildings, they foster "eyes on the street" surveillance which provides for security and safety in the area. Windows should be divided by multiple panes of glass. This helps the window "hold" the surface of the façade, rather than appearing like a "hole" in the wall, an effect produced by a large single sheet of glass. The standards for windows and doors are as follows:

a. Windows shall be of anodized aluminum, wood, clad wood, vinyl, or steel.

b. Window glass shall be clear or lightly-tinted and non-reflective, with light transmission at the ground story at least ninety percent (90%) and for the upper stories at least seventy five percent (75%), with modification as necessary to meet any applicable building and energy code requirements.

c. Specialty windows, with a maximum of one per thirty (30) lineal feet along any façade facing any public street or public use realm, per story is allowed. A specialty window may utilize stained, opalescent, or translucent glass, or glass block, and shall not exceed forty eight (48) square feet in area. Mirrored glass shall not be used on any ground story façade or on any story when visible from any public street or public use realm.

d. Operable windows and doors onto patios and balconies are allowed for residential units on any story, and for nonresidential and mixed use buildings above the ground story.

e. Window screens shall be black or gray. Screen frames shall match window frame material or be dark anodized.

f. Doors designed primarily for pedestrian use shall be of wood, clad wood, or steel and may include glass panes. Doors designed for vehicular use may be of any material and style consistent with the architectural detail of the building.

7. CONFIGURATIONS AND TECHNIQUES FOR DOORS AND WINDOWS. The following are permitted:

a. The horizontal dimension of the opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

b. Windows may be ganged horizontally (maximum five [5] per group) if each grouping is separated by a mullion, column, pier or wall section that is at least seven inches (7") wide.

c. Windows shall be no closer than thirty inches (30") to building corners (excluding bay windows).

d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window at one-half the width, even if inoperable.

e. Windows on any story above the ground story may be double-hung, single-hung, awning, or casement windows. Fixed windows are permitted only as specialty windows or when a component of a system including an operable window within a single wall opening.

f. Residential buildings or residential floors of mixed use buildings shall have panes of glass no larger than thirty six inches (36") vertical by thirty inches (30") horizontal. The maximum pane size for office uses is forty eight inches (48") vertical by forty (40") horizontal. When necessary to meet building codes for egress purposes windows may exceed the dimensions given here.

g. Nonresidential windows and doors at the street level shall not have individual panes of glass larger than eight feet (8') in height by four feet (4') wide.

h. All window pane surface area of ground story nonresidential buildings shall allow views into the building interior for a depth of at least eight feet (8') where the interior space is retail, restaurant, office, or similar area accessible to the public. This shall not include restrooms, or restricted employee-only accessed areas, such as a kitchen, inventory storage, or loading dock. Windows shall not be made opaque by window treatments except for operable sunscreen devices within the conditioned space.

i. Garage doors or operable coverings over vehicle use (service/loading) wall openings shall not face the primary public street unless they are set back from the building façade and from the public right-of-way at least twenty feet (20').

j. Double-height entryways (those that span more than one [1] story) are not allowed.

k. Doors shall not be recessed more than three feet (3') behind the shop-front windows and, in any case, shall have a clear view and path to a forty five degree (45°) angle past the perpendicular from each side of the door.

l. Arcades, awnings, and canopies are encouraged along the front of buildings facing public streets and the public use realm.

8. SIGNAGE. Signs within the TS district commercial frontages should be clear, informative to the public and should weather well. Signage is desirable for advertising shops and offices, and as decoration. Signs should be scaled to the nature of the district, which is a mixed-use, pedestrian-oriented environment centered by a heavily trafficked motor vehicle corridor. Signage that is glaring or too large creates distraction, intrudes into and lessens the urban environment pedestrian experience, and creates visual clutter. The standards for signs are as follows:

a. Where a building is designed to house multiple businesses or uses, each capable of desiring identification signage, the building shall provide a master sign plan prior to receiving a Certificate of Occupancy. The master sign plan shall be reviewed and approved by the Town Board of Commissioners as provided at § 155.608.9. It shall include a designated horizontal sign band for all uses on the ground or street level story, and designated locations for identification of businesses in upper level stories and for identifying the building name itself. The sign band for the ground story level shall not be higher than sixteen feet (16') or lower than nine feet (9') above the adjacent public sidewalk, street or public use realm.

b. Individual letters placed within the designated first floor sign band shall not exceed eighteen inches (18") in height or width and three inches (3") in relief for any buildings placed at, or within ten feet (10') of the adjacent public street. Company logos and other non-word elements may be placed within the sign band. All words, logos, and related elements used within the sign band to identify a business shall be arranged so that together they fit within a rectangular area up to sixty (60) square feet per business enterprise.

c. Company logos or names may be placed or painted within ground floor or second story office windows.

d. Attached signs for buildings designed and used as a single business enterprise or a multi-family residential building:

i. Any combination of letters, logos, and other elements shall be considered one (1) sign for any building up to sixty thousand (60,000) square feet GFA and/or up to three (3) stories. This sign shall fit within a rectangular area not to exceed one hundred (100) square feet, and not to exceed ten feet (10') in height. This single sign is allowed per each building façade that is at an eighty (80) or greater degree angle from an adjacent building façade.

ii. Any combination of letters, logos, and other elements shall be considered one sign for any building equal to or greater than sixty thousand (60,000) square feet GFA and more than three (3) stories. This sign shall fit within a rectangular area not to exceed two hundred fifty (250) square feet, and not to exceed sixteen feet (16') in height.

e. A masonry or bronze plaque bearing the building name may be placed in the building's parapet wall or under the eaves, and above the upper story windows. The building name identification may alternatively be sculpted into the building façade. Any such plaque or sculpted material shall not exceed eighteen (18) square feet and shall be limited to the façade incorporating the primary pedestrian entrance. The building name may also be displayed on a separate masonry or bronze plaque or sculpted into the building wall material at the ground story level and shall not exceed four (4) square feet.

f. Projecting signs placed perpendicular to the building facade and identifying a business enterprise or residential use within the building may be placed within ten feet (10') of an associated street level door in the designated first story sign band or on exterior walls of the second story, not to exceed twenty four feet (24') in height. Projecting signs shall not exceed twenty four (24) square feet in area or extend further than four feet (4') from the façade, and shall have a minimum of seven feet six inches (7'6") clear height above any sidewalk, plaza, or public use realm.

g. Because all buildings are expected to be at or close to the public street, sidewalk, or a public use realm, no freestanding signs are anticipated for individual buildings. Freestanding signs may be employed as gateway identification markers to various

subareas at the exterior boundaries of and within the TS District as locations are determined by the approved general concept plan.

9. AWNINGS AND CANOPIES: When an awning or canopy is incorporated into a building, the following requirements shall apply:

   a. A minimum of ten feet (10') clear height shall be provided for any awning or canopy above any sidewalk, plaza, or public use realm.

   b. Awnings may extend from the front façade of the building up to one-half (1/2) of the width of the sidewalk area below, not to exceed nine feet (9'), whichever is less. If this extension reaches into the public right-of-way, an encroachment agreement with the Town or State is required. In no case shall an awning interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

   c. Canopies may extend from the front façade of the building up to the full width of the sidewalk area below. If this extension reaches into the public right-of-way, an encroachment agreement from the Town or State is required. In no case shall a canopy interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

   d. Awnings may be made of canvas or treated canvas material, may be designed to retract against the wall of the building, and shall not include any shiny or reflective materials.

   e. Canopies may be made of wood, metal, or glass, or a combination of these or similar permanent rigid materials, and shall not include any shiny or reflective materials.

   f. No internal illumination shall be projected through an awning or canopy.

10. MECHANICAL EQUIPMENT AND STORAGE ITEMS. The following shall be placed behind and away from any front or corner side building line, not be stored or located within any street, and be screened from view from the public use realm:

   a. Air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, storage tanks, garbage dumpsters and compressors, and similar equipment shall not be installed or placed within any area considered public use realm.

   b. Backflow preventers as required by the public utility company shall not be located within the public use realm, and shall be covered or screened from view.

   c. Garbage and recycling containers, and similar items which must be stored and then moved on an ongoing schedule for servicing shall be stored in a location that is completely screened from view from the public realm to a minimum height of six feet (6') through the use of a fence, wall, or other visual block.

   d. Utility meters for individual residential or nonresidential uses that are installed on or near a building wall and must be regularly accessed for data collection shall be screened from view from the public realm through the use of a fence, wall, evergreen landscape materials, or other visual block.

   e. Roof mounted equipment shall be placed behind and away from any front or corner side building line and be screened from view from the public realm.

H. FLEXIBLE DESIGN. The TS district establishes minimum standards for development and design. Those standards however may not always be appropriate to a particular segment or building within the development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the TS district (in § 155.503.6) may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.7. Shopping Center District (B-1SCD)

A. The Shopping Center District is established to provide for the development and efficient operation of integrated shopping centers or retail sales establishments which exceed one hundred thousand (100,000) square feet of total floor area. "Retail" for this district shall include predominately the sale of merchandise and prepared food and drink. This district requires locations with easy vehicular access and high visibility

to draw visitors from a wide geographic area, while providing adequate treatment of district edges to ensure these developments are not detrimental to adjacent uses or the orderly and well-planned development of the community. All development of land within the Shopping Center district shall comply with a site plan approved at the time of district designation. The Shopping Center District is primarily intended for properties that already have been developed as predominately or exclusively retail complexes. Where new sites are considered for this zoning district, it is anticipated they will be designed with multi-story structures and be located in conjunction with higher density residential and mixed use developments. The map symbol and short name for the Shopping Center District shall be "B-1SCD".

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the B-1SCD District. Uses allowed within the B-1SCD district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the B-1SCD district are listed at § 155.506. Except where the standards given within this subsection § 155.503.7 specifically for the B-1SCD district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the B-1SCD district.

C. Additional Standards Unique to B-1SCD District. In addition to the requirements of other sections of this Title, development and improvements in the Shopping Center District shall comply with the following requirements. Where the provisions in this § 155.503.7 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. A B-1SCD district shall have frontage on an existing or proposed major or minor thoroughfare.

2. MINIMUM TOTAL PROJECT AREA. A B-1SCD designation shall be a minimum of three (3) acres, and shall be designed to have more than one hundred thousand (100,000) square feet of retail (sale of merchandise and food establishments) and other commercial building area. Build-out of the overall development may be constructed in multiple phases over time.

3. EXTERIOR STREET EDGE. The B-1SCD district shall provide an exterior street edge of at least forty feet (40') along all public streets at the exterior edge of a B-1SCD district. No building, patio, parking, maneuvering, loading or service areas may be located within this streetside edge.

4. MINIMUM INTERIOR AND NONSTREET EDGES. The minimum distance from any building at or under thirty five feet (35') high to an abutting property line must be at least twenty five feet (25'). The minimum distance from any building greater than thirty five feet (35') in building height to an abutting property line shall be twenty five feet (25') plus one foot (1') for every one foot (1') in added building height when the adjacent property is zoned or used for residential purposes. When the abutting property is zoned for nonresidential purposes, the distance shall be increased over twenty five feet (25') by an additional one foot (1') for every two feet (2') of additional building height. Buildings abutting public streets in the interior of a B-1SCD district shall be set back a minimum of forty feet (40') from the street.

5. OPEN SPACE REQUIREMENT. The B-1SCD district encourages development of an open space system featuring pedestrian amenities. The open space system may include areas devoted to post construction, water quality and/or storm water detention measures, any required or provided landscaping or screening areas, SWIM buffers, greenways or environmental protection features.

D. EARLY DESIGNATION. The B-1SCD district is not eligible for early designation. Each request for B-1SCD designation shall include a site plan showing, at a minimum, general exterior dimensions, total square footage, proposed locations of parking and off-street loading facilities, proposed new streets or improvements to existing streets, driveway access points, an internal traffic and circulation plan, and pedestrian facilities within and providing connections to adjacent properties.

E. REVIEW CRITERIA. Proposals for B1-SCD designation shall provide explanation on how they complement the surrounding neighborhoods and incorporate principles of good community design, including:

1. Access to public streets and the adequacy of those streets to carry anticipated traffic.

2. On-site circulation for both pedestrian and vehicular traffic.

3. Adequacy of existing community facilities such as water, sewer, police, and fire protection.

4. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.

5. The appropriateness of the proposal in relationship to the policies and objectives of the Matthews Land Use Plan and to a more detailed small area plan, if available.

F. SITE PLAN LAYOUT DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the B-1SCD district.

2. STREET NETWORK.

a. The interconnected network of streets must extend into adjoining areas except where the general goal of integration and connectivity with surrounding uses is deemed inappropriate or impractical due to sensitive natural resources, or unusual topography provide no practical connection alternatives. Street stubs must be provided to adjoining undeveloped areas to accommodate future street connectivity.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. Intersections between arterials and collectors must have centerline offsets of at least one hundred fifty feet (150'). This requirement does not apply to intersections between alleys and local streets.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where arcades are provided which would restrict adequate space for natural tree canopy growth.

e. Permanent dead-end streets are not permitted except where physical conditions such as limited access highways, sensitive natural resources, or unusual topography provide no practical connection alternatives. Each dead end must be detailed as a circular turn-around, a close, a hammerhead, or a "Y" turn-around and should provide pedestrian connectivity to the maximum extent practicable.

f. Private streets and gated streets are prohibited. All streets must be dedicated to the public, although alleys may be private.

g. ALLEYS AND SERVICE ACCESS. A clearly-defined network of rear and side alleys is encouraged to provide vehicular access to off-street parking and service/loading facilities for individual buildings. Alley entrances should generally align so as to provide ease of ingress for service vehicles, but internal deflections or variations in the alley network are encouraged to prevent excessive or monotonous views of the rear of structures resulting from long stretches of alleys. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. THE STREETSCAPE. A thematic and cohesive streetscape planting and lighting plan shall be prepared for the B-1SCD district at time of initial designation. The streetscape plan shall incorporate street trees to provide both form (canopy) and comfort (shade) to the street. Street trees give special character and coherence to each street. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.

i. FRONTS AND REARS. Building facades are the public "face" of every building. Owners and occupants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use realm.

3. BLOCKS. When a B-1SCD designation will create new streets or extend streets, the block lengths shall meet the standards provided in Chapter 7.

4. PARKING. While public street cross sections may include on-street parking, a substantial amount of required parking will need to be provided on private property, generally require on the same parcel as the associated.

a. LOCATION OF OFF-STREET PARKING. Off-street parking spaces must be located on the same parcel as the associated use, except where shared parking as outlined in this subsection is involved. In no case may required minimum parking be located in the

transitional setback or yard of arterial streets subject to future expansion. Parking shall not be located within the streetscape planting area adjacent to any street, or a required perimeter planting area or landscape screening area at the outer edge of a property. Access to off-street parking shall be provided by private driveways or shared alleys. Parking along alleys is allowed, may be at ninety degree (90º), angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the alley. Where ninety degree (90º), or angled spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of designated parking spaces. Cross access is required between adjoining parking lots.

b. SHARED PARKING.

i. Shared location of cumulative required spaces. Owners and developers are encouraged to design a shared parking system for part or all of a B-1SCD district in shared parking lots or structures. A written agreement between property owners explaining what parcel or parcels shall utilize shared parking, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office.

ii. Shared use of same spaces. Shared parking of required parking spaces may be permitted with approval from the Planning Director as provided in § 155.607.2.G.6 of this Title.

c. PARKING STRUCTURES. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings or internal to the district. Structured parking is permitted and encouraged in mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the B-1SCD district. Partially enclosed parking spaces may be created with habitable space cantilevered over them at the rear of a building, or along the side of a building when a solid wall blocks view of parked vehicles from any public street or pedestrian pathway.

G. BUILDING DESIGN GUIDELINES.

1. GENERAL BUILDING DESIGN PRINCIPLES. The principles listed at § 155.603 shall be adhered to when designing any development within the B-1SCD district. All buildings within the B-1SCD district project must be architecturally compatible in appearance and quality through the use of similar building materials, colors, architectural features and styles. An identified set of architectural styles or specific architectural elements may be utilized to create an overall design theme.

2. EXTERIOR BUILDING WALLS.

a. Primary exterior wall materials, which shall cover at least seventy five percent (75%) of each façade, excluding any glazed areas, shall consist of brick, other masonry, or native stone (or synthetic equivalent).

b. Secondary materials, which may cover up to twenty five percent (25%) of each façade, excluding any glazed areas, may include hardiboard siding, wood siding, and stucco.

c. Accent materials and trim may cover up to ten percent (10%) of each façade excluding any glazed areas. Such accents and trim materials may include pre-cast masonry (for trim and cornice elements only), Gypsum Reinforced Fiber Concrete (GFRC—for trim elements only), metal (for beams, lintels, trim elements and ornamentation only), and split-faced block (only for piers, foundation walls and chimneys). All accent and trim materials shall be identified on elevation plans.

d. Colors of all non-glazing exterior materials on any building shall be limited to no more than three, unless the building is both larger in overall size than sixty thousand (60,000) square feet and at least three (3) stories in height. Such larger buildings may employ up to five (5) distinct colors on its exterior facades. For the purpose of this standard, the term color shall also refer to two (2) clearly different shades of the same color, such as a light green and a dark green, or a pastel pink and a burgundy red.

e. Alternative percentages of listed materials or types of materials may be requested through the site plan and elevation plan approval process.

3. CONFIGURATIONS AND TECHNIQUES FOR EXTERIOR WALLS: The following configurations and techniques are permitted.

a. WALLS

i. The horizontal dimension of the wall opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

ii. Wall openings shall not span vertically more than one (1) story.

iii. Wall openings shall correspond to interior space and shall not span across building structure such as the floor structural and mechanical thickness.

iv. Material changes shall be made within a constructional logic—as where an addition (of a different material) is built onto the original building.

b. WOOD SIDING AND WOOD SIMULATION MATERIALS

i. Lap siding (horizontal) configuration

ii. Smooth or rough-sawn finish (no faux wood grain)

c. BRICK, BLOCK AND STONE. Must be detailed and in an appropriate load-bearing configurations.

d. STUCCO (cementitious finish). Smooth or sand only, no roughly textured finish.

e. STORY HEIGHT. The ground story of buildings must be a minimum of twelve feet (12') tall. Each story above the ground story shall be at least eight feet (8') tall. Any upper story taller than twelve feet (12') will count as two stories. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

f. Exceptions. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

4. ROOFS AND PARAPETS. The design standards for roofs and parapets are as follows:

a. Roof Materials. The following materials are permitted.

i. Clay or concrete (faux clay)

ii. Tile (barrel or flat roman)

iii. Slate (equivalent synthetic or better)

iv. Metal (standing seam, equivalent or better)

v. Dimensional Asphalt shingles

vi. Cedar Shingles

vii. Cornices and soffits may be a combination of wood, vinyl, and/or metal.

b. Parapets shall generally not extend above the top of a flat or single pitch (shed) roof more than six feet (6') fronting a public street. Parapets may be used to visually screen roof-top mechanical equipment, and a utilitarian penthouse structure may be attached to the interior side of a parapet extension in order to screen equipment. Parapets shall appear from the exterior as part of the exterior wall, and as such shall be composed of the same materials and limited to the same colors and finishes as the materials of the exterior walls. When a parapet also serves as a security railing for any activity on a rooftop, a parapet

not facing a public street may incorporate different materials than the exterior wall from which it extends, such as glass, metal mesh, and poles. When a parapet faces a public street and also serves as a security railing for a rooftop activity, such as a green roof or open air dining, then the parapet may be designed such that it has openings in its vertical surface to allow visibility through it. Such openings shall not be lower than three feet (3') from the roof surface nor exceed eighteen inches (18") in width.

c. Exceptions. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

5. CONFIGURATIONS AND TECHNIQUES. The following configurations and techniques are permitted:

a. PITCHED ROOFS. Pitch is exclusive of roofs concealed behind parapets.

i. Simple hip and gable roofs shall be symmetrically pitched between 4:12 and 10:12.

ii. Shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

iii. Eaves, when provided, must overhang eighteen (18) to thirty inches (30") on a principal building for the initial four (4) stories. For each additional story, six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of seven feet (7').

iv. Eaves on accessory buildings, dormers, and other smaller structures must overhang at least eight inches (8").

v. Timber eaves and balcony brackets must be a minimum of four-by-four inches (4" by 4") in dimension.

b. PARAPET AND CORNICE STANDARDS.

i. Allowed only for sites where the roof material is not visible from any adjacent street.

ii. Buildings without visible roof surfaces and overhanging eaves may create an overhang with a cornice projecting horizontally between six (6") and twelve inches (12") beyond the building walls on the primary structure for the initial four (4) stories. For each additional story, six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of six feet (6').

c. Exceptions. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

6. WINDOWS AND DOORS. The standards for windows and doors are as follows:

a. Windows shall be of anodized aluminum, wood, clad wood, vinyl, or steel.

b. Window glass shall be clear or lightly-tinted and non-reflective, with light transmission at the ground story at least ninety percent (90%) and for the upper stories at least seventy five percent (75%), with modification as necessary to meet any applicable building and energy code requirements.

c. Specialty windows are allowed only when approved through the elevation plan. A specialty window may utilize stained, opalescent, or translucent glass, or glass block, and shall not exceed forty eight (48) square feet in area. Mirrored glass shall not be used when visible from any public street or public use realm.

d. Operable windows and doors onto patios and balconies are allowed for nonresidential and mixed use buildings above the ground story.

e. Window screens shall be black or gray. Screen frames shall match window frame material or be dark anodized.

f. Doors designed primarily for pedestrian use shall be of wood, clad wood, or steel and may include glass panes. Doors designed for vehicular use may be of any material and style consistent with the architectural detail of the building.

g. Double-height entryways (those that span more than one [1] story) are not allowed.

7. CONFIGURATIONS AND TECHNIQUES FOR DOORS AND WINDOWS. The following are permitted

a. The horizontal dimension of the opening shall not exceed the vertical dimension except where otherwise prescribed in this Title.

b. Windows may be ganged horizontally without limit to encourage storefront design.

c. Windows may reach to or turn at building corners.

d. Exterior shutters, if applied, shall be sized and mounted appropriately for the window at one-half the width, even if inoperable.

e. Windows on any story above the ground story may be double-hung, single-hung, awning, or casement windows.

f. Nonresidential windows and doors at the street level may utilize large individual panes of glass without size limit.

g. All window pane surface area of ground story nonresidential buildings shall allow views into the building interior for a depth of at least eight feet (8') where the interior space is retail, restaurant, office, or similar area accessible to the public. This shall not include restrooms, or restricted employee-only accessed areas, such as a kitchen, inventory storage, or loading dock. Windows shall not be made opaque by window treatments except for operable sunscreen devices within the conditioned space.

h. Garage doors or operable coverings over vehicle use (service/loading) wall openings shall not face the primary public street unless they are set back from the building façade and from the public right-of-way at least twenty feet (20').

i. Doors shall not be recessed more than three feet (3') behind the shop-front windows and, in any case, shall have a clear view and path to a forty five degree (45°) angle past the perpendicular from each side of the door.

j. FIRST FLOOR ELEVATION ENTRANCES. Nonresidential and mixed use buildings shall have their primary public walk-in entrances level with, to no greater than six inches (6") above the adjacent walkway. When a nonresidential or mixed use building has more than one (1) primary public entrance and more than a one foot (1') difference in finished grade at various doorways, then the entrance adjacent to a public street shall meet this requirement. Exceptions may be allowed through a site plan review, when a written explanation is provided to indicate the basis for alternate design.

k. Arcades, awnings, and canopies are encouraged along the front of buildings facing public streets and the public use realm.

l. EXCEPTIONS. Any requested deviations from these standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

8. SIGNAGE. In addition to the sign standards at § 155.608 and any provisions of an overlay district, when applicable, the following standards apply in the B-1SCD district:

a. Where a building is designed to house multiple businesses or uses, each capable of desiring identification signage, the building shall provide a master sign plan prior to receiving a Certificate of Occupancy. The master sign plan shall be reviewed and approved by the Town Board of Commissioners as provided at § 155.608.9. It shall include a designated horizontal sign band for all nonresidential uses on the ground or street level story, and identify where the building name may be placed. The sign band for the ground story level shall not be higher than sixteen feet (16') or lower than nine feet (9') above the adjacent public sidewalk, street or public use realm.

b. Anchor and junior anchor tenants desiring sign placement other than on a designated sign

band shall have sign placement identified and approved through the master sign plan.

9. AWNINGS, CANOPIES, AND ARCADES: When an awning, canopy, or arcade is incorporated into a building, the following requirements shall apply:

   a. A minimum of ten feet (10') clear height shall be provided for any awning, canopy, or arcade above any sidewalk, plaza, or public use realm.

   b. Awnings may extend from the front façade of the building up to one-half (1/2) of the width of the sidewalk area below, not to exceed nine feet (9'), whichever is less. If this extension reaches into the public right-of-way, an encroachment agreement with the Town or State is required. In no case shall an awning interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

   c. Canopies and arcades may extend from the front façade of the building up to the full width of the sidewalk area below. If this extension reaches into the public right-of-way, an encroachment agreement from the Town or State is required. In no case shall a canopy interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

   d. Awnings may be made of canvas or treated canvas material, may be designed to retract against the wall of the building, and shall not include any shiny or reflective materials.

   e. Canopies and arcades may be made of wood, metal, or glass, or a combination of these or similar permanent rigid materials, and shall not include any shiny or reflective materials.

   f. No internal illumination shall be projected through an awning, canopy, or arcade.

10. MECHANICAL EQUIPMENT AND STORAGE ITEMS. The following shall be placed behind and away from any front or corner side building line, outside of any required sight triangle of any street or driveway intersection, not be stored or located within any street, and be screened from view from the public use realm:

   a. Air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, storage tanks, garbage dumpsters and compressors, and similar free-standing equipment shall not be installed or placed within any area on the site considered public use realm. Any line of view of such items from the public realm shall be provided with plant materials or other hardscape items to visually screen them.

   b. Backflow preventers as required by the public utility company should not hinder use of, or block pedestrian flow through, the public use realm, and they shall be covered and screened from view.

   c. Utility meters that are installed on or near a building wall and must be regularly accessed for data collection shall be screened from view from the public realm through the use of a fence, wall, evergreen landscape materials, or other visual block. When vegetation is used, it shall be evergreen or coniferous species with a minimum height at planting of three feet (3'), and expected to grow to a height to shield view of the mechanical equipment from the public realm within four (4) growing seasons.

   d. Garbage and recycling containers, and similar items which must be stored and then moved on an ongoing schedule for servicing shall be stored in a location that is completely screened from view from the public realm to a minimum height of six feet (6') through the use of a fence, wall, or other visual block. The usual storage location and the temporary staging area for servicing of such containers shall be designed and identified as part of the site plan process.

   e. Roof mounted equipment shall be placed behind and away from any front or corner side building line and be screened from view from the public realm. Screening may be accomplished by parapet walls, utilitarian penthouse structures attached to the interior of a parapet extension, equipment covers, or similar. These items may also be set back from the edge of a building at least ten feet (10') and camouflaged by color matching the roof when they do not exceed two feet (2') in height.

   f. Skylights, roof vents and stacks, exhaust fans, plumbing for green roofs, elevator

mechanism, and other items or equipment with permanent placement on the roof of a building shall be physically separated from any portion of a rooftop that is designed for access and use by the occupants or customers of the building.

155.503.8. Entertainment District (ENT)

A. The Entertainment (ENT) District is established to provide a unique set of land uses and design criteria for a defined geographic portion of the community, with a specific emphasis on providing multiple entertainment opportunities for people of all ages, both permanent residents and visitors. The Entertainment District shall incorporate spaces for permanent residences, transitory housing, employment opportunities, indoor and outdoor recreation, shopping, dining, and daily living services in a compact pedestrian-friendly neighborhood. Provision shall be made for various modes of transportation. All construction and uses of land within the Entertainment district shall comply with an approved general concept plan for the District, and no land disturbing activity may take place until compliance with the approved concept plan is documented to, and confirmed by, the Town Planning Office. The map symbol and short name for the Entertainment District shall be "ENT".

The general concept plan to be created and adopted for the ENT district will become an appendix in the Matthews Land Use Plan. This small area plan should include required elements for build-out to be conducted in phases over time, such as initial required street/pedestrian primary, or main, networks to assure interconnectivity through the overall area, minimum different types of land uses required to be built in the first phase, communal storm water detention facilities, a minimum/maximum amount of certain types of land uses to guarantee a full range mix of uses, at what point temporary surface parking lots will be converted to shared or structured parking, minimum required building heights, or maximum footprint size of big box buildings. Overall maximum development build-out may also be included in the conceptual small area plan.

As a Conditional-Only District, parcels of land may be zoned to this category following the procedures explained at § 155.501.3.C. and D., at the time a specific development project is submitted for consideration, or parcels may receive early designation as outlined in § 155.501.3.I., prior to any specific plan due to their location within the geographic area identified for this zoning designation, with the condition that prior to any land disturbing activity, a site specific plan for development shall be approved through the site plan approval process as described at § 155.401.5.B.

B. Lot development and design standards, as outlined in §155.605, and dimensional standards of § 155.604.3, apply to the ENT District. Uses allowed within the ENT district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the ENT district are listed at § 155.506. Except where the standards given within this subsection § 155.503.8 specifically for the ENT district differ, the parking provisions at § 155.607, the sign provisions at § 155.608, and the lighting provisions at § 155.609 apply to the ENT district.

C. Additional Standards Unique to the ENT District. In addition to the requirements of other sections of this Title, development and improvements in the Entertainment District shall comply with the following requirements. Where the provisions in this Section conflict with the provisions of other Sections of this Title, this Section shall prevail. Due to the nature of the Sportsplex as a public park, density and structural build-out related criteria included below would not logically apply to the Sportsplex portion of the overall neighborhood. Where such urban design standards would conflict with the open space and protected forested portions within the public Sportsplex itself, they shall not apply within the Sportplex portion of the overall neighborhood, and the specific design criteria of the approved park plans shall prevail.

1. LOCATION. The ENT District shall only be applied within the geographic area designated by Matthews Board of Commissioners as the regional Sportsplex and adjacent new mixed use neighborhood. This area is roughly bounded by Matthews-Mint Hill Road, Independence Boulevard, I-485, and Tank Town Road/Crestdale neighborhood.

2. EXTERIOR PROJECT EDGE. The ENT District is established to provide and enhance both daily living activities and recreational opportunities for local residents and visitors within a distinct and limited geographic area, as well as enabling easy and logical connections to surrounding and nearby development. Therefore, clearly defined gateway entrances to the ENT neighborhood are appropriate. All development within the ENT district and along Matthews-Mint Hill Road frontage shall be designed to be visually complementary to existing or planned development across the street. All development within the ENT District and adjacent to the Crestdale

neighborhood shall be designed to be visually complementary and shall incorporate uses that do not adversely impact the predominantly residential nature of the Crestdale community. Height and bulk of buildings shall be designed so they do not visually overwhelm adjacent single story scale development. This may be accomplished through stepped back building heights, relatively narrow building extensions toward the adjacent properties, landscaped buffers, greenway trails, public plazas, and/or other design elements.

3. OVERALL ARCHITECTURAL THEME AND DESIGN. Because the ENT District creates an opportunity for a concentrated location of development unlike any other site within the Town, an overall set of architectural elements and site design amenities to "brand" the area may be appropriate. The specific elements shall be determined by the Town Board of Commissioners prior to construction of any buildings or improvements. Details may include specific exterior building materials to be incorporated within structures, maximum dimensions of surface parking lots, street lighting and other street furniture, landscape species and hardscape elements, placement of public art, gateway and internal directory signage design, greenway and pedestrian trail cross sections, mandatory inclusion/location of pedestrian connectivity, street cross sections, and similar public area amenities that may benefit from being internally consistent. Exterior boundary pedestrian amenities extending to surrounding locations may also be incorporated into the required design themes for the ENT District.

D. EARLY DESIGNATION PROCESS. Where a parcel has received designation of ENT district prior to a full development proposal on it, as outlined at § 155.501.3.I, sufficient drawings and documents to clearly prove compliance to the design elements listed in § 155.503.8.E through G below shall be submitted to the Matthews Planning Office for review and recommendation in the same way as a rezoning application is handled by Town staff. Upon completion of review, Town staff and applicants shall meet to review staff findings. Applicants shall provide additional or revised documents as determined necessary to show compliance to all standards. Submission of a request for site plan and/or elevation plan approval shall then be forwarded to the Matthews Board of Commissioners. The Board of Commissioners shall receive a report with recommendations from Town Planning staff on how well the proposal meets the intent of the district and the design criteria listed below, and determine when the proposal meets the requirements and can be approved.

E. REVIEW CRITERIA. Proposals for development in the ENT District shall be approved only if they conform to the adopted overall concept plan for the area and incorporate adopted desired elements of a mixed use entertainment focused neighborhood, including:

1. A highly interconnected street network, dispersing traffic while providing safe and convenient routes for pedestrians and bicyclists.
2. High-quality public spaces, with all building facades which face such public spaces having windows and doors facing tree-lined streets, plazas, squares, or neighborhood parks.
3. Compact development, creating a walkable urban environment and conserving land and energy through reduced automobile usage and advanced techniques such as stormwater infiltration.
4. Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility.
5. Resilient and sustainable mix of residential, business, service, and recreational land uses that will be adaptable over time to improved public transit and to changing economic conditions.
6. Vertical and horizontal mix of uses to maximize the opportunities for a safe and active neighborhood.
7. Parking plans that address both short-term and long-term needs, with strategies for future shared structured parking within the overall neighborhood. This may include creation of a neighborhood-wide shared parking special assessment system as further outlined in § 155.503.8.F. below.

F. SITE PLAN LAYOUT GENERAL DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. With proper urban form, a greater integration of building uses is natural and comfortable. The principles listed in § 155.602.1 shall apply in the ENT District outside of the Sportsplex.
2. STREET NETWORK.

a. The interconnected network of streets must extend into adjoining areas except where connectivity is deemed inappropriate or impractical due to sensitive natural resources or unusual topography, or where existing development patterns provide no practical connection opportunities. The entire district is anticipated to be built out over time, in phases, so the exact placement of all streets is not expected to be determined prior to initial development within the district.

b. Streets do not have to form a rectangular grid, but may curve or bend to connect to other streets. In order to assure an overall framework for connectivity within, and through, the ENT district, a "main street" layer of proposed street network shall be determined as part of the approved general concept plan. At least two street intersections shall be identified to directly connect the Sportsplex public park to the remainder of the ENT District, and at least one (1) street intersection shall directly connect the Sportsplex public park to the exterior edge of the district.

c. The proposed street network should respect topography and designated environmental resources and be modified accordingly to avoid damages to such resources.

d. Sidewalks and street trees must be provided on both sides of all streets. Street trees may be omitted where alternative public use areas are designed adjacent to a street.

e. Permanent dead end streets are not permitted, except for side or rear access alleys.

f. Private streets or gated streets are prohibited. All streets must be dedicated to the public.

g. Rear or side access alleys are permitted throughout the neighborhood and may serve as primary vehicular ingress to individual buildings or parcels in the ENT District. Alleys may be utilized to separate vehicular access and parking for residential units, to access loading and delivery spaces for nonresidential uses, to provide access to employee parking, and to allow the public to reach side or rear secondary entrances to businesses. All alleys shall be identified as either public or private, and any public alley shall be dedicated to the public as provided for in Chapter 7.

h. A streetscape planting and lighting plan shall be prepared for each block face of each public street, and shall incorporate street trees designed to grow into an arching canopy that will not impede pedestrian or vehicular movement or visibility. A variety of species may be utilized throughout the neighborhood, but will not exceed five (5) tree species per block face. To the greatest extent possible, street trees and street lighting shall be installed when the street and sidewalk are constructed.

i. Building facades are the public "face" of every building. Owners and tenants are encouraged to utilize planters and window boxes filled with colorful plants along each façade that fronts a public street, plaza, parking lot, or similar public use area.

3. BLOCKS. Except as otherwise provided, block perimeters may not exceed eight hundred (800) lineal feet as measured along the edges of each street right-of-way forming the block. Blocks may alternatively be broken by a civic space provided that lot is at least fifty feet (50') wide and shall provide perpetual pedestrian access between the blocks and to any lots that front the civic space. Smaller blocks are encouraged to promote walkability.

a. Blocks may exceed this limit, up to a maximum of four thousand (4,000) linear feet, only if one (1) or more of the following conditions apply:

i. The block has at least one block face on a numbered state or federal highway or expressway/freeway.

ii. The block has at least a portion of its block face partially within the Sportsplex public park property.

iii. The block face contains valuable natural features which should not be crossed by a street.

iv. The block face cannot have buildings on one side due to utility easement restrictions.

b. Any single block face wider than six hundred feet (600') must include a publicly dedicated sidewalk, or walkway at least twelve feet (12') in width that connects to

another street.

4. OFF-STREET PARKING. While public street cross sections should include on-street parking on many streets within the overall neighborhood, the majority of required parking spaces will be provided on private property, either on the same parcel as the associated use or on a nearby parcel.

a. SHARED PARKING PROGRAM. An owner/developer is expected to design and implement a park-once system of shared parking to distribute the commercial parking load between on-street spaces and shared parking lots or structures. In order to reduce the amount of separate surface parking lots which can visually and spatially dominate development and therefore adversely affect desired density of build-out, vehicle parking shall have both a short-term and a long-term plan. Any development project proposed in the ENT District shall show how it can provide for its share of parking needs when initially constructed, as well as a longer-term future demand. Off-site parking within shared parking facilities shall be allowed and is encouraged in order to increase building and/or public use coverage fronting streets within the district. At the time of initial approval, a development proposal shall identify whether the project will include one or more of the following, either upon initial construction or at a later phase: twenty (20) or more residential units; six thousand (6,000) square feet or more of business or retail space; fifty (50) or more seating accommodations in a restaurant; or any public assembly or recreational use facility that can accommodate fifty (50) or more persons (participants or attendees). Any proposed development meeting any of the given categories shall agree to participation in the neighborhood-wide shared parking program. This shared parking program may allow multiple separate buildings or development projects to allocate a certain percentage of their required parking to a shared off-site parking facility, and may require property owners to participate in a special assessment process to build structured parking when certain neighborhood build-out levels are reached. Shared off-site parking facilities may initially be surface lots that shall be converted to structured parking when neighborhood density levels are reached. A written agreement between property owners explaining what parcel or parcels may utilize parking on a separate parcel, now and/or in the future, and which will remain binding on future owners and land uses, shall be signed and recorded with the Mecklenburg County Register of Deeds office prior to any land disturbing activity or any permit being issued for a parcel that requires off-site parking to meet minimum parking standards.

b. To the maximum extent possible, off-street parking spaces must be located within buildings or behind buildings so that buildings screen parking areas from sidewalks and streets. In no case shall parking be located in the setback or yard in front of a building. Parking lots in non-streetside (interior of block) side yards may be allowed provided these lots are placed a minimum of twenty feet (20') from lot lines adjoining rights-of-way, excluding alleys.

c. Access to off-street parking spaces shall be provided by one- or two-way private drives or public alleys. Parking spaces immediately adjacent to drives or alleys may be ninety degree (90°), angled, or parallel, and must be of sufficient depth to assure parked vehicles will not impede traffic movement in the drive or alley. Where ninety degree (90°) or angle spaces are provided, they must be a minimum of twenty feet (20') in length, and where parallel spaces are provided they must be a minimum of eight feet (8') in width. Any drive or alley with parking spaces immediately adjacent must be paved a minimum of twenty feet (20') in width, with no obstructions, such as doors, dumpsters, planters, bollards, mechanical equipment, street light poles, etc., that could restrict the full width use of the pavement for vehicular maneuvering in and out of the designated parking spaces. Cross access is required between adjoining rear/side parking lots.

d. Parking structures are encouraged to create shared parking opportunities and to reduce the footprint of surface lots. Single-use parking structures must be located behind other buildings. Structured parking is permitted and encouraged on liner buildings and mixed use buildings. Structured parking may extend below grade and may contain multiple levels of parking above grade. Parking structures may contain other uses above the parking levels provided the entire building does not exceed the height allowed in the ENT District. Partially enclosed parking spaces may be created with habitable space

cantilevered over them at the rear of a building, or along the side of a building when a solid wall blocks view of parked vehicles from any public street or pedestrian pathway.

5. USES UNABLE TO UTILIZE STOREFRONT FENESTRATION. When certain uses such as a theater, parking, or planetarium cannot comply with the required door and window standards for primary facades, then they may be constructed in a manner that they will be separated from adjacent streets (but not alleys) by liner buildings. Liner buildings:

   a. Must be at least two stories in height with not less than twenty feet (20') in depth.

   b. May be detached from or attached to the building(s) they are concealing.

   c. May be used for any purpose allowed on the lot on which they are located except for parking.

   d. Must meet the primary façade transparency requirements in § 155.503.8.G. below.

6. WIDE BUILDINGS. When a wide building is placed directly across a street from substantially narrower lots or buildings, the principal façade of wide buildings must be varied with a change of architectural expression that reflects the widths of the narrower lots. These changes in expression may be a vertical element running from the sidewalk to the roof, a change in fenestration or style, color, or texture, or a break in façade plane or roof line. These changes must be of sufficient visual impact to soften the perception of a single wide building.

7. BUILDING STORIES AND STORY HEIGHT. All buildings shall be a minimum of two (2) stories in height within the ENT District, except when a single story structure has a ground floor at least twenty feet (20') tall. The ground story of nonresidential and mixed use buildings shall be from twelve (12') to eighteen feet (18') tall. The ground floor of residential buildings shall be a minimum of ten feet (10') tall. Each story above the ground floor in residential, nonresidential, and mixed use buildings shall be at least eight feet (8') tall. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

8. FIRST FLOOR ELEVATION ENTRANCES. Nonresidential and mixed use buildings shall have their primary public walk-in entrances level with, to no greater than six inches (6") above, the adjacent public walkway. When a nonresidential or mixed use building has more than one (1) primary public entrance and has more than a one foot (1') difference in finished grade at the various doorways, then the entrance adjacent to a public street shall meet this requirement. Residential buildings shall have their first habitable story at least eighteen inches (18") above the adjacent public walkway. Residential buildings with multiple doors shall meet this height standard for doorways facing public streets. Exceptions may be allowed through a site plan review, when a written explanation is provided to indicate the basis for alternate design.

G. BUILDING AND STRUCTURE DESIGN PRINCIPLES.

1. GENERAL BUILDING DESIGN PRINCIPLES. These principles favor an aesthetic that allows a contemporary influence within a more traditional framework. They call for a determination of an overall visual or architectural theme and selection of exterior materials that are appropriate for the region. Structures may exhibit unique details and should not utilize a standard or corporate facade that is repeated, or intended to be repeated, in multiple communities. While structures within the ENT district may be initially built to house a specific use, the buildings shall be designed to accommodate future alternative uses. These building design principles concentrate on the views from the public realm, including public streets, public sidewalks or walkways, parks, plazas, civic greens, squares, and unrestricted parking areas (those not reserved solely for residents/employees). The general building design principles listed at § 155.603 shall be utilized when designing any site within the ENT district. While only materials, techniques, and product types are prescribed here, equivalent or better practices and products are encouraged when appropriate. When requested, they must be submitted to the Town Planning office either for Administrative Amendment as explained at 155.401.5 or Flexible Design as explained at § 155.401.7., whichever applies.

2. EXTERIOR BUILDING WALLS. Exterior walls of buildings shall generally reflect a unified design and set of materials (all-sided architecture). They should express the construction techniques and structural constraints to assure long-lasting buildings. Extensive use of glass or glazing, particularly at ground floor level and facing any public use areas is strongly encouraged and expected.

a. Primary materials, which shall cover at least sixty percent (60%) of each façade, excluding any glazed areas, shall consist of brick, other masonry, native stone or synthetic equivalent, or cementicious materials with a distinct dimensional surface.

b. Secondary materials, which may cover up to forty percent (40%) of each façade excluding any glazed areas, may include hardiboard siding, wood siding, stucco, and metal.

c. Accent materials and trim may cover up to ten percent (10%) of each façade excluding any glazed areas. Such accents and trim materials shall be identified on elevation plans.

d. Colors of all non-glazing exterior materials on any building shall be limited to no more than three, unless the building is both larger in overall size than sixty thousand (60,000) square feet and at least three (3) stories in height. Such larger buildings may employ up to five (5) distinct colors on its exterior facades. For the purpose of this standard, the term color shall also refer to two (2) clearly different shades of the same color, such as a light green and a dark green, or a pastel pink and a burgundy red.

e. Alternative percentages of listed materials or types of materials may be requested by the Flexible Design Provisions at § 155.503.8.H. at the time of initial district designation, or through the Administrative Amendment process for an individual building after it has received site plan and elevation plan approval.

3. CONFIGURATIONS AND TECHNIQUES FOR EXTERIOR WALLS. The following are permitted:

a. DOORWAYS AND WALL OPENINGS.

i. Pedestrian use doors to nonresidential uses from a public street shall not be recessed more than three feet (3') behind the building façade and shall have a clear view and path to a forty five degree (45º) angle past the perpendicular from each side of the door.

ii. The horizontal dimension of a door or wall opening shall not exceed the vertical dimension except where required for a specific purpose such as loading, or vehicle entrance/exit. When a wall opening has its horizontal dimension exceeding its vertical measurement, it shall not directly face a public pedestrian use area. Where a garage door or vehicular service opening with an operable covering is located, the garage door or covering shall be recessed at least two feet (2') in from the vertical plane of the surrounding wall.

iii. Doorways and wall openings shall not span vertically more than one (1) story.

iv. Doorways and wall openings shall correspond to interior space.

v. Changes from one material to another shall have a logical placement from a construction viewpoint, so that the placement of a separate material is visually and structurally appropriate.

b. WOOD AND WOOD-LOOK.

i. Horizontal lap siding of wood or simulated wood material is allowed.

ii. Wood or wood-look products used as an exterior wall covering and placed in any other configuration than horizontal lap siding shall be identified on elevation plans.

iii. Wood or wood-look products may have a smooth or rough-sawn appearance.

c. Brick, other masonry, and stone must be used in an appropriate load-bearing configuration. Generally heavier masonry and stone materials shall be utilized at the base of a building and support lighter-weight materials such as wood. All masonry materials shall have a distinct dimensional surface.

d. Stucco and other cementicous finish materials may be rough or sand finish, but shall have a distinct dimensional surface.

e. Metal materials may have a smooth or flat finish, and may be protected to preserve a shine or satin appearance, or may be intended to weather to a dull finish. Metal materials

may also have a three-dimensional surface with embossing or sculptural elements embedded within it.

f. Any requested deviations from these standards for exterior walls shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which shall automatically require Town Board final determination.

4. ROOFS AND PARAPETS. Roofs and parapets should demonstrate a commonsense recognition of the climate by utilizing appropriate pitch, drainage, color, and materials in order to provide visual coherence to the district's overall aesthetic theme. Specific design standards for roofs and parapets are as follows:

a. ROOF MATERIALS. The following roofing materials are permitted:

i. Dimensional asphalt shingles.

ii. Cedar shingles.

iii. Metal – standing seam, equivalent or better.

iv. Slate – natural, synthetic equivalent or better.

v. Tile.

vi. Clay, natural or faux, or concrete.

vii. Cornices and soffits may be a combination of wood vinyl, and/or metal.

viii. Alternative "green roof" materials that provide adequate support for live plantings and surrounding walking/maintenance space are encouraged.

b. Parapets shall generally not extend above the top of a flat or single pitch (shed) roof more than six feet (6')fronting a public street. Parapets may be used to visually screen roof-top mechanical equipment, and a utilitarian penthouse structure may be attached to the interior side of a parapet extension in order to screen equipment. Parapets shall appear from the exterior as part of the exterior wall, and as such shall be composed of the same materials and limited to the same colors and finishes as the materials of the exterior walls. When a parapet also serves as a security railing for any activity on a rooftop, a parapet not facing a public street may incorporate different materials than the exterior wall from which it extends, such as glass, metal mesh, and poles. When a parapet faces a public street and also serves as a security railing for a rooftop activity, such as a green roof or open air dining, then the parapet may be designed such that it has openings in its vertical surface to allow visibility through it. Such openings shall not be lower than three feet (3') from the roof surface nor exceed eighteen inches (18") in width.

5. CONFIGURATIONS AND TECHNIQUES FOR ROOFS AND PARAPETS. The following are permitted:

a. PITCHED ROOFS. Pitch is exclusive of roofs concealed behind parapets.

i. Simple hip and gable roofs shall be symmetrically pitched between 4:12 and 10:12.

ii. Single pitch shed roofs, attached to the main structure, shall be pitched between 3:12 and 8:12.

iii. Eaves, when provided, must overhang eighteen (18) to thirty (30) inches on a principal building for the initial four (4) stories. For each additional story, six inches (6") shall be added to the minimum, and twelve inches (12") shall be added to the maximum, up to a maximum projection of seven feet (7').

iv. Eaves on accessory buildings, dormers, and other smaller structures must overhang at least eight inches (8").

v. Timber eaves and balcony brackets must be a minimum of four by four inches (4" x 4") in dimension.

b. PARAPET, CORNICE AND COPING STANDARDS.

i. Buildings without visible roof surfaces due to parapet wall extensions and

without overhanging eaves may create an overhang with a cornice projecting horizontally between six (6") and twelve inches (12") beyond the plane of the building wall on a principal building for the initial four (4) stories. For each additional story, six inches (6") shall be added to the minimum and twelve inches (12") shall be added to the maximum, up to a maximum projection of six feet (6').

c. Skylights, Roof Vents, Mechanical Equipment, and Similar Utilitarian Items. Skylights, vents, stacks, mechanical equipment, plumbing apparatus for green roofs, and other mechanical or utility equipment with permanent placement on the roof of a building shall be screened from view from any public street or public use area. Screening may be accomplished by parapet walls, utilitarian penthouse structures attached to the interior of a parapet extension, equipment covers, or similar. These items may also be set back from the edge of a building at least ten feet (10') and camouflaged by color matching the roof when they do not exceed two feet (2') in height.

d. Exceptions. Any requested deviations from these roof and parapet standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which will automatically require Town Board final determination.

6. WINDOWS AND DOORS. The placement, type, and size of windows and doors help establish scale and vitality. For nonresidential and mixed use buildings, they allow interplay between business interior and the adjacent street or public realm space. For residential buildings, they foster "eyes on the street" surveillance which provides for security and safety in the vicinity. Windows should be divided by multiple panes of glass. This helps retain the consistency of the vertical surface of the building façade, rather than appearing like a "hole" in the wall, an effect which can be produced by a large single sheet of glass. Standards are as follows:

a. Windows shall be of anodized aluminum, wood, clad wood, vinyl, or steel.

b. Window glass shall be clear or lightly-tinted and non-reflective, with light transmission at least sixty percent (60%), with modification as necessary to meet any applicable building and energy code requirements.

c. Specialty windows, with a maximum of one per thirty (30) lineal feet along any façade facing any public street or public use realm, per story, is allowed. A specialty window may utilize stained, opalescent, or translucent glass, or glass block, and shall not exceed forty eight (48) square feet in area. Mirrored glass shall not be used on any ground story façade or on any story when visible from any public street or public use realm.

d. Operable windows and doors onto patios or balconies are allowed for residential units on any story, and for nonresidential and mixed use buildings above the ground story.

e. Window screens shall be black or gray. Screen frames shall match window frame material or be dark anodized aluminum.

f. Doors designed primarily for pedestrian use shall be of wood, clad wood, or steel and may include glass panes. Doors designed for vehicular use may be of any material and style consistent with the architectural detail of the building.

7. CONFIGURATIONS AND TECHNIQUES FOR DOORS AND WINDOWS. The following are permitted:

a. The horizontal dimension of an opening shall not exceed the vertical dimension except where otherwise prescribed in this section.

b. Windows may be ganged horizontally if each grouping is separated by a mullion, column, pier, or wall section that is at least seven inches (7") wide.

c. Exterior shutters, if applied, shall be sized and mounted appropriately for the window at one-half the width, even if inoperable.

d. Windows on any story above the ground story may be double-hung, single-hung, awning, or casement windows. Fixed windows are permitted only as specialty windows or when

a component of a system including an operable window within a single wall opening.

e. Windows above the ground story level shall not have any individual pane of glass exceed forty eight inches (48") vertical by forty inches (40") horizontal.

f. When necessary to meet building codes for egress purposes, windows may exceed the dimensions given here.

g. Nonresidential windows and doors at the street level shall not have individual panes of glass larger than eight feet (8') in height by four feet (4') wide.

h. All window pane surface area of ground story nonresidential buildings shall allow views into the building interior for depth of at least eight feet (8') where the interior space is retail, restaurant, office or similar area accessible to the public. This shall not include restrooms, or restricted employee-only accessed areas, such as a kitchen, inventory storage, or loading dock. Windows shall not be made opaque by window treatments except for operable sunscreen devices within the conditioned space.

i. Garage doors or operable coverings for vehicle use (service/loading) wall openings shall not directly face the primary public street unless they are set back from the building façade and from the public right-of-way at least twenty feet (20').

j. EXCEPTIONS. Any requested deviations from these window and door standards shall be submitted for consideration during the elevation plan approval process. If the elevation plan has been approved and a building permit has been issued, a request for Administrative Amendment may be submitted which will automatically require Town Board final determination.

8. SIGNAGE. Signs within the ENT Entertainment District should be clear and informative to the public and should weather well. Signage should be scaled to the nature of the district, which is a mixed use, pedestrian-oriented environment with slower-moving vehicular traffic. Signage that is glaring or too large creates distraction, intrudes into and lessens the Entertainment District experience, and creates visual clutter. In addition to the regulations in the Signs subchapter at § 155.608, standards for signs in the ENT District are as follows:

a. Where a building is designed to house multiple businesses or uses, each capable of desiring identification signage:

i. The building shall provide a master sign plan prior to receiving a Certificate of Occupancy. The master sign plan shall be reviewed and approved by the Town Board of Commissioners as provided at § 155.608.9. It shall include a designated horizontal sign band for all uses on the ground or street level story, and designated locations for identification of businesses in upper level stories and for identifying the building name itself. The sign band for the ground story level shall not be higher than sixteen feet (16') or lower than nine feet (9') above the adjacent public sidewalk, street or public use realm.

ii. Individual letters placed within the designated first floor sign band shall not exceed twenty four inches (24") in height or width for any buildings placed at, or within ten feet (10') of, the adjacent public street. Company logos and other non-word elements may be placed within the sign band. All words, logos, and related elements used within the sign band to identify a business shall be arranged so that together they fit within a rectangular area up to sixty (60) square feet per business enterprise.

iii. Nonresidential uses on stories above the street or ground level may display identification signs within areas designated by the master sign plan for the building. These signs shall be on exterior walls of the second story only, and shall not exceed twenty four feet (24') in height from the adjacent public sidewalk, street, or public use realm.

b. Attached signs for buildings designed and used as a single business enterprise or a multi-family residential building:

i. Any combination of letters, logos, and other elements shall be considered one sign for any building up to sixty thousand (60,000) square feet GFA and/or up to

three stories. This sign shall fit within a rectangular area not to exceed one hundred (100) square feet, and not to exceed ten feet (10') in height. This single sign is allowed per each building façade that is at an eighty (80) or greater degree angle from an adjacent building façade.

ii. Any combination of letters, logos, and other elements shall be considered one sign for any building equal to or greater than sixty thousand (60,000) square feet GFA and more than three (3) stories. This sign shall fit within a rectangular area not to exceed two hundred fifty (250) square feet, and not to exceed sixteen feet (16') in height.

c. A masonry or bronze plaque bearing the building name may be placed on the building's parapet wall or under the eaves, and above the top story windows. The building name identification may alternatively be sculpted into the building façade. Any such plaque or sculpted material shall not exceed eighteen (18) square feet and shall be limited to the façade incorporating the primary pedestrian entrance. The building name may also be displayed on a separate masonry or bronze plaque or sculpted into the building wall material at the ground story level and shall not exceed four (4) square feet.

d. Projecting signs placed perpendicular to the building façade and identifying a business enterprise or residential use within the building may be placed within ten feet (10') of an associated street level door in the designated first story sign band or on exterior walls of the second story, not to exceed twenty four feet (24') in height. Projecting signs shall not exceed twenty four (24) square feet in area or extend further than four feet (4') from the façade, and shall have a minimum of seven feet six inches (7'6") clear height above any sidewalk, plaza, or public use realm.

e. Because all buildings are expected to be at or close to the public street, sidewalk, or a public use realm, no freestanding signs are anticipated for individual buildings. Freestanding signs may be employed as gateway identification markers to various subareas at the exterior boundaries of and within the ENT District.

9. AWNINGS AND CANOPIES. When an awning or canopy is incorporated into a building, the following requirements shall apply:

a. A minimum of ten feet (10') clear height shall be provided for any awning or canopy above any sidewalk, plaza, or public use realm.

b. Awnings may extend from the front façade of the building up to one-half of the width of the sidewalk area below, not to exceed nine feet (9'), whichever is less. If this extension reaches into the public right-of-way, an encroachment agreement with the Town or State is required. In no case shall an awning interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

c. Canopies may extend from the front façade of the building up to the full width of the sidewalk area below. If this extension reaches into the public right-of-way, an encroachment agreement from the Town or State is required. In no case shall a canopy interfere with the placement, natural growth, and maintenance of any street trees, street signs, or lighting.

d. Awnings may be made of canvas or treated canvas material, may be designed to retract against the wall of the building, and shall not include any shiny or reflective materials.

e. Canopies may be made of wood, metal, or glass, or a combination of these or similar permanent rigid materials, and shall not include any shiny or reflective materials.

f. No internal illumination shall be projected through an awning or canopy.

10. MECHANICAL EQUIPMENT AND STORAGE ITEMS. The following shall be placed behind and away from any front or corner side building line, not be stored or located within any street, and be screened from view from the public use realm:

a. Air compressors, mechanical pumps, exterior water heaters, water softeners, utility and telephone company transformers, meters or boxes, storage tanks, garbage dumpsters and compressors, and similar equipment shall not be installed or placed within any area considered public use realm.

b. Backflow preventers as required by the public utility company shall not be located within the public use realm, and shall be covered or screened from view.

c. Garbage and recycling containers, and similar items which must be stored and then moved on an ongoing schedule for servicing shall be stored in a location that is completely screened from view from the public realm to a minimum height of six feet (6') through the use of a fence, wall, or other visual block.

d. Utility meters for individual residential or nonresidential uses that are installed on or near a building wall and must be regularly accessed for data collection shall be screened from view from the public realm through the use of a fence, wall, evergreen landscape materials, or other visual block.

e. Roof mounted equipment shall be placed behind and away from any front or corner side building line and be screened from view from the public realm as outlined at § 155.503.8.G.5.c.

H. FLEXIBLE DESIGN. The ENT district establishes minimum standards for development and design. Those standards however may not always be appropriate to a particular segment or building within the development. Accordingly, new development concepts, innovative design, unique circumstances or public/private ventures may require the use of alternative development or design standards. In such cases, the development requirements specified here for the ENT district (as shown in ENT section text above) may be modified through the Flexible Design provisions of § 155.401.7 of this Title.

155.503.9. Adult Use District (AU)

A. The Adult Use District is established to provide areas in which adult entertainment or sexually oriented business may be established. Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics upon adjacent neighborhoods and residential or institutional uses. It has been demonstrated that the establishment of adult businesses often creates problems for law enforcement agencies, by the very nature of these businesses and the difficulty often experienced in trying to determine if the operations are of a legal nature. Special regulation of these establishments is necessary to ensure that these adverse effects will not contribute to a *de facto* downgrading or blighting of surrounding neighborhoods and uses. It is the intent of this District to restrict the concentration of these uses and to separate these uses from residential and institutional uses or areas. All development of land within the Adult Uses district shall comply with a site plan approved at the time of district designation. The map symbol and short name for the Adult Use District shall be "AU". **[formerly part of regulation known as § 153.059]**

B. Lot development and design standards, as outlined in § 155.605, and dimensional standards of § 155.604.3, apply to the AU District. Uses allowed within the AU district are given in the Table of Allowed Uses at § 155.505.3. Supplementary standards which may be applicable to certain uses within the AU district are listed at § 155.506. Except where the standards given within this subsection § 155.503.9 specifically for the AU district differ, the parking provisions at § 155.607, the sign provisions at 155.608, and the lighting provisions at § 155.609 apply to the AU district.

C. OTHER STANDARDS UNIQUE TO THE ADULT USE DISTRICT. In addition to the requirements of other sections of this Title, development and improvements in the Adult Use district shall comply with the following requirements. Where the provisions in this § 155.503.9 conflict with the provisions of other Sections of this Title, except for Overlay district requirements, this Section shall prevail.

1. LOCATION REQUIREMENTS. An AU district shall not be located:

a. within one thousand five hundred feet (1,500') of another AU designated property; or

b. within one thousand five hundred feet (1,500') of any elementary or secondary school, any church or place of worship, any child day care facility, or any single-family residence (attached or detached); or

c. within one thousand feet (1,000') of any establishment with an on-premise ABC license; all as measured in a straight line from property line to property line.

2. MAXIMUM TOTAL PROJECT AREA: An AU designation shall not exceed five thousand (5,000) square feet in floor area. No more than one (1) adult business establishment shall be allowed on the same property or in the same building in any AU district designation.

3. EXTERIOR PROJECT EDGE. An AU property shall meet the dimensional standards listed at § 155.604.3. In order to prevent unintended exposure of adult business establishment activities by individuals off-site, no printed material, photograph, video, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

D. EARLY DESIGNATION. The AU district is not eligible for early designation. Each request for AU designation shall include a site plan showing, at a minimum, a scale drawing of the property, the location of required setbacks and yards, the location of existing and proposed buildings, doors, parking, landscaping, lighting, and signage.

E. REVIEW CRITERIA. In evaluating applications for AU designation, the Board of Commissioners shall consider the following:

1. Access to public streets.
2. Visibility of doors and parking areas from public streets.
3. Adequacy of existing community facilities such as water, sewer, police, and fire protection.
4. Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts.
5. The appropriateness of the proposal in relationship to the policies and objectives of the Matthews Land Use Plan and to a more detailed small area plan, if available.

F. SITE PLAN LAYOUT DESIGN.

1. GENERAL URBAN DESIGN PRINCIPLES. The principles listed at § 155.602 shall be adhered to when designing any development within the AU district.
2. STREET NETWORK. Due to the small size nature of AU properties, new streets or expansions of streets are not anticipated to be included with an AU designation.
   a. Sidewalk and street trees shall be provided in front of any AU property if not already in existence.
   b. A lighting plan shall be prepared for the AU district as required at § 155.609. Lighting shall be incorporated to provide night-time illumination under the tree canopy for safety and ambiance for pedestrians, and adequate illumination for vehicular traffic.
   c. Building facades are the public "face" of every building. The primary patron entrance shall face the public street or be a side entrance adjacent to the parking area.
3. BLOCKS**.** Due to the small size nature of AU properties, block lengths are not anticipated to be included with an AU designation.
4. PARKING. No ground level parking of motor vehicles shall be permitted in the required setback. The space within the required setback shall not be used as maneuvering space for the parking or unparking of vehicles, except that driveways providing ingress and egress to the parking area may be installed across the setback area. Parking structures are not allowed.

G. BUILDING DESIGN GUIDELINES.

1. GENERAL BUILDING DESIGN PRINCIPLES. The principles listed at § 155.603 shall be adhered to when designing any development within the AU district. Because any structure in an AU district shall provide for a business establishment, the standards given for building walls, roofs, windows and doors, and mechanical equipment in the B-1SCD district shall be used for the AU district.
2. SIGNAGE. The standards given in § 155.608 shall apply in the AU district.
3. AWNINGS, CANOPIES, AND ARCADES: No canopy or arcade shall be used in an AU district. An awning may be placed over a doorway entrance.
4. STORAGE. No outdoor storage shall be allowed in an AU district.

155.504 Overlay Districts Created

155.504.1. Downtown Overlay District (DO)

A. GENERAL CONCEPT OF OVERLAY. The Downtown Overlay District is established to implement the policies, recommendations and standards of the *Downtown Master Plan* and any related adopted Design Guidelines and Streetscape which together create a framework for preserving, revitalizing, and expanding on the social, cultural and architectural heritage of the downtown area of the Town of Matthews. The Downtown Master Plan was developed after thorough study of the downtown's characteristics and its history. The Downtown Overlay District is created to continue to focus on the concentrated central business area of Matthews to protect its unique position in the community, and to acknowledge the downtown's role in economic viability and general welfare of the Town as a whole. The historic downtown and its fringe areas are anticipated to develop and redevelop in the near future due to increased population and demand for more urban services nearby. The Downtown Overlay District includes both the existing historic core and proposed extensions of the commercial hub in order to direct new expansion in a compatible development approach to the existing urban core. This district stresses sensitivity to the pedestrian environment; urban design; urban open space; pedestrian scale signs, street furniture and amenities; and, urban landscaping in both the existing historic business core and in fringe areas anticipated to receive development pressure/opportunities over time. The Downtown Master Plan is hereby adopted by reference. Development and improvement of property in the Downtown Overlay District shall comply with the requirements of § 155.504.1. The map symbol and short name for the Downtown Overlay District shall be "DO District." **[formerly known as § 153.064.A]**

B. DOWNTOWN OVERLAY DISTRICT. In addition to the requirements of the underlying zoning district(s), development and improvements in the DO District shall comply with the following requirements, and where the regulations in this Section are in conflict with the regulations of the underlying zoning district, the regulations in this Section shall prevail:

1. PERMITTED USES. Permitted uses, uses permitted subject to specific conditions, and accessory uses within the DO District shall be determined by the requirements of the underlying zoning district(s).

2. Live/work units are permitted in the DO District provided they comply with the requirements of § 155.503.2.W.

3. AREA, YARD AND HEIGHT REGULATIONS. Area, yard, and height regulations shall be determined by the requirements of the underlying zoning district, except that:

   a. Communications antenna or tower height within the DO District shall not exceed thirty-five feet (35');

   b. When build-to lines for various categories of streets (Type 1 through Type V, inclusive) are required in the Downtown Master Plan, then they shall supersede underlying zoning district requirements.

C. Forming the Unique Character of the Overlay District. The Downtown Master Plan provides general concepts and policies for future development in the downtown area. Design Guidelines and Streetscape Improvements, as may be amended from time to time, and adopted by the Board of Commissioners, are incorporated here by reference.

1. CREATION OF STREETSCAPE DESIGN STANDARDS. The relationship between a building and areas for pedestrian or vehicular circulation must be carefully planned in order to avoid negative impacts of one upon the other. The Downtown Master Plan illustrates design standards for the public rights-of-way for the majority of existing streets within the DO District. New streets shall be assigned a street type category as they are proposed, in order to assure consistency in development of the public rights-of-way. All buildings and uses developed in the DO District must meet the following minimum standards.

   a. PAVING. Paving systems in the public rights of- way must conform to the standards of the Downtown Master Plan and/or adopted standards in Chapter 7 of this Title. The paving systems used on private plazas, walkways, drives, and parking areas not in the public right-of-way may be different in color, material, and texture from those specified for public properties. The paving systems must be of a compatible pattern and scale to provide a transition into the paving system on public property.

b. STREET FURNITURE AND AMENITIES. Walking surfaces, street furniture, light fixtures, information signs, and kiosks constructed in the public right-of-way or required setback/minimum build-to line must be consistent with the Downtown Master Plan. Exterior lighting used on private plazas and walkways must be complementary in design motif to that specified in the Streetscape Improvements.

c. STREET TREES. Street trees in public right-of-way shall be installed as properties are developed or separate from adjacent private property activity in accordance with the Downtown Master Plan. Above ground planters shall not be used to fulfill the street tree requirement. As new streets are proposed, the streetscape design shall be developed consistent with the class of street type assigned to it.

2. GENERAL URBAN DESIGN AND DEVELOPMENT GUIDELINES. The harmonious relationship between land uses and their environment requires that certain areas be addressed during project planning. These relationships deal with the streetscape, historic buildings and places, and open spaces. Development or redevelopment subject to these provisions shall be built in accordance with the minimum urban design standards set forth in this Section. The purpose of this Section is to define the minimum urban design standards for development in the DO District in order to preserve the small-town character while encouraging revitalization and expansion. It is not the intent or expectation that new development should replicate a previous time period, but the general design principles in place when the majority of the current historic core was developed are being recreated here for consistency in context for those buildings constructed between 1900 and 1940. The guiding general principles are as follows:

a. Buildings should address the street.

i. Entrances should face the street and be accessible from the sidewalk.

ii. Site layout should place the building generally at or near the front of the lot as indicated in the Streetscape Improvements, with parking to the side and/or rear of the building.

b. Buildings should be designed to be compatible with the context of the neighborhood.

i. Scale of new buildings should be in harmony with existing structures.

ii. Materials, colors, and styles should be compatible with existing structures.

c. Building styles should be traditional, or styles adapted from local and regional interpretations of traditional architecture

i. Building style should be appropriate to the intended use.

ii. Choice of building materials, elements, and details should be consistent with chosen architectural style. Elements that are obviously of another style should be avoided.

d. Overall design, use of materials, and ornamentation should be kept simple and in harmony with the scale of the building. Additional illustrative detail on how urban design standards may be satisfied is provided in the Downtown Master Plan.

3. STRUCTURE DESIGN GUIDELINES

a. BUILD-TO LINES REQUIRED. Build-to lines are established for most existing streets in the DO District. As new streets are proposed, they will be assigned a street type category and build-to lines shall be assigned. Any new construction in the 100 block of North Trade Street, because it contains the majority of historic commercial structures set at or near the sidewalk, shall not exceed ten feet (10') setback from the right-of-way, except for outdoor café-type or other outdoor uses when a fence or wall is carried across the right-of-way to continue the visual continuity of building faces.

b. BUILDING BULK AND MASSING. Building bulk is categorized in width-to-height or height-to-width ratio and by a percentage of lot width coverage. All new buildings or additions to existing structures shall fall within a width-to-height or height-to width ratio between 1:1.5 to 1:1. New nonresidential or mixed use construction located within the DO District shall utilize a design in which the building coverage of the lot facing the street at the street entrance level shall be at least seventy five percent (75%) of the total

frontage of the lot. Required landscape areas, and up to twenty-five feet (25') of driveway width, may be excluded from the lot frontage calculation. Where several new buildings are proposed to be developed adjacent to each other along the same side of a street front, the percentage for drive openings may be combined and averaged within that block face, in order to allow one (1) or two (2) driveways or loading areas for all the adjacent buildings.

c. BUILDING DESIGN. Street walls and entrances must be designed to encourage and complement pedestrian-scale activity. Building design should not be conceived in isolation, as a singular entity, but should consider the structures at either side and in the neighborhood in general. It is intended that this be accomplished principally by the use of architectural criteria such as building materials, roof styles, attachments to buildings, and windows and doors arranged so that the uses are visible from and/or accessible to the street on at least fifty percent (50%) of the length of the ground level street frontage.

i. WINDOWS. Where windows are used, they must be clear, transparent glass. Multi-paned shop front windows are preferred and no single glass pane shall be greater than twelve (12) square feet. Double hung windows with a height-to-width proportion of 2:1 are preferred for upper stories. Casements for windows shall be of wood, vinyl, or painted metal and may have stone, brick, or cast concrete lintels and sills. Window glass shall always be set back from the building face rather than flush. Shop front windows shall not be lower than two feet (2') from the ground plane at front wall. Windows on the front of a building facing a street shall be at least fifteen (15) square feet and up to forty percent (40%) of the total street front first floor facade in Precinct 1 (described in the Downtown Master Plan) and up to sixty percent (60%) of the total street front first floor facade in Precinct 2 (described in the Downtown Master Plan).

ii. BLANK WALLS. Expanses of solid wall facing a pedestrian use area, which may include a street, plaza, park, or parking lot, are not permitted to exceed ten (10) linear feet. A blank exterior wall, when necessary, shall be broken or interrupted by one or more of the following:

- A public doorway made of transparent materials;
- A doorway made of opaque materials and recessed at least three feet (3') and not more than five feet (5');
- A public stairway directly available at street/plaza/park/parking lot level, but not fire escapes or false stairways;
- A window of at least fifteen (15) square feet in area and no more than four feet (4') above the ground surface.

iii. BUILDING MATERIALS. Building materials should repeat and/or complement the types found in existing downtown buildings. Brick or wood shall be the predominant building materials of any wall facing a public street or pedestrian use area. Predominant shall mean no less than seventy five percent (75%) of the non-glassed wall surface facing the street or pedestrian use area. Materials used for awnings and canopies are exempt from this provision and shall not be included in the calculation. Other acceptable materials include stone, concrete-based stucco, concrete, horizontal wood siding or wood shingle. Brick may be painted or unpainted. Trim shall be stone, cast stone, cast concrete, or painted wood.

iv. ROOF STYLES. Roof styles shall reflect those generally found in the downtown and fringe areas. Due to the concentration of flat-roofed commercial buildings on the 100 block of North Trade Street, any new development there shall use a flat roof. Elsewhere in the DO District flat roofs may be used if appropriate to the overall building style and to neighboring structures. Other acceptable roof styles include hipped, gables, or cross gabled. Roof pitch shall be between 5:12 and 10:12. Single pitch shed roofs are not allowed except as a minor attachment to the rear of a structure, with minor defined as less than ten percent (10%) of

the building footprint. Mansard-style roofs or mansard attachments to a building wall are not permitted.

v. DOORWAYS. Recessed doorways at street fronts are required and at non-street pedestrian use areas are encouraged. This provides a sense of entry and adds subtle variety to the streetscape. All structures shall have a street front entryway of at least one (1) square foot for each five hundred (500) square feet of floor area with a ten (10) square foot minimum. When a structure will provide off-street parking to the side or rear in a separate or combined lot, then the same doorway size requirements apply to the side or rear of the building. The maximum distance of recess from the exterior wall plan is five feet (5'). Doors shall be of wood, painted metal, or simulated wood material, or a combination of one of the above materials and glass. No glass shall be positioned lower than two feet (2') above ground level at door entrance.

vi. COLORS. Colors of buildings shall follow the Design Guidelines, including the number of main and trim colors and the combinations of light and dark shades. Colors of adjacent structures shall be considered in choosing color schemes for compatibility.

vii. EXTERIOR SURFACES. Reflectivity of exterior surfaces, except for painted wood siding, shall not exceed a reflectivity value of thirty six percent (36%), as measured under the applicable provisions of Federal Specifications DD-G-451d 1977.

viii. PROTECTED BUILDING ENTRANCES. The entrances to buildings and shop front windows are permitted to have canopies and awnings made of canvas or treated canvas material. Vinyl or metal awnings are not permitted. Awnings or canopies may extend from the building up to one-half (1/2) of the width of the sidewalk area in front of the building or nine (9), whichever is less. If this extension would reach into the public right-of-way, an encroachment agreement from the town or state is required. In no case shall an awning or canopy extend beyond the curb line of any public street, nor shall it interfere with the growth or maintenance of street trees. A minimum overhead clearance of eight feet (8') from the adjacent pedestrian area or sidewalk must be maintained. Curved awnings shall not be used, except over a single door at the rear entrance of a building.

4. SIGNS. Signs shall comply with the requirements of § 155.608, generally, and § 155.608.14, specifically.

5. RESIDENTIAL CONSTRUCTION DESIGN STANDARDS. The Downtown Master Plan provides details on building design and setting for single-family and multi-family residential structures and shall be applied to any new residential development within the DO District.

D. DEVELOPMENT REVIEW. Applicants planning any demolition, development, or redevelopment on property located in the DO District are required to meet with the Town Planning Department and Development Technical Review Committee during the conceptual design process in order that the applicant and staff may review the building and streetscape of the Downtown Master Plan as they relate to that location. The applicant shall submit plans to the Town Planning Department during the formal design review stage prior to receiving any building permit to ensure that the plans meet the minimum standards for the DO District. Building, demolition and/or zoning permits shall not be issued until the Town Planning Department approves the proposal as in conformance with this Title.

1. SITE PLAN SUBMITTAL REQUIREMENTS. Site plan submittal for any development activity in the DO District shall include but not be limited to:

a. A vicinity map clearly establishing the location of the project with readily recognizable landmarks.

b. A development summary including land area in development, proposed use(s), total building square footage, required parking, provided parking spaces, indicating where off-lot parking is being included.

c. An accurate drawing of property boundaries.

d. Existing topography of existing vacant land to be disturbed by the development activity, and where appropriate, water courses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development.

e. Identification and location of all existing site improvements, including streets, water, sewer, storm drainage, buildings, overhead power or telephone/cable lines, cross access easements, and utility easements.

f. Proposed location, type, and size of each sign (attached, freestanding, portable) to be employed on the site.

g. Location of proposed buildings, driveways, and parking areas.

h. Location of trash dumpsters or bins and required screening.

i. Grading, drainage, erosion and sedimentation control, and utility plans.

j. Landscaping, including street trees, parking lot islands, and perimeter planting where required. The canopy drip line of any existing trees meeting the sizes listed in § 155.606.6 shall be indicated and noted whether or not they will remain. Details of required landscaping, showing species, dimensions, and spacing of planted materials shall be provided, with a proposed timeline for installation.

k. Name of the project, owner, and name and address of engineer, architect, planner or landscape architect, scale, date, and north arrow.

2. In the event a parcel of land is also located within the Highway NC51 Overlay which creates conflicting regulations, such as building or pavement location, then any parcel fronting on Highway NC51 shall follow only the provisions in the HO district, and not the Downtown Overlay, for any regulated criteria where conflicts exist. **[formerly known as § 153.064]**

E. Parking and Loading Standards. Permitted uses within the Downtown Overlay are required to provide off-street motor vehicle and bicycle parking and loading according to the minimum standards in § 155.607, except where the Historic Urban Core District (HUC) specifically authorizes different parking allotments for specific uses. If off-site, non-street parking to meet these requirements are not met, the office or agent authorized by the Board of Commissioners to issue Certificates of Occupancy shall revoke the occupancy permit for the applicable use and shall not issue a building or occupancy permit, as explained at § 155.213, until those requirements are met. One of the following parking reduction options may be used to reduce on-site motor vehicle parking requirements.

1. PUBLIC PARKING SPACES. Where on-street or public parking lot spaces are located within four hundred feet (400') of a building entrance, up to a twenty five percent (25%) reduction to required on-site parking may be allowed for new construction or where a change of use requires more intensive parking.

2. SHARED PARKING. Joint use of up to twenty five percent (25%) of required parking spaces may be permitted with approval from the Zoning Administrator for different uses on newly-developed mixed use parcels provided that the property owner can demonstrate that uses will not overlap in hours of operation or in demand for shared spaces. If a newly developed site is to be subdivided, a shared parking agreement shall be provided to the Zoning Administrator for any lots that would otherwise show a parking deficiency. This agreement must include written permission from the private parking lot owner(s) and must identify the location and number of parking spaces to be made available, and at what days and times of the day these spaces may be credited to the use which otherwise is deficient in parking.

3. ON-STREET SPACES. New marked on-street parking spaces developed adjacent to and in conjunction with a new building or group of buildings, or a change of use within an existing building, may be counted toward the minimum on-site parking requirements for that/those buildings. New marked spaces must be located on public streets and within four hundred feet (400') of the new building(s) or change of use with which they are associated. Any such on-street spaces may only be attributed to meeting minimum parking requirements for one new building.

155.504.2. Highway NC51 Overlay District (HO)

A. GENERAL CONCEPT OF OVERLAY. The Highway NC51 Overlay District is established to protect and preserve the natural scenic beauty along designated lengths of this major thoroughfare, while allowing the orderly development of land located along the highway. In order to protect and enhance both the public and private interests in and along the highway system, this district is established for the additional purpose of:

1. Protecting the public investment and lengthening the time during which the highway can continue to serve its functions without expansion or relocation by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress, egress and cluttered roadside development.
2. 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
3. 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 stops and other hazards.

Development and improvement of property in the Highway 51 Overlay District shall comply with the requirements of § 155.504.2. The map symbol and short name for the Highway 51 Overlay District shall be "HO District." **[formerly known as § 153.066.A]**

B. HIGHWAY NC51 OVERLAY DISTRICT. In addition to the requirements of the underlying zoning district(s), development and improvements in the Highway NC51 Overlay District ("HO District") shall comply with the following requirements, and where the regulations in this Section are in conflict with the regulations of the underlying zoning district, the regulations in this Section shall prevail:

1. PURPOSE AND INTENT. It is the intent of these regulations that development in the HO District shall be in harmony with and shall preserve the natural beauty and character of the existing landscape. Ensuring the attractiveness of uses will in turn contribute to and enhance capital investment, trade, tourism, and the general welfare. Therefore, this district is adopted for the additional purposes of:
   a. Improving the appearance and livability of the community while enhancing its economic vitality.
   b. Preserving and improving property values by creating and maintaining an ecosystem of sustainable development. This assures a management system of renewable natural resources for both the present and future generations.
   c. Protecting and enhancing the environment by preserving trees and natural ground cover, which reduces soil erosion and localized flooding, recharges ground water and regenerates oxygen, reduces the impacts of heat and cold to the man-made urban fabric of pavement and buildings, and conserves energy.
2. LOCATION AND DIMENSIONS.
   a. The HO District should be generally located along limited access interstate or divided highway approaches to, through or, around the Town.
   b. The HO District shall be located on both sides of an existing or proposed major thoroughfare within the Town's zoning jurisdiction and shall be not less than five hundred feet (500') and not more than one thousand feet (1,000') deep measured from the edge of the existing or proposed right-of-way. The HO District shall follow identifiable boundaries whenever possible and shall be delineated as an overlay on the official zoning map of the Town. 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.
   c. In the event a parcel of land is also located within the Downtown Overlay which creates conflicting regulations, such as building or pavement location, then any parcel fronting on Highway NC51 shall follow only the provisions in the HO district, and not the Downtown Overlay, for any regulated criteria where conflicts exist.
3. PERMITTED USES. Permitted uses, uses permitted subject to specific conditions, and accessory

uses located within the HO District shall be determined by the requirements of the underlying zoning district(s). Any development or land disturbing activity on previously approved plans are still subject to the requirements of the HO District.

4. PLAN REVIEW PROCEDURES.

a. INDUSTRIAL, COMMERCIAL, AND MULTI-FAMILY DEVELOPMENT. No conditional districts, development, rezoning, land disturbing activity, or site improvement activity, other than single-family residential development may occur within the HO District without first obtaining approval of a detailed or abbreviated site plan from the Town Planning Department as allowed in § 155.504.2.B.5. Any change to zoning conditions or zoning districts shall be subject to all provisions of the HO District, and building or grading permits shall not be issued until a HO District site plan submittal has been approved. All development shall conform to an approved site plan. Any substantial deviation from the approved site plan must be resubmitted for review and approval by the Town Planning Department in accordance with these requirements. Appeals of Planning Department decisions on site plans shall be submitted to the Board of Adjustment.

b. SINGLE-FAMILY RESIDENTIAL DEVELOPMENT. All new or re-platted single-family residential developments and subdivisions must comply with the minimum thoroughfare buffering, signage, underground utility, and access standards of the HO District. Plan review shall be administered through the normal zoning and subdivision review process, supplemented by applicable additional requirements of the HO District.

5. SITE PLAN SUBMITTAL REQUIREMENTS. Site plan submittal for any development activity, except those listed in § 155.504.2.B.5.l, shall include but not be limited to:

a. A vicinity map clearly establishing the location of the project with readily recognizable landmarks.

b. A development summary including total acres in development, proposed uses, total building square footage, required parking, and provided parking spaces, total impervious surface area, and the percentage of lot covered by impervious surface. This information shall be supplied in table form on the site plan.

c. An accurate drawing of property boundaries.

d. Existing topography, water courses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development.

e. Identification and location of all existing site improvements, including streets, water, sewer, storm drainage, buildings, and other significant site features and any existing or former easements (driveway, street, utility, construction, etc.) which may have cleared vegetative matter, and/or could allow clearing or grading.

f. Proposed location, type, and size of each sign to be employed on the site.

g. Location of proposed buildings, driveways, and parking areas.

h. Location of trash dumpsters and required screening.

i. Grading, drainage, erosion and sedimentation control, layout, and utility plans.

j. Landscaping Plan to include:

i. Prior to any site disturbance, approximate locations and species of all deciduous and coniferous trees at least three inches (3”) DHB, and all dogwoods, redbuds and American hollies at least four feet high, which are located in any required buffer or screen area, and in any area not being disturbed by the planned development. The canopy drip line of those trees shall be delineated. A brief assessment of the above inventoried trees, indicating major deformity, disease, and or damage may be included. Where groves of the protected trees exist that will not be removed or disturbed, it is permitted to label the grove as such on the plan drawing, stating the approximate number of protected trees and species mix, without specifying data of each individual tree.

ii. Locations, species, and size of all protected trees proposed for removal shall be shown in outline form using a dashed line for the canopy drip line. Reasons for

removing protected trees shall be explicitly stated on the Landscaping Plan.

iii. Locations, dimensions, and square footage of required buffer strips and parking lot landscaping.

iv. Details of required landscaping, showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation. Each plant unit in front tree buffer areas shall be marked as meeting one (1) of the options given in § 155.504.2.B.7.h.

v. Proposed timeline for landscaping.

k. Name of the project, owner, name and address of engineer, architect, planner or landscape architect, scale, date, and north arrow.

l. Minor changes or additions to existing development or approved plans may submit an abbreviated site plan. An abbreviated site plan shall be allowed when the proposed change is physically limited to only a contained portion of the site. An abbreviated site plan shall include, but shall not be limited to, items a, b, e, g, j, and k in this Section. The Planning Director shall determine when an abbreviated site plan may be submitted for a detailed site plan and what items must be included.

6. GENERAL SITE DEVELOPMENT STANDARDS. The lot development standards of both the HO District and the underlying zoning district shall apply. Where the standards of the HO District and the underlying district(s) differ, the more restrictive standard shall apply:

a. REQUIRED MINIMUM LOT AREA.

i. For lots for single-family detached or attached dwellings, multi-family dwellings, and all other lots not bordering directly on Highway NC51, the required minimum lot area of the underlying district shall apply.

ii. All nonresidential lots bordering on Highway NC51 shall be at least two (2) acres in size, except that lots may be smaller: *i)* when those lots are contained within a unified multi-lot development plan which is part of a conditional district zoning process; and *ii)* where shared driveway access is used; and *iii)* where no more than one (1) driveway for a minimum five hundred feet (500') of frontage along Highway NC51 will exist. All lots shall be developed with a unified approach to landscaping and buffering, access points, parking and loading, lighting, and noise.

iii. Lots bordering on Highway NC51 which were created prior to January 7, 1991, and which are less than two (2) acres shall be handled in accordance with the nonconforming regulations in Chapter 3 of this Title. (Am. Ord. 2059, passed 12-8-14)

b. LOT COVERAGE. Stormwater retention shall be required on all lots, and in no case shall impervious surface, such as rooftops, walkways, paving, and the like exceed seventy five percent (75%) of the site.

c. YARDS. The required front, side, and rear yard requirements of the underlying zoning district shall apply, except that the required protective buffer areas shall in all instances take precedence. No building shall in any instance be closer than fifteen feet (15') from any required buffer or screen area.

d. BUILDING HEIGHT. The maximum building height limit of the underlying zoning district shall apply, except that where allowed, communications antennas or communications towers shall comply with the height limits given in § 155.506.41and shall be located a minimum straight line distance of one hundred fifty feet (150') from the nearest edge of right-of way to Highway NC51. Where guy wires are used, their point of connection to the ground shall be used to determine the minimum one hundred fifty foot (150') distance. (Ord. 912, passed 1-27-97)

e. PARKING AND LOADING REQUIREMENTS. Parking and loading requirements shall be provided in accordance with the underlying zoning district, except as provided otherwise as follows:

i. LOCATION OF OFF-STREET PARKING, LOADING, AND STORAGE AREAS. Any paved or impervious surface designed or intended to be used by vehicles, including off-street parking, loading and storage areas shall be located to the side and rear of all principal nonresidential structures of sites fronting Highway NC51. Off-street parking to the side of a structure shall be no closer to Highway NC51 right-of-way than the structure or sixty feet (60'), whichever is less. For corner lots, the side of the lot facing the more major thoroughfare shall be considered the front yard for the purpose of this requirement. Exemptions to this provision may only be granted under certain circumstances:

- When the applicant can demonstrate that placement of those facilities in the side or rear yards would require greater clearing and grading than if those facilities were to be located in the front yard. An alternative design layout showing what vegetation would be lost that can be retained by front yard paving must be provided.
- When the applicant can demonstrate that the necessary vehicular and pedestrian circulation of the proposed use cannot function without front yard parking, loading, or storage. A written description of the use, and why the front yard vehicular use area cannot be eliminated or relocated elsewhere on the site must be provided.

ii. ENHANCED LANDSCAPING PLAN REQUIRED. An enhanced landscaping plan shall be part of any request for an exemption as described in § 155.504.2.B.6.e.i, above. Enhanced landscaping located between the vehicular use area and Highway NC51 shall include evergreen shrub screening, berms, low fencing with evergreen shrubs on the street side, or a combination of methods to significantly reduce the amount of pavement and vehicles viewed from Highway NC51. In addition, any paved area used for parking subject to a request for an exemption shall be required to provide at least one existing or planted tree of a minimum three inch (3") caliper and minimum eight foot (8') height for every five (5) parking spaces. These trees must be located in tree islands with minimum dimensions as given in § 155.504.2.B.11.b. Property at a higher grade than Highway NC51 shall not be reason to exempt the requirement for enhanced landscaping.

iii. EXEMPTIONS. An exemption may be granted under § 155.504.2.B.6.e.i, above by the Planning Director when no other variances to the HO District requirements are requested. If any other variances are necessary, an exception to front yard paved areas may only be determined by the Board of Adjustment.

f. LOCATION OF UTILITY CONNECTIONS. For properties fronting Highway NC51, utilities such as water, sewer, natural gas, telephone, cable, etc., shall only be located in the portion of the required front protective buffer that is disturbed for driveway access when trees of protected size exist. If a variance to this provision is requested, the applicant must demonstrate how trees and tree roots will be protected from damage during construction or future maintenance/repair, and that new easements will not include any existing or new trees required by § 155.504.2.B.7.

7. PROTECTED BUFFER YARD REQUIRED ALONG HIGHWAY NC51.

a. GENERAL REQUIREMENTS. A protected buffer yard shall be created on all sites fronting Highway NC51. Within this yard, all deciduous and coniferous trees three inches caliper or larger, and all dogwoods, redbuds, and American hollies four feet (4') high or larger shall be considered of protected size. The front of the protected buffer yard shall be left in a natural state to the greatest extent possible. Clearing of small brush, vines, dead wood, trash, etc., is permitted when done in a method so as not to damage roots, limbs, trunks, bark, etc., of protected vegetation. Mulch of natural material only may be placed around existing or added trees and shrubs in the protected buffer yard.

b. MINIMUM PROTECTED BUFFER YARD REQUIRED. A protected buffer yard shall be

established from the edge of the existing or proposed right-of-way as follows:

i. HIGHWAY NC51: Thirty feet (30'), minimum.

ii. SERVICE ROAD ALONG HIGHWAY NC51: Where a service road right-of-way abuts and parallels Highway NC51 right-of-way, twenty five feet (25'), minimum.

c. When road construction, utility locations, or similar action has cleared some or all of this buffer yard of tree cover, then the buffer yard shall be measured from the undisturbed tree line, when one exists within fifty feet (50') of the edge of the right-of-way. Utility easements, sidewalk easements, current or former temporary construction easements, and similar restrictions shall be shown on the site plan submittal as described in § 155.504.2.B.5.e.

d. Where no natural vegetation including trees of protected size exists within a fifty foot (50') depth from the right-of-way of Highway NC51, or parallel service road, then the minimum buffer yard shall be measured from the edge of the right-of-way.

e. INTERSECTING STREETS. A minimum protected yard of twenty five feet (25') shall be established adjacent to any street right-of-way which intersects and shares common access with Highway NC51 for a distance of two hundred feet (200') from the intersection of the rights-of-way of the street and Highway NC51.

f. APPEAL. In a case where an individual parcel has been rendered virtually unusable due to establishment of the buffer yard, there may be grounds for a variance or appeal, provided that all other conditions set forth in this section are met. In granting any such variance or appeal, the Town Board of Adjustment may require the applicant to compensate in equivalent landscaping improvements any vegetative matter that is lost through an encroachment into the buffer yard

g. EMERGENCY ACCESS DRIVEWAYS. Emergency access driveways may cross through the special highway buffer yard when included as a zoning condition in a conditional district zoning. Emergency access driveways may be paved or may use a porous surface, but existing or new landscape plant material will not be required. An emergency access driveway may not exceed twenty four feet (24') in width through the front protected buffer yard (Ord. 1303, passed 9-8-03)

h. SPECIFIC LANDSCAPING REQUIREMENTS. A distinctive streetscape will be created along Highway NC51 buffer, including two hundred feet (200') on intersecting streets and on parallel service roads, composed of one (1) plant unit for every forty feet (40') or fraction thereof, not including necessary drive access points and required sight triangle locations. A plant unit shall be composed, at a minimum, of one (1) of the following combinations of plants as listed in § 155.606.14 of this Title:

i. A combination of existing trees of required protected size which will be retained, and which total more than twenty four inches (24") caliper.

ii. A combination of both existing trees of required protected size and newly planted trees which would total more than twenty four inches (24") caliper.

iii. Two (2) large-maturing deciduous trees, and three (3) small-maturing trees; or

iv. Three (3) large-maturing evergreen trees, and three (3) small maturing trees; or

v. Two (2) large-maturing deciduous trees, and two (2) large-maturing evergreen trees; or

vi. One (1) large-maturing deciduous tree, two (2) large-maturing evergreen trees, and two (2) small-maturing trees; or

vii. Two (2) large-maturing deciduous trees, one (1) large-maturing evergreen tree, and one (1) small-maturing tree; or

viii. Seven (7) small-maturing trees.

The arrangement and location of landscaping in Highway NC51 buffer yard shall be designed in a random spacing, not in a straight line, to give the appearance of a

naturalized setting, and shall be part of the landscape plan submitted for site plan approval. Existing plant material of minimum protected size shall be retained, except where an approved driveway access or existing utility easements are located.

8. SITE PERIMETER BUFFER YARD REQUIRED FOR NONRESIDENTIAL AND MULTIPLE-FAMILY USES IN THE HO DISTRICT. In addition to Highway NC51 protected buffer yard, an undisturbed buffer yard shall be retained along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area. Single-family residential uses shall provide Highway NC51 protected buffer yard but are not be required to provide side and rear yard buffers.

   a. GENERAL REQUIREMENTS.

      i. MINIMUM BUFFER YARD REQUIRED. A minimum twenty foot (20') undisturbed buffer strip shall be retained along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area.

      ii. PERFORMANCE STANDARDS. The required side or rear yard buffers shall be seventy five percent (75%) opaque year round. The more intense land use shall be required to provide the buffer as part of its yard requirement. Natural vegetation must be retained whenever possible. Buffer strips may be occupied only by natural and/or planted vegetation, berms, and fencing.

   b. LANDSCAPING REQUIREMENTS. One or more of the following means shall be used to supplement the natural vegetation as necessary or to provide an adequate buffer where no natural vegetation exists:

      i. PLANTED BUFFER STRIPS. The planted buffer strips shall be at least six foot (6') tall and provide approximately seventy five percent (75%) visual opacity within two (2) years of planting. Three (3) rows of planting material shall be provided.

      ii. COMBINATION BUFFER STRIP WITH FENCING:

         - Fencing shall be five (5) to seven (7) feet in height. The use of natural fence materials such as wood, brick, and stone is encouraged.
         - If a solid fence is used, two (2) rows of planted materials shall be provided at a minimum height of three feet (3') at initial planting and give at least fifty percent (50%) visual opacity of the fence at planting.
         - If a permeable fence is used, two (2) rows of planted materials shall be provided and give approximately seventy five percent (75%) visual opacity of the fence within two (2) years of planting.
         - The buffer vegetation shall be located between the fence and the common property line.

      iii. COMBINATION BERM WITH VEGETATION.

         - An earthen berm may be used in conjunction with planted vegetation, provided that the combined height of berm and planted vegetation shall be at least six feet (6') and provide approximately seventy five percent (75%) opacity within two (2) years of planting.
         - The slope of the berm shall be stabilized with vegetation and be no steeper than 3:1. The height of the berm shall be six feet (6') or less, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.

9. PRESERVATION OF EXISTING SITE VEGETATION. In addition to the required minimum protected buffer yard along the right-of-way of Highway NC51 and site perimeter buffers on non single-family developments, it is the intent of the HO District regulations to retain existing vegetation on the site at the time of development or any other land disturbing activity. In any required landscape buffer, and in any location within the site that will not be disturbed, all deciduous and coniferous trees at least three inches (3") caliper and all dogwoods, redbuds, and American hollies at least four feet (4') high shall be considered protected. Elsewhere on the site, trees of these sizes and larger are encouraged to be preserved and incorporated into required landscaping, but will not be considered protected as described below. The following steps shall be accomplished in

chronological order:

a. Trees shall be initially inventoried as part of the Landscape Plan, in accordance with § 155.504.2.B.5.j.

b If any of these trees are to be cleared from the site, reasons for doing so shall be clearly stated on the Landscape Plan. Those trees marked as being required to be removed are not considered protected trees for the remainder of this Section.

c. Existing trees specified on the required Landscape Plan to remain on the site under these requirements shall be considered protected trees. Individual protected trees or groves of protected trees shall be staked, fenced, or otherwise clearly marked and protected from material storage and vehicular movement during construction and in the final landscape design.

d. If a protected tree is destroyed or dies within three years after completion of construction, then replacement trees of total equal diameter shall be planted on the site. Tree destruction or death during this three (3) year period shall be assumed to be the result of construction/development work unless: *i)* the tree destruction is easily verified as due to an act of God (storm, lightning strike, and the like); or, *ii)* the property owner provides documentation from an arborist of an alternate explanation for the tree's death.

e. A minimum of fifteen (15) large maturing deciduous or evergreen trees at least three inch (3") caliper and a minimum of eight feet (8') in height shall be retained or planted on the parcel for each acre of proportionate area disturbed by development. Required front, side or, rear landscaped buffers should be included in calculating this overall requirement. For every twenty four inches (24") caliper total retained within the disturbed area of the site, the project shall be credited with one tree which may be counted toward this fifteen (15) tree per acre minimum performance standard. Credits shall not apply to the removal of existing trees at or over the size limits for "protected" status listed elsewhere in this § 155.504.2.B.9.

10. ADEQUATE SIGHT TRIANGLES REQUIRED. At all points of egress from off-street parking areas to a road and at corners of road intersections, unobstructed visibility shall be maintained in accordance with the requirements of the Mecklenburg County Engineering Department and the regulations adopted by the North Carolina Department of Transportation, in *"Subdivision Roads: Minimum Construction Standards" (May 1, 1983)* and any subsequent amendments, or the regulations adopted by the governing body, whichever are the greater.

11. PARKING LOT AND PAVEMENT LANDSCAPING. Landscaping is required for parking lots and other areas of paved surface to reduce the aesthetic impacts of paving or removal of natural vegetation from large areas; to reduce the noise, heat, glare, and dust associated with parking lots; and to control the direction and velocity of surface water runoff.

a. APPLICABILITY. Landscaping shall be required for all off-street parking facilities with five (5) or more spaces or any areas of two thousand five hundred (2,500) square feet or more devoted for vehicular use. A landscaping plan shall be submitted in accordance with § 155.504.2.B.5.j.

b. INTERIOR LANDSCAPING REQUIRED. Interior landscaping is defined as the landscaping required within the perimeter of the parking lot, including the planting islands, curbed areas, corner lots, parking spaces, and all interior driveways and aisles, except those with no parking spaces located on either side. Interior landscaping shall be in the form of planting islands, either separate or protruding from the perimeter of the parking lot. The planting islands shall be located appropriately in the parking facility to create parking sub areas and to help establish distinct patterns of traffic flow. No planted area in any island shall have a dimension of less than twelve feet (12'), or eight feet (8') with minimum overall area not less than one hundred forty four (144) square feet. Smaller protrusions from planting islands shall not have deciduous trees planted within them. At least one (1) existing or planted large-maturing tree shall be provided for every ten (10) parking spaces, except small trees are allowed where they are within an overhead power line easement. No parking space shall be located more than sixty feet (60') from a tree either in an island or outside of the parking lot. Trees should be generally distributed evenly

throughout the parking lot. All parking spaces shall be blocked or curbed to prevent vehicles from overhanging planting islands or landscaped yards by more than one foot (1') or damaging adjacent fences or screens**.**

c. ENHANCED INTERIOR LANDSCAPING REQUIRED In accordance with § 155.504.2.B.6.e, the interior landscaping requirements for parking lots and other paved vehicular use areas approved in front yards shall be increased as required in § 155.504.2.B.6.e.ii.

12. LANDSCAPE MAINTENANCE. The owner, tenant, and their agent, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping existing or hereafter installed which shall be maintained in a healthy growing condition. Maintenance shall include watering, weeding, mowing, fertilizing, treating, mulching, pruning, removal and replacement of dead or diseased trees and shrubs on a regular basis so as to present a neat and well-kept appearance at all times. All replacement plantings should be installed at a frequency and species composition similar to that found under similar environmental conditions in undisturbed forested areas. Trees and shrubs are to be maintained in their natural form, and should not be pruned or shaped inconsistent with their species natural growth habits.

13. SIGNAGE STANDARDS. The sign standards of the underlying zoning district and the requirements of § 155.608 of this Title shall apply to land development in the HO District. In addition, for sites bordering Highway NC51, the location of freestanding signs is further limited to any disturbed portion of the site, including the roadway or driveway access corridor from Highway NC51 right-of-way, but not in any other portion of the required front Highway NC51 protected buffer yard, and no additional clearing shall be permitted in said buffer yard. Permanent signs may only be installed within the portion of the protected buffer which must be cleared for driveway access. Feather signs shall not be placed within, or in front of, the protected buffer yard.

14. OUTDOOR LIGHTING. All outdoor lighting shall be shielded in a manner that no direct glare from the light source can be seen from an abutting right-of-way line or from an abutting residential use or district.

15. UNDERGROUND UTILITIES REQUIRED. All utilities under the control of the property owner or developer shall be placed underground.

16. ACCESS POINTS AND TRAFFIC MOVEMENT ALONG HIGHWAY NC51. Traffic service and land access are necessary but conflicting functions of a highway system. Although major roadways may provide both traffic service and land access, access is a secondary function that should be controlled to avoid jeopardizing the primary traffic service function. The following provisions are intended to protect the public interest and safety of highway users by achieving reasonable access control.

a. The term "access control" refers to all techniques intended to minimize the traffic interference associated with driveway access, whether the use is commercial, industrial, or residential.

b. Whenever a tract proposed for a residential subdivision borders on a special highway, then all lots created out of that tract must have sufficient frontage on another street (either pre-existing or created as part of the subdivision) so that direct access to that lot need not be provided by the special highway, unless compliance with this requirement is not reasonably practicable due to the size or shape of the tract to be divided. The final plat creating the subdivision shall indicate a limitation on driveway access to the special highway for those lots which have alternative access.

c. To separate basic conflict areas and gain control of access, techniques which will allow the reduction of driveway numbers or directly increase the spacing between driveways or between driveways and intersections will be required to achieve the following limitations for driveway access in relation to highway frontage:

i. For lots having more than five hundred feet (500') of frontage on special highway, driveways shall be no closer than five hundred (500) linear feet.

ii. For a lot having less than five hundred feet (500') of frontage on a special highway, only one (1) driveway onto that highway shall be allowed. Whenever possible, a minimum distance of two hundred feet (200') must be maintained

between driveways of adjacent lots.

iii. Ingress to and egress from a corner lot or reverse frontage lot adjacent to a special highway shall be limited to the more minor thoroughfare.

iv. Adjacent or adjoining lots with small highway frontages are encouraged to combine access to one (1) driveway. In those instances, a wider driveway may be permitted, conditioned on DOT approval.

v. Whenever separate or single parcels are assembled under one purpose, plan, entity, or usage, consolidation of existing direct access shall be required to the extent feasible. Approval depends on the developers' plans to use existing driveways, close other existing driveways, or redesign and rebuild some existing driveways. However, the spacing and number of access points should not exceed the limits set based on highway frontage.

vi. Emergency access driveways may be created, using the separation requirements listed in (i) through (v), above, where specifically included as part of approved zoning conditions in a conditional zoning district and designed to meet NCDOT requirements. Emergency access driveways shall primarily use a solid subsurface with natural cover, such as porous block subsurface and grass cover, and may be crossed with a removable or breakaway barricade, gate, chain, bollards, or other method to prevent general public use. (Ord. 1303, passed 9-8-03)

vii. Departures from the foregoing standards may be authorized when the town determines, upon the advice of the NCDOT, that a particular development design or technique can achieve a satisfactory level of access control consistent with the objectives of this Section.

17. APPROVED PLANT LIST. Recommended plant species for use within the HO District shall be as set forth in the "Table of Approved Trees and Shrubs," in § 155.606.14 of this Title. The list has been prepared to increase the likelihood of survival and to reduce maintenance requirements of plant species and varieties which are most commonly found in a natural wooded setting in the region. These are the plant varieties most likely to be found and are desired to be retained in buffer areas, and other required landscaped areas. All plants utilized in all developments in the HO District should pay particular attention to preserving and protecting the species identified in the "Table of Approved Trees and Shrubs," when they are found on sites to be developed or otherwise disturbed. All plants utilized in landscape plans, whether identified in the Table or not, should be generally adapted to the normal climatic and environmental conditions expected for the Matthews area. This list is not intended to be a comprehensive survey of plants found within the overlay district, but it will serve as a guide to appropriate plant selection. If the plants selected are from this approved list, further review will not be necessary. Plants which are not on this list may be used, if it can be shown that the selected species satisfies one (1) or more of the following criteria:

a. An indigenous species to the area, adapted to the proposed site conditions; or

b. A cultivated species which is well suited for use in this area; or

c. A cultivated species which will be used in a manner that it will not be adversely affected by normal climatic environmental conditions; or

d. Any plant species which has been previously approved for use.

18. ALTERNATIVE HO DISTRICT BUFFER PLAN. In the event that property located in the HO District also abuts the boundary of another overlay district, competing interest may occur. When the Board of Commissioners receives a petition to rezone such property to a conditional use district or a parallel conditional use district (or a petition to amend a previously approved conditional use district site plan or parallel conditional use district site plan), a condition may be added that provides for an alternative HO District buffer landscaping plan that provides a significant increase in benefit over the HO District requirements and complies with the requirements of this § 155.504.2.B.18. Petitioner shall include in the petition to rezone the request for the Board of Commissioners' consideration and approval of an alternative HO District buffer landscaping plan, and such plan shall be submitted to the Town Planning Department concurrently with the petition

to rezone. In the event that the Board of Commissioners approves the petition to rezone, it may, in its discretion, approve or deny the request for an alternative HO District buffer landscaping plan.

a. REQUIRED INFORMATION. When applying for the consideration and approval of an alternative HO District buffer landscaping plan, the following information must be submitted with the petition to rezone:

i. A site plan containing all of the information outlined in § 155.504.2.B.5, including the HO District buffer landscaping plan;

ii. A letter to the Planning Director that contains a statement of intent that outlines the purposes and objectives of the proposed alternative HO District buffer landscaping plan, and that describes the nature of the existing vegetation in the required HO District buffer and the special landscape design features being proposed by the alternative HO District buffer landscaping plan that make the request a significant increase in benefit over the existing HO District requirements and worthy of approval;

iii. The pedestrian walkway system proposed for the entire property included in the petition to rezone and its connections to adjoining properties; and

iv. Any other relevant information that Petitioner may feel is appropriate.

b. The Planning Director may require additional information that may be necessary for an adequate review of the proposed alternative HO District buffer landscaping plan.

c. The intent of this § 155.504.2.B.18 is to allow for the removal of coniferous trees and certain deciduous trees from the required HO District buffer and to provide for the replacement of any such trees three inches (3") in caliper or larger that are removed with superior deciduous trees at three inches (3") in caliper at the time of installation to be installed in various locations on the property subject to the petition to rezone. Specifically, Petitioner may propose the removal of the following trees in the HO District buffer landscaping plan:

i. Coniferous trees of any size;

ii. Sweet gum or black gum trees less than eight inches (8") in caliper; and

iii. Any other deciduous trees less than three inches in caliper. Petitioner may not propose the removal of the following trees:

- Dogwoods, redbuds and American hollies of any size;
- Sweet gum or black gum trees eight inches in caliper or larger; and
- Any other deciduous trees three inches in caliper or larger.

For each and every tree three inches (3") in caliper or larger to be removed from the HO District buffer, the alternative HO District buffer landscaping plan must provide by way of a note that each such tree will be replaced with one (1) deciduous tree at least three inches (3") in caliper at the time of installation to be installed on the property subject to the petition to rezone inside or outside of the HO District buffer. The specific locations of the replacement trees will be set out on the landscaping plan that must be submitted to the Town Planning Department pursuant to § 155.504.2.B.5.j.

d. Those portions of the property subject to the petition to rezone that are not within the HO District buffer shall comply with the minimum landscaping requirements of § 155.606 of this Title. Accordingly, the replacement trees required to be installed on the property subject to the petition to rezone shall be in addition to, and not in lieu of, the minimum landscaping requirements for such property under the requirements of § 155.606 of this Title.

e. REVIEW AND APPROVAL. In evaluating a request for the approval of an alternative HO District buffer landscaping plan, the Board of Commissioners may consider whether such plan meets the objectives listed below:

i. Preserves all dogwoods, redbuds, and American hollies of any size within the HO District buffer.

ii. Excepting sweet gum or black gum trees less than eight inches (8") in caliper, preserves all deciduous trees three inches (3") in caliper or larger within the HO District buffer.

iii. Provides for the replacement of any tree removed from the HO District buffer that is three inches (3") in caliper or larger with one (1) deciduous tree at least three inches (3") in caliper at the time of installation to be installed on the property subject to the petition to rezone.

iv. Provides for the protection of existing trees that remain in the HO District buffer and their root systems during the grading and construction processes and for the replacement of any trees inadvertently damaged during grading or construction.

v. Gives consideration to the location of existing trees to be preserved within the HO District buffer and their proximity to retaining walls, parking lot grading areas and other factors that may affect such trees.

vi. Provides assurances for the maintenance of the original quality of all landscape elements including both existing and new planting materials located within the HO District buffer in accordance with the provisions of § 155.504.2.B.

vii. Exhibits innovative and thoughtful landscape elements and design.

viii. Provides for a reasonable and appropriate relationship to the abutting Highway NC51 and surrounding public street system.

ix. Enhances the walkability of the community at large as well as the livability of the people living within the proposed development. (Ord. 1283, passed 2-10-03) **[formerly known as § 153.066.]**

155.505. Tables of Allowed Uses

Use of a building, structure or land shall be allowed only in the zoning districts indicated and for the purposes specified in the following Tables of Allowed Uses. Each use is mutually exclusive and does not encompass other uses listed in the Tables. If a use is listed for one or more districts as an allowed use, then it is only allowed in that or those districts, and shall not be allowed within any district which does not indicate it is allowed.

While most land uses will be assumed to be eligible to be located within one or more zoning districts within the Town limits, some land uses may not be listed on these tables. Occasionally a new land use category may become viable, or a new combination of activities prompts a new land use type designation, and amendments may be made to this Title to incorporate new land use categories as the need arises. When a specific use category is not clearly and directly related to a listed use category, and therefore cannot be determined to be considered essentially the same as a listed use, then it is not allowed in the Town without amendment to this Chapter. The Zoning Administrator will interpret whether a land use category fits within a listed category. Criteria for interpretations on land uses are given at 155.203.C.

Some land use activities have been determined by the Town to not be appropriate for overall community public health and safety, or may create adverse environmental impacts to surrounding properties, such as hazardous waste incinerators. Some unlisted uses have been determined to be injurious or not beneficial to the Town's economic viability, such as billboards that detract from the visual aesthetics of the community. Some uses may be of a density or intensity of development, create a level of noise, lights, odors, or vibrations, or generate inappropriate amounts of traffic that would not be consistent with the land use policies, long range visions, and community values for the Town.

A principal use listed in the Tables in any district denoted by the letter "P" is permitted by right provided all other requirements of state law, this Title, and all other applicable ordinances and regulations of the Town of Matthews have been satisfied. A principal use listed in the Tables of Allowed Uses in any district denoted by the letters " PC" is an allowed use with prescribed conditions and is only allowed subject to the provisions of § 155.506. An accessory use listed in the Tables of Allowed Uses in any district denoted by the letters "Acc" is allowed only when a permitted principal use exists on the same property, and shall not be allowed without the accompanying permitted use. A use of building, structure or land not indicated by either "P", "PC", or "Acc" is not allowed in that district. **[formerly known as § 153.052]**

TABLE OF ALLOWED USES: TRADITIONAL AND PARALLEL TRADITIONAL DISTRICTS 155.505.1							
USES BY GROUPING	RESIDENTIAL ZONING DISTRICTS						
RESIDENTIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Accessory apartment, subject to § 155.506.9	PC	PC	PC	PC			
Accessory residential use and structure clearly incidental to the permitted principal residential use	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Children's home, foster care facility and similar non-profit institution providing domiciliary care for children						P	P
Cottage Cluster Housing Development, subject to § 155.506.22	PC	PC	PC	PC		PC	PC
Dormitory for senior high and post secondary school operated by and located on the principal site of the institution served.							
Dwelling, one-family attached						PC	PC
Dwelling, one-family detached	P	P	P	P	P	P	P
Dwelling, one-family detached with multiple full kitchens subject to § 155.506.9	PC	PC	PC	PC			
Dwelling, two-family/duplex						P	P
Dwelling, manufactured home					P		
Dwelling, multi-family, single building on a lot						P	P
Dwelling, multi-family, multiple building complex						P	P
Dwelling, zero-lot line						P	P
Equestrian-oriented subdivision, subject to § 155.506.2	PC	PC					
Group Home, family care home, and sheltered household subject to § 155.506.3	PC	PC	PC	PC		PC	PC
Home-based business, subject to § 155.506.1	PC	PC	PC	PC	PC	PC	PC
Limited food and beverage sales in neighborhood common facility, subject to § 155.506.14	PC	PC	PC	PC	PC	PC	PC
Manufactured home park					P		
Manufactured home park office or service building for recreational facilities, meeting room for residents, and similar uses					P		
Medium density ecological development subject to § 155.506.23							
Monastery, convent, and similar group housing for individuals of a religious order							
Private stable, subject to § 155.506.12	ACC	ACC	ACC	ACC			
Propane storage or other home fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Room renting and boarding, subject to § 155.506.5	PC	PC	PC	PC		PC	PC

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

RESIDENTIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Subdivision sales office, subject to § 155.506.21	PC	PC	PC	PC	PC	PC	PC
Swimming pool for one dwelling behind principal residential structure	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Trailer, recreational, and overnight camping vehicle stored unoccupied on a lot behind the established setback and not within 10 feet of street side corner	ACC	ACC	ACC	ACC	ACC	ACC	ACC

INSTITUTIONAL & GOVERNMENTAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Adult care home, subject to § 155.506.3	PC	PC	PC	PC		PC	PC
Adult care home							
Adult day care facility							
Arboretum, subject to § 155.506.7	PC	PC	PC	PC	PC		
Assisted living, subject to § 155.506.3	PC	PC	PC	PC		PC	PC
Assisted living facility							
Cemetery, mausoleum, and columbarium, subject to § 155.506.13	PC	PC	PC	PC			
Church and place of worship with less than 400 seating capacity and/or with programs of up to 100 persons operated on a daily (weekday) basis, subject to § 155.506.7	PC	PC	PC	PC	PC		
Church and place of worship without size restrictions							
College and university without stadium							
College and university with stadium							
Continuing care retirement community, subject to § 155.506.16							
Cultural Community Center, subject to § 155.506.07	PC	PC	PC	PC			
Fire and/or EMS station, subject to § 155.506.7	PC	PC	PC	PC	PC		
Fire and/or EMS station, police station							
Heliport, medically related							
Hospital							
Laboratory and research facility, medical, dental or optical when part of hospital complex							
Medical, dental, optical office and clinic when part of hospital complex							
Police Station, subject to § 155.506.7	PC	PC	PC	PC	PC		
Public library							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 2

INSTITUTIONAL & GOVERNMENTAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
School, elementary, middle, and senior high, public and private, less than 100 student capacity, subject to § 155.506.7	PC	PC	PC	PC	PC		
School, elementary, middle, and senior high, public and private							
Skilled Nursing Care Facility, subjet to § 155.506.17							

OFFICE & SERVICE USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Bank, credit union, and similar financial service							
Barber shop, beauty salon, nail salon, and similar personal service							
Child day care facility, subject to § 155.506.6	PC	PC	PC	PC		PC	PC
Civic, fraternal, and social club							
Contractor's office without accessory storage							
General and professional office							
Laboratory and research facility, medical , dental or optical							
Medical, dental, optical office and clinic							
Musuem and art gallery operated on a noncommercial basis							
Office with display of sample merchandise to wholesalers and retailers when the samples are only visible within the building and no sales, inventory or delivery of merchandise from building							
Spa, massage service							
Telephone exchange							

GENERAL COMMERCIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Adult use, subject to § 155.506.46							
Alcohol and alcoholic beverage, wine, and beer production and sales, subject to § 155.506.45							
Animal grooming facility, subject to § 155.506.42							
Armory for meetings and training of military organizations							
Auction house							
Bakery, retail including manufacturing of goods for sale on the premises only							
Ballroom, banquet or meeting/catering hall							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 3

GENERAL COMMERCIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Bed and breakfast establishment, subject to § 155.506.4	PC	PC	PC	PC		PC	PC
Boat and watercraft sales, new and used							
Brewery							
Brewpub, subject to § 155.506.45							
Building material storage and wholesale and retail sales without outside storage							
Building material storage and wholesale and retail sales with outside storage							
Call center							
Car wash							
Coin operated laundry							
Commercial school and school providing adult training in any of the arts, sciences, trades, or professions, without retail sales of merchandise							
Commercial or catering kitchen, without on-site customer/client food service							
Commercial use in multifamily and office buildings, subject to § 155.506.31							
Communications tower and antenna, subject to § 155.506.41	PC	PC	PC	PC	PC	PC	PC
Copy, printing and photo processing							
Crematorium, when located on same lot as a cemetery or funeral home, subject to 155.506.13	PC	PC	PC	PC			
Crematorium, stand alone, subject to 155.506.13							
Drive-up service window, subject to § 155.506.33							
Exterminator, pest control							
Farmers' market, subject to § 155.506.43							
Florist shop							
Funeral home							
Gas station with convenience store, subject to § 155.506.49							
Gas pump without convenience store							
Greenhouse, commercial, without retail sales							
Heliport							
Installation of tires sold within an enclosed building of at least 145,000 sq. ft. with internal storage only, limited to 7,250 sq. ft.							
Installation and servicing of accessory equipment (i.e. audio, security, navigational, etc.) for vehicles sold within an enclosed building with internal storage only							
Internet sweepstakes facility							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 4

GENERAL COMMERCIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Kennel, animal day care, subject to § 155.506.42							
Kennel, commercial, subject to § 155.506.42							
Laundry and dry cleaning establishment not to exceed 4,500 sq ft gross floor area							
Laundry and dry cleaning establishment not to exceed 10,000 sq ft gross floor area							
Live work unit, subject to § 155.506.10							
Live work unit							
Manufactured home sales							
Microbrewery, subject to § 155.506.45							
Mini storage facility							
Mobile vendor, subject to § 155.506.43							
Motel and hotel, subject to § 155.506.22							
Motel and hotel							
Motor vehicle service facility limited to oil change, tire rotation and replacement, and similar minor maintenance service, not over 3 service bays and no overnight vehicle storage							
Motor vehicle repair garage including engine overhaul, body and paint shop and similar operations							
Motor vehicle, passenger, and motorcycle, new and used, sales and rental							
Motor vehicle, commercial or recreational, new and used, sales and rental							
Motorcycle safety training course, subject to § 155.506.18							
Musuem or art gallery							
Nursery, commercial, with or without greenhouse							
Outdoor equipment and machinery, sales and repair							
Outdoor sales in conjuction with a permanent business, subject to § 155.506.36							
Parking lot and parking garage/structure							
Pet cemetery, including any accessory structure							
Post Office							
Professional, financial, personnal and recreational service not otherwise listed							
Pushcart vending, subject to § 155.506.43							
Radio and television station							
Repair and servicing of any article the sale of which is permitted in the district, except as otherwise listed							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 5

GENERAL COMMERCIAL USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Repair and servicing, indoors only, of any article the sale of which is permitted in the district, except as otherwise listed							
Restaurant, lounge and nightclub without drive-thru or drive-in service							
Restaurant with drive-thru or drive-in service							
Retail sales, general merchandise, unless otherwise listed							
Secondhand goods, retail sales without outside storage, unless otherwise listed							
Secondhand goods, retail sales, unless otherwise listed							
Selling from a semitruck without a cab, subject to § 155.506.36							
Sign printing							
Social gathering, seminar, reception, which is ancilliary to the principal permitted use and on property desginated historic by the Town							
Solar collector installation, subject to § 155.506.48	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Specialty sales establishment with substantial on-site assembly, processing, packaging, and/or distribution, and processes sales for off-site customers, subject to § 155.506.39							
Studio for gymnast, artist, designer, photographer, musician, sculptor, and similar							
Towing operation with vehicle storage only within an enclosed structure							
Towing operation with vehicle storage yard							
Upholstering in a workroom setting not to exceed 1,500 sq. ft. of gross floor area							
Utility trailer, not exceed a loading capacity of 500 cubic feet, sales and rental							
Veterinary clinic or hospital, subject to § 155.506.42							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

RECREATION & ENTERTAINMENT USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Amusement, commercial outdoors, including miniature golf, golf course, golf driving range, ride, slide, waterparks, paintball course and similar commercial enterprise requiring physical dexterity, except as regulated elsewhere, subject to § 155.506.40							
Archery or firearms range, indoor only, subject to § 155.506.47							
Arcade, game room							
Athletic or sports fields, ballfields, in a concentration of three or more, and similar outdoor physical recreation facility intended for use by teams of participants							
Bowling alley							
Community recreation center, fitness/health center, gymnasium, YMCA, and similar use with multiple physically involved activities, primarily indoor, can take place concurrently							
Country club, swimming club, community recreation center, and tennis or racket club operated on a noncommercial membership basis, subject to § 155.506.8	PC	PC	PC	PC	PC		
Golf course operated on a noncommercial basis, subject to § 155.506.8	PC	PC	PC	PC	PC		
Ice or roller rink							
Indoor commercial recreation not otherwise listed							
Park and playground operated on a noncommercial basis for the purposes of public recreation, subject to § 155.506.8	PC	PC	PC	PC	PC		
Park, predominately passive use, subject to § 155.506.8	PC	PC	PC	PC	PC		
Park and playground, not otherwise listed						P	P
Riding stable, commercial, subject to § 155.506.35							
Skateboard facility, subject to § 155.506.40							
Stadium, and other outdoor assembly facility where primary use involves both spectator and performer							
Swimming pool, single neighborhood, below Junior Olympic size, no outside membership, subject to § 155.506.8	PC	PC	PC	PC	PC		
Swimming pool, as a stand alone facility, indoor or outdoor, or outdoor as part of a recreational facility, public or private							
Swimming pool, any size, accessory to multi-family residential use, not within 100 feet of property line						ACC	ACC

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 7

RECREATION & ENTERTAINMENT USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Tennis and racket club, commercial, indoor or outdoor							
Tennis and racket sports courts, indoor or outdoor							
Tennis and racket club and associated swimming facility, indoor and/or outdoor, with golf practice facility, subject to § 155.506.15							
Theater, drive-in							
Theater, housed within an enclosed structure							
Theater, outdoor stage facility							

INDUSTRIAL & MANUFACTURING USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Bakery and baking plant including manufacturing, wholesale and retail							
Blacksmith shop							
Bottling and canning works for nonalcoholic beverages including distribution							
Bus and transit vehicle repair and storage							
Contractor's facility with storage yard							
Distilling or manufacturing of alcohol and alcoholic beverage, subject to § 155.506.45							
Laundry and dry cleaning establishment greater than 10,000 sq ft gross floor area							
Outside storage, except as otherwise listed							
Mail order facility							
Manufacturing, processing, assembling of components into completed craft or custom made items in facilities not exceeding 3,000 sq. ft.							
Manufacturing, heavy, which may include the mechanical or chemical transformation of materials or substances into new items, or the fabrication and/or the assembly of component parts, or other industrial processing, bulk storage, and handling of products primarily from extracted or raw materials, any aspect of which has potential to produce noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission beyond the property lines except as otherwise listed							
Manufacturing, light, which may include the assembly or processing of predominently previously prepared materials into finished products or parts and the packaging of such materials, all contained within an entirely enclosed building and no detectable noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission shall exit the building except as otherwise listed							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 8

INDUSTRIAL & MANUFACTURING USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Metal product fabricating, processing, and manufacturing, and machine shop without blast furnace or drop forge							
Metal product fabricating, processing, and manufacturing, and machine shop including the use of a blast furnace or drop forge							
Packing shed, fruit and vegetable							
Quarry, subject to § 155.506.38							
Recycled material, collection, processing and packaging within an enclosed structure							
Recycled material, collection, processing and packaging							
Sign manufacturing							
Truck Terminal							
Warehouse, distribution facility within enclosed building							
Wholesale sales with or without retail sales							
MISCELLANEOUS USES	**R-20**	**R-15**	**R-12**	**R-9**	**R-MH**	**R-15MF**	**R-12MF**
Auction sale of real and personal property located on site for the purpose of liquidating assets, subject to § 155.506.43.	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Accessory use, clearly incidental to the principal permitted use or structure on the lot	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Community Garden	P	P	P	P	P	P	P
Donation Drop-Off Facility							
Electric and gas substation, sewage treatment plant and control house, pump and lift station, water storage tank, well lot and similar use, subject to § 155.506.11	PC	PC	PC	PC	PC	PC	PC
Farm, either in conjunction with or separate from a dwelling, which may conduct retail sales of products produced on the premises	P	P	P	P	P	P	P
Farm, urban, subject to § 155.506.19	PC	PC	PC	PC	PC	PC	PC
Garage sale, yard sale, and similar, subject to § 155.506.43	ACC	ACC	ACC	ACC	ACC	ACC	ACC
On-site demolition disposal site, subject to § 155.506.37	PC	PC	PC	PC		PC	PC
On-site demolition disposal site, accepting off-site material, subject to § 155.506.37							

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.1- 9

MISCELLANEOUS USES	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Parking for uses permitted within the district	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Propane storage or other fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Public utility transmission and distribution lines	P	P	P	P	P	P	P
Railroad right-of-way	P	P	P	P	P	P	P
Roadside stand, permanent							
Short term temporary use or festival of civic or nonprofit nature	PC	PC	PC	PC	PC	PC	PC
Sidewalk sale, end of season sale, clearance sale, subject to § 155.506.43			ACC	ACC	ACC		ACC
Temporary building and storage of materials in conjunction with construction of a building on a lot where construction is taking place or on adjacent lots, the temporary use to be terminated upon completion of construction, issuance of Certificate of Occupancy, or invalidation of building permit (see also § 155.506.43.C.4)	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Temporary, self-contained storage unit, subject to § 155.506.20	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Temporary use for business purpose, subject to § 155.506.43							
Transit stop shelter, subject to § 155.506.34	PC	PC	PC	PC	PC	PC	PC
Transit station (bus, rail, etc.)							
Utility equipment stand, meter, box, and backflow preventer for single or groups of parcels	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Vending machine, located outside the required setback							
Vending machine, immediately adjacent to building, under overhang only							

(Am. Ord 2025A, passed 6-9-14; Am. Ord 2059, passed 12-8-14; Am. Ord. 2083, passed 5-11-15)

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

TABLE OF ALLOWED USES: TRADITIONAL AND PARALLEL TRADITIONAL DISTRICTS 155.505.2									
USES BY GROUPING	NONRESIDENTIAL ZONING DISTRICTS								
RESIDENTIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Accessory apartment, subject to § 155.506.9									
Accessory residential use and structure clearly incidental to the permitted principal residential use	ACC		ACC	ACC	ACC		ACC		
Children's home, foster care facility and similar non-profit institution providing domiciliary care for children	P								
Cottage Cluster Housing Development, subject to § 155.506.22									
Dormitory for senior high and post secondary school operated by and located on the principal site of the institution served.	P		P	P	P		P		
Dwelling, one-family attached			P						
Dwelling, one-family detached		P	P						
Dwelling, one-family detached with multiple full kitchens subject to § 155.506.9			P						
Dwelling, two-family/duplex		P	P						
Dwelling, manufactured home									
Dwelling, multi-family, single building on a lot			P	P					
Dwelling, multi-family, multiple building complex			P	P					
Dwelling, zero-lot line									
Equestrian-oriented subdivision, subject to § 155.506.2									
Group Home, family care home, and sheltered household, subject to § 155.506.3									
Home-based business, subject to § 155.506.1									
Limited food and beverage sales in neighborhood common facility, subject to § 155.506.14			PC	PC	PC		PC		
Manufactured home park									
Manufactured home park office or service building for recreational facilities, meeting room for residents, and similar uses									
Medium density ecological development, subject to § 155.506.23									
Monastery, convent, and similar group housing for individuals of a religious order	P								
Private stable, subject to § 155.506.12									

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 1

RESIDENTIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Propane storage or other home fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters		ACC	ACC	ACC	ACC		ACC		
Room renting and boarding, subject to § 155.506.5		PC							
Subdivision sales office, subject to § 155.506.21									
Swimming pool for one dwelling behind principal residential structure		ACC	ACC						
Trailer, recreational, and overnight camping vehicle stored unoccupied on a lot behind the established setback and not within 10 feet of street side corner		ACC	ACC						

INSTITUTIONAL & GOVERNMENTAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Adult care home, subject to § 155.506.3									
Adult care home	P		P	P	P		P		
Adult day care facility	P		P	P	P		P		
Arboretum, subject to § 155.506.7									
Assisted living, subject to § 155.506.3									
Assisted living facility	P		P	P	P		P		
Cemetery, mausoleum, and columbarium, subject to § 155.506.13	PC	PC							
Church and place of worship with less than 400 seating capacity and/or with programs of up to 100 persons operated on a daily (weekday) basis, subject to § 155.506.7									
Church and place of worship without size restrictions	P		P	P	P		P	P	
College and university without stadium	P	P	P	P	P		P	P	
College and university with stadium								P	
Continuing care retirement community, subject to § 155.506.16	PC								
Cultural Community Center, subject to § 155.506.07			P	P	P	P	P	P	
Fire and/or EMS station, subject to § 155.506.7									
Fire and/or EMS station, police station	P	P	P	P	P	P	P	P	P
Heliport, medically related	P								
Hospital	P				P				

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 2

INSTITUTIONAL & GOVERNMENTAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Laboratory and research facility, medical, dental or optical when part of hospital complex	P				P				
Medical, dental, optical office and clinic when part of hospital complex	P				P				
Police Station, subject to § 155.506.7	PC								
Public library	P	P	P	P	P	P		P	
School, elementary, middle, and senior high, public and private, less than 100 student capacity, subject to § 155.506.7									
School, elementary, middle, and senior high, public and private	P		P	P	P		P		
Skilled Nursing Facility, subject to § 155.506.17	PC	PC		PC	PC		PC		

OFFICE & SERVICE USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Bank, credit union, and similar financial service	ACC	P	P	P	P		P	P	
Barber shop, beauty salon, nail salon, and similar personal service	ACC	P	P	P	P		P	P	
Child day care facility, subject to § 155.506.6	PC	PC	PC	PC					
Civic, fraternal, and social club		P	P	P	P		P	P	
Contractor's office without accessory storage		P	P	P	P	P	P	P	P
General and professional office		P	P	P	P	P	P	P	P
Laboratory and research facility, medical , dental or optical		P	P	P	P	P	P	P	P
Medical, dental, optical office and clinic		P	P	P	P		P		
Musuem and art gallery operated on a noncommercial basis		P	P	P	P		P		
Office with display of sample merchandise to wholesalers and retailers when the samples are only visible within the building and no sales, inventory or delivery of merchandise from building		P	P	P	P	P	P	P	
Spa, massage service		P	P	P	P		P	P	
Telephone exchange		P	P	P	P	P	P	P	P

GENERAL COMMERCIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Adult use, subject to § 155.506.46									
Alcohol and alcoholic beverage, wine, and beer production and sales, subject to § 155.506.45			PC	PC	PC		PC	PC	PC
Animal grooming facility, subject to § 155.506.42				PC			PC	PC	PC

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 3

GENERAL COMMERCIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Armory for meetings and training of military organizations							P	P	P
Auction house				P	P		P	P	
Bakery, retail including manufacturing of goods for sale on the premises only			P	P	P		P	P	
Ballroom, banquet or meeting/catering hall			P	P	P		P	P	
Bed and breakfast establishment, subject to § 155.506.4		PC	PC	PC					
Boat and watercraft sales, new and used							P		
Brewery								P	P
Brewpub, subject to § 155.506.45			PC	PC	PC		PC	PC	PC
Building material storage and wholesale and retail sales without outside storage			P	P	P	P	P	P	P
Building material storage and wholesale and retail sales with outside storage									P
Call center			P				P	P	
Car wash							P		
Coin operated laundry			P	P	P		P		
Commercial school and school providing adult training in any of the arts, sciences, trades, or professions, without retail sales of merchandise		P	P	P	P	P	P	P	P
Commercial or catering kitchen, without on-site customer/client food service				P	P		P	P	
Commercial use in multifamily and office buildings, subject to § 155.506.31		PC							
Communications tower and antenna, subject to § 155.506.41	PC	PC	PC	PC	PC	PC	PC	PC	PC
Copy, printing and photo processing		P	P	P	P	P	P	P	P
Crematorium, when located on same lot as a cemetery or funeral home, subject to 155.506.13				P	P	P	P	P	P
Crematorium, stand alone, or on an adjacent parcel to a cemetery or funeral home only when such parcel is commercially or industrially zoned, subject to 155.506.13				PC	PC	PC	PC	PC	PC
Drive-up service window, subject to § 155.506.33	ACC	ACC		ACC	ACC	ACC	ACC	ACC	ACC
Exterminator, pest control						P		P	P
Farmers' market, subject to § 155.506.43	PC		PC						
Florist shop	ACC	P	P	P	P		P	P	
Funeral home		P					P	P	
Gas station with convenience store, subject to § 155.506.49							PC	PC	
Gas pump without convenience store							ACC	ACC	ACC

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 4

GENERAL COMMERCIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Greenhouse, commercial, without retail sales				P		P		P	P
Heliport						P	P	P	P
Installation of tires sold within an enclosed building of at least 145,000 sq. ft. with internal storage only, limited to 7,250 sq. ft.									
Installation and servicing of accessory equipment (i.e. audio, security, navigational, etc.) for vehicles sold within an enclosed building with internal storage only							P		
Internet sweepstakes facility							P	P	
Kennel, animal day care, subject to § 155.506.42				PC			PC	PC	PC
Kennel, commercial, subject to § 155.506.42						PC		PC	PC
Laundry and dry cleaning establishment not to exceed 4,500 sq ft gross floor area	ACC		P	P	P		P	P	
Laundry and dry cleaning establishment not to exceed 10,000 sq ft gross floor area							P	P	
Live work unit, subject to § 155.506.10		PC							
Live work unit			P	P	P				
Manufactured home sales							P		
Microbrewery, subject to § 155.506.45			PC	PC	PC		PC	PC	PC
Mini storage facility				P	P	P	P	P	P
Mobile vendor, subject to § 155.506.43			PC	PC	PC		PC		
Motel and hotel, subject to § 155.506.32		PC							
Motel and hotel			P	P	P		P		
Motor vehicle service facility limited to oil change, tire rotation and replacement, and similar minor maintenance service, all activity taking place within the building, not over 3 service bays and no overnight vehicle storage				P			P	P	P
Motor vehicle repair garage including engine overhaul, body and paint shop and similar operations							P	P	P
Motor vehicle, passenger, and motorcycle, new and used, sales and rental							P	P	
Motor vehicle, commercial or recreational, new and used, sales and rental							P	P	
Motorcycle safety training course, subject to § 155.506.18	PC								
Musuem or art gallery		P	P	P	P		P	P	
Nursery, commercial, with or without greenhouse				P	P	P	P	P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 5

GENERAL COMMERCIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Outdoor equipment and machinery, sales and repair							P	P	
Outdoor sales in conjuction with a permanent business, subject to § 155.506.36			PC	PC	PC	PC	PC	PC	PC
Parking lot and parking garage/structure			P	P	P	P	P	P	P
Pet cemetery, including any accessory structure				P			P	P	
Post Office	ACC	P	P	P	P		P	P	
Professional, financial, personnal and recreational service not otherwise listed			P	P	P		P	P	P
Pushcart vending, subject to § 155.506.43			P						
Radio and television station							P	P	P
Repair and servicing of any article the sale of which is permitted in the district, except as otherwise listed									P
Repair and servicing, indoors only, of any article the sale of which is permitted in the district, except as otherwise listed			P	P	P	P	P	P	P
Restaurant, lounge and nightclub without drive-thru or drive-in service			P	P	P		P	P	
Restaurant with drive-thru or drive-in service							P		
Retail sales, general merchandise, unless otherwise listed			P	P	P		P	P	
Secondhand goods, retail sales without outside storage, unless otherwise listed			P	P	P		P	P	P
Secondhand goods, retail sales, unless otherwise listed									P
Selling from a semitruck without a cab, subject to § 155.506.36			PC	PC	PC	PC	PC	PC	PC
Sign printing			P	P	P	P	P	P	P
Social gathering, seminar, reception, which is ancilliary to the principal permitted use and on property desginated historic by the Town		P	P	P					
Solar collector installation, subject to § 155.506.48	ACC	ACC	ACC	ACC/PC	ACC/PC	ACC/PC	ACC/PC	ACC/PC	ACC/PC
Specialty sales establishment with substantial on-site assembly, processing, packaging, and/or distribution, and processes sales for off-site customers, subject to § 155.506.39			PC	PC	PC		PC	PC	
Studio for gymnast, artist, designer, photographer, musician, sculptor, and similar		P	P	P	P	P	P	P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 6

GENERAL COMMERCIAL USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Towing operation with vehicle storage only within an enclosed structure							P	P	P
Towing operation with vehicle storage yard									P
Upholstering in a workroom setting not to exceed 1,500 sq. ft. of gross floor area			P	P	P	P	P	P	
Utility trailer, not exceed a loading capacity of 500 cubic feet, sales and rental							P	P	P
Veterinary clinic or hospital, subject to § 155.506.42				PC		PC	PC	PC	PC

RECREATION & ENTERTAINMENT USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Amusement, commercial outdoors, including miniature golf, golf course, golf driving range, ride, slide, waterpark, paintball course and similar commercial enterprise requiring physical dexterity, except as regulated elsewhere, subject to § 155.506.40							PC	PC	
Archery or firearms range, indoor only, subject to § 155.506.47								PC	PC
Arcade, game room	ACC		P	P	P		P	P	
Athletic or sports fields, ballfields, in a concentration of three or more, and similar outdoor physical recreation facility intended for use by teams of participants	P			P				P	
Bowling alley			P				P		
Community recreation center, fitness/health center, gymnasium, YMCA, and similar use with multiple physically involved activities, primarily indoor, can take place concurrently	P		P	P	P		P		
Country club, swimming club, community recreation center, and tennis or racket club operated on a noncommercial membership basis, subject to § 155.506.8	PC								
Golf course operated on a noncommercial basis, subject to § 155.506.8	PC								
Ice or roller rink							P		
Indoor commercial recreation not otherwise listed			P						
Park and playground operated on a noncommercial basis for the purposes of public recreation, subject to § 155.506.8	PC								
Park, predominately passive use, subject to §155.506.8	PC								

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 7

RECREATION & ENTERTAINMENT USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Park and playground, not otherwise listed		P	P	P	P	P	P	P	P
Riding stable, commercial, subject to § 155.506.35	PC								
Skateboard facility, subject to § 155.506.40							PC	PC	
Stadium, and other outdoor assembly facility where primary use involves both spectator and performer									
Swimming pool, single neighborhood, below Junior Olympic size, no outside membership, subject to § 155.506.8	PC								
Swimming pool, as a stand alone facility, indoor or outdoor, or outdoor as part of a recreational facility, public or private			P						
Swimming pool, any size, accessory to multi-family residential use, not within 100 feet of property line			ACC	ACC					
Tennis and racket club, commercial, indoor or outdoor			P						
Tennis and racket sports courts, indoor or outdoor			P						
Tennis and racket club and associated swimming facility, indoor and/or outdoor, with golf practice facility, subject to § 155.506.15	PC								
Theater, drive-in									
Theater, housed within an enclosed structure	ACC		P				P		
Theater, outdoor stage facility	ACC		P						

INDUSTRIAL & MANUFACTURING USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Bakery and baking plant including manufacturing, wholesale and retail								P	P
Blacksmith shop								P	P
Bottling and canning works for nonalcoholic beverage including distribution								P	P
Bus and transit vehicle repair and storage								P	P
Contractor's facility with storage yard									P
Distilling or manufacturing of alcohol and alcoholic beverage, subject to § 155.506.45								PC	PC
Laundry and dry cleaning establishment greater than 10,000 sq ft gross floor area								P	P
Outside storage, except as otherwise listed									P
Mail order facility							P	P	P

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 8

INDUSTRIAL & MANUFACTURING USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Manufacturing, processing, assembling of components into completed craft or custom made items in facilities not exceeding 3,000 sq. ft.							P	P	P
Manufacturing, heavy, which may include the mechanical or chemical transformation of materials or substances into new items, or the fabrication and/or the assembly of component parts, or other industrial processing, bulk storage, and handling of products primarily from extracted or raw materials, any aspect of which has potential to produce noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission beyond the property lines except as otherwise listed									P
Manufacturing, light, which may include the assembly or processing of predominently previously prepared materials into finished products or parts and the packaging of such materials, all contained within an entirely enclosed building and no detectable noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission shall exit the building except as otherwise listed								P	P
Metal product fabricating, processing, and manufacturing, and machine shop without blast furnace or drop forge								P	P
Metal product fabricating, processing, and manufacturing, and machine shop including the use of a blast furnace or drop forge									P
Packing shed, fruit and vegetable								P	P
Quarry, subject to § 155.506.38									PC
Recycled material, collection, processing and packaging within an enclosed structure								P	P
Recycled material, collection, processing and packaging									P
Sign manufacturing								P	P
Truck Terminal									P
Warehouse, distribution facility within enclosed building						P		P	P
Wholesale sales with or without retail sales								P	P
MISCELLANEOUS USES	**R/I**	**O**	**HUC**	**B-1**	**B-3**	**B-D**	**B-H**	**I-1**	**I-2**
Auction sale of real and personal property located on site for the purpose of liquidating assets, subject to § 155.506.43.	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Accessory use, clearly incidental to the principal permitted use or structure on the lot	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Community Garden	P	P	P	P	P	P	P	P	
Donation Drop-Off Facility	ACC		ACC	ACC	ACC		ACC	ACC	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 9

MISCELLANEOUS USES	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Electric and gas substation, sewage treatment plant and control house, pump and lift station, water storage tank, well lot and similar use, subject to § 155.506.11	PC	PC	PC	PC	PC	PC	PC	PC	PC
Farm, either in conjunction with or separate from a dwelling, which may conduct retail sales of products produced on the premises									
Farm, urban, subject to § 155.506.19	PC	PC	PC	PC	PC	PC	PC	PC	
Garage sale, yard sale, and similar, subject to § 155.506.43	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
On-site demolition disposal site, subject to § 155.506.37	PC	PC		PC	PC	PC	PC	PC	PC
On-site demolition disposal site, accepting off-site material, subject to § 155.506.37				PC	PC	PC	PC	PC	PC
Parking for uses permitted within the district	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Propane storage or other fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Public utility transmission and distribution lines	P	P	P	P	P	P	P	P	P
Railroad right-of-way	P	P	P	P	P	P	P	P	P
Roadside stand, permanent									
Short term temporary use or festival of civic or nonprofit nature, subject to § 155.506.44	PC	PC	PC	PC	PC	PC	PC	PC	PC
Sidewalk sale, end of season sale, clearance sale, subject to § 155.506.43			ACC	ACC	ACC		ACC	ACC	ACC
Temporary building and storage of materials in conjunction with construction of a building on a lot where construction is taking place or on adjacent lots, the temporary use to be terminated upon completion of construction, issuance of Certificate of Occupancy, or invalidation of building permit (see also § 155.506.43.C.4)	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Temporary, self-contained storage unit, subject to § 155.506.20	ACC	ACC	ACC	ACC	ACC		ACC	ACC	ACC
Temporary use for business purpose, subject to § 155.506.43		PC	PC	PC	PC	PC	PC	PC	PC
Transit stop shelter, subject to § 155.506.34	PC	PC	PC	PC	PC	PC	PC	PC	PC
Transit station (bus, rail, etc.)			P	P	P	P	P	P	
Utility equipment stand, meter, box, and backflow preventer for single or groups of parcels	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Vending machine, located outside the required setback						P		P	P
Vending machine, immediately adjacent to building under overhang only				P	P	P	P	P	P

(Am. Ord. 2025A, passed 6-9-14; Am. Ord 2059, passed 12-8-14; Am. Ord. 2083, passed 5-11-15)

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.2- 10

TABLE OF ALLOWED USES: CONDITIONAL-ONLY DISTRICTS 155.505.3

USES BY GROUPING	CONDITIONAL-ONLY								
RESIDENTIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Accessory apartment, subject to § 155.506.9	PC	PC							
Accessory residential use and structure clearly incidental to the permitted principal residential use	ACC	ACC	ACC	ACC	ACC	ACC		ACC	
Children's home, foster care facility and similar non-profit institution providing domiciliary care for children					P	P			
Cottage Cluster Housing Development, subject to § 155.506.22	PC	PC	PC						
Dormitory for senior high and post secondary schools operated by and located on the principal site of the institution served.					P	P		P	
Dwelling, one-family attached	P	P	P	P	P	P		P	
Dwelling, one-family detached	P	P	P						
Dwelling, one-family detached with multiple full kitchens subject to § 155.506.9	PC	PC							
Dwelling, two-family/duplex	P	P	P	P	P				
Dwelling, manufactured home									
Dwelling, multi-family, single building on a lot			P	P	P	P		P	
Dwelling, multi-family, multiple building complex			P	P	P	P		P	
Dwelling, zero-lot line	P	P	P	P	P				
Equestrian-oriented subdivision, subject to § 155.506.2									
Group Home, family care home, and sheltered household, subject to § 155.506.3	PC	PC	PC		PC				
Home-based business, subject to § 155.506.1	PC	PC	PC		PC	PC		PC	
Limited food and beverage sales in neighborhood common facilities, subject to § 155.506.14	PC	PC	PC	PC	PC	PC		PC	
Manufactured home park									
Manufactured home park office or service building for recreational facilities, meeting room for residents, and similar uses									
Medium density ecological development subject to § 155.506.23	PC	PC	PC	PC	PC			PC	
Monastery, convent, and similar group housing for individuals of a religious order			P	P	P				
Private stable, subject to § 155.506.12									

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

RESIDENTIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Propane storage or other home fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters	ACC	ACC	ACC	ACC	ACC	ACC		ACC	
Room renting and boarding, subject to § 155.506.5	PC	PC							
Subdivision sales office, subject to § 155.506.21	PC	PC	PC	PC	PC	PC		PC	
Swimming pool for one dwelling behind principal residential structure	ACC	ACC	ACC						
Trailer, recreational, and overnight camping vehicle stored unoccupied on a lot behind the established setback and not within 10 feet of street side corner	ACC	ACC	ACC	ACC	ACC	ACC			

INSTITUTIONAL & GOVERNMENTAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Adult care home, subject to § 155.506.3	PC	PC	PC		PC				
Adult care facility									
Adult day care facility		P	P	P	P	P		P	
Arboretum, subject to § 155.506.7	PC	PC							
Assisted living, subject to § 155.506.3	PC	PC	PC		PC				
Assisted living facility									
Cemetery, mausoleum, and columbarium, subject to § 155.506.13	PC	PC	PC	PC					
Church and place of worship with less than 400 seating capacity and/or with programs of up to 100 persons operated on a daily (weekday) basis, subject to § 155.506.7	PC	PC							
Church and place of worship without size restrictions					P	P		P	
College and university without stadium				P	P	P		P	
College and university with stadium					P			P	
Continuing care retirement community, subject to § 155.506.16									
Cultural Community Center, subject to § 155.506.07		PC			P	P		P	
Fire and/or EMS station, subject to § 155.506.7	PC	PC							
Fire and/or EMS station, police station			P	P	P	P	P	P	
Heliport, medically related					P	P	P	P	
Hospital						P		P	
Laboratory and research facility, medical, dental or optical when part of hospital complex						P		P	
Medical, dental, optical office and clinic when part of hospital complex						P		P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 2

INSTITUTIONAL & GOVERNMENTAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Police Station, subject to § 155.506.7	PC	PC							
Public library			P	P	P	P	P	P	
School, elementary, middle, and senior high, public and private, less than 100 student capacity, subject to § 155.506.7	PC	PC							
School, elementary, middle, and senior high, public and private					P	P	P	P	
Skilled Nursing Facility, subject to § 155.506.17		PC	PC	PC	PC	PC			

OFFICE & SERVICE USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Bank, credit union, and similar financial service			P	P	P	P	P	P	
Barber shop, beauty salon, nail salon, and similar personal service			P	P	P	P	P	P	
Child day care facility, subject to § 155.506.6		PC	PC	PC	PC	PC		PC	
Civic, fraternal, and social club		P	P	P	P	P	P	P	
Contractor's office without accessory storage		P			P	P	P	P	
General and professional office		P	P	P	P	P	P	P	
Laboratory and research facility, medical , dental or optical		P	P	P	P	P	P	P	
Medical, dental, optical office and clinic		P	P	P	P	P	P	P	
Musuem and art gallery operated on a noncommercial basis		P	P	P	P	P	P	P	
Office with display of sample merchandise to wholesalers and retailers when the samples are only visible within the building and no sales, inventory or delivery of merchandise from building		P	P	P	P	P	P	P	
Spa and massage service		P	P	P	P	P	P	P	
Telephone exchange					P	P	P		

GENERAL COMMERCIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Adult use, subject to § 155.506.46									PC
Alcohol and alcoholic beverage, wine, and beer production and sales, subject to § 155.506.45					PC	PC	PC	PC	
Animal grooming facility, subject to § 155.506.42					PC	PC	PC	PC	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 3

GENERAL COMMERCIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Armory for meetings and training of military organizations					P	P	P		
Auction house					P	P	P		
Bakery, retail including manufacturing of goods for sale on the premises only					P	P	P	P	
Ballroom, banquet or meeting/catering hall				P	P	P	P	P	
Bed and breakfast establishment, subject to § 155.506.4	PC	PC							
Boat and watercraft sales, new and used					P	P	P	P	
Brewery									
Brewpub, subject to § 155.506.45					PC	PC	PC	PC	
Building material storage and wholesale and retail sales without outside storage					P	P	P		
Building material storage and wholesale and retail sales with outside storage									
Call center					P	P	P	P	
Car wash					P		P	P	
Coin operated laundry			P	P	P	P	P	P	
Commercial school and school providing adult training in any of the arts, sciences, trades, or professions, without retail sales of merchandise				P	P	P	P	P	
Commercial or catering kitchen, without on-site customer/client food service					P		P	P	
Commercial use in multifamily and office buildings, subject to § 155.506.31									
Communications tower and antenna, subject to § 155.506.41	PC	PC	PC	PC	PC	PC	PC	PC	PC
Copy, printing and photo processing			P	P	P	P	P	P	
Crematorium, when located on same lot as a cemetery or funeral home, subject to 155.506.13					P		P		
Crematorium, stand alone, or on an adjacent parcel to a cemetery or funeral home only when such parcel is commercially or industrially zoned, subject to 155.506.13							PC		
Drive-up service window, subject to § 155.506.33					ACC	ACC	ACC	ACC	
Exterminator, pest control					P	P	P	P	
Farmers' market, subject to § 155.506.43					PC	PC		PC	
Florist shop			P	P	P	P	P	P	
Funeral home					P	P	P		
Gas station with convenience store, subject to § 155.506.49					PC		PC		
Gas pump without convenience store									

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 4

GENERAL COMMERCIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Greenhouse, commercial, without retail sales			P	P					
Heliport					P			P	
Installation of tires sold within an enclosed building of at least 145,000 sq. ft. with internal storage only, limited to 7,250 sq. ft.							P		
Installation and servicing of accessory equipment (i.e. audio, security, navigational, etc.) for vehicles sold within an enclosed building with internal storage only							P		
Internet sweepstakes facility									
Kennel, animal day care, subject to § 155.506.42					PC	PC	PC	PC	
Kennel, commercial, subject to § 155.506.42									
Laundry and dry cleaning establishment not to exceed 4,500 sq ft gross floor area			P	P	P	P	P	P	
Laundry and dry cleaning establishment not to exceed 10,000 sq ft gross floor area					P	P	P	P	
Live work unit, subject to § 155.506.10	PC		PC						
Live work unit				P	P	P	P	P	
Manufactured home sales									
Microbrewery, subject to § 155.506.45					PC	PC	PC	PC	
Mini storage facility				P	P	P	P	P	
Mobile vendor, subject to § 155.506.43					PC	PC	PC	PC	
Motel and hotel, subject to § 155.506.22									
Motel and hotel					P	P	P	P	
Motor vehicle service facility limited to oil change, tire rotation and replacement, and similar minor maintenance service, all activity taking place within the building, not over 3 service bays and no overnight vehicle storage					P		P	P	
Motor vehicle repair garage including engine overhaul, body and paint shop and similar operations									
Motor vehicle, passenger, and motorcycle, new and used, sales and rental									
Motor vehicle, commercial or recreational, new and used, sales and rental									
Motorcycle safety training course, subject to § 155.506.18									
Musuem or art gallery		P			P	P	P	P	
Nursery, commercial with or without greenhouse					P	P	P	P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 5

GENERAL COMMERCIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Outdoor equipment and machinery, sales and repair									
Outdoor sales in conjuction with a permanent business, subject to § 155.506.36					PC	PC	PC	PC	
Parking lot and parking garage/structure				P	P	P	P	P	
Pet cemetery, including any accessory structure					P		P		
Post Office				P	P	P	P	P	
Professional, financial, personnal and recreational service not otherwise listed				P	P	P	P	P	
Pushcart vending, subject to § 155.506.43					PC	PC		PC	
Radio and television station					P	P	P	P	
Repair and servicing of any article the sale of which is permitted in the district, except as otherwise listed									
Repair and servicing, indoors only, of any article the sale of which is permitted in the district, except as otherwise listed		P	P	P	P	P	P	P	
Restaurant, lounge and nightclub without drive-thru or drive-in service				P	P	P	P	P	
Restaurant with drive-thru or drive-in service									
Retail sales, general merchandise, unless otherwise listed		P	P	P	P	P	P	P	
Secondhand goods, retail sales without ouside storage, unless otherwise listed		P	P	P			P		
Secondhand goods, retail sales, unless otherwise listed					P	P		P	
Selling from a semitruck without a cab, subject to § 155.506.36					PC	PC	PC		
Sign printing					P	P	P	P	
Social gathering, seminar, reception, which is ancilliary to the principal permitted use and on property desginated historic by the Town		P							
Solar collector installation, subject to § 155.506.48	ACC	ACC	ACC	ACC/PC	ACC/PC	ACC/PC	ACC/PC	ACC/PC	ACC
Specialty sales establishment with substantial on-site assembly, processing, packaging, and/or distribution, and processes sales for off-site customers, subject to § 155.506.39				PC	PC	PC	PC	PC	
Studio for gymnast, artist, designer, photographer, musician, sculptor, and similar		P	P	P	P	P	P	P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 6

GENERAL COMMERCIAL USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Towing operation with vehicle storage only within an enclosed structure									
Towing operation with vehicle storage yard									
Upholstering in a workroom setting not to exceed 1,500 sq. ft. of gross floor area			P	P	P	P	P	P	
Utility trailer, not exceed a loading capacity of 500 cubic feet, sales and rental									
Veterinary clinic or hospital, subject to § 155.506.42					PC	PC	PC	PC	

RECREATION & ENTERTAINMENT USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Amusement, commercial outdoors, including miniature golf, golf course, golf driving range, ride, slide, waterpark, paintball course and similar commercial enterprise requiring physical dexterity, except as regulated elsewhere, subject to § 155.506.40								PC	
Archery or firearms range, indoor only, subject to § 155.506.47							PC	PC	
Arcade, game room				P	P	P	P	P	
Athletic or sports fields, ballfields, in a concentration of three or more, and similar outdoor physical recreation facility intended for use by teams of participants				P	P			P	
Bowling alley					P	P	P	P	
Community recreation center, fitness/health center, gymnasium, YMCA, and similar use with multiple physically involved activities, primarily indoor, can take place concurrently				P	P	P	P	P	
Country club, swimming club, community recreation center, and tennis or racket club operated on a noncommercial membership basis, subject to § 155.506.8	PC	PC							
Golf course operated on a noncommercial basis, subject to § 155.506.8	PC	PC							
Ice or roller rink					P	P	P	P	
Indoor commercial recreation not otherwise listed					P	P	P	P	
Park and playground operated on a noncommercial basis for the purposes of public recreation, subject to § 155.506.8	PC	PC							
Park, predominately passive use, subject to § 155.506.8	PC	PC							
Park and playground, not otherwise listed			P	P	P	P	P	P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 7

RECREATION & ENTERTAINMENT USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Riding stable, commercial, subject to § 155.506.35								PC	
Skateboard facility, subject to § 155.506.40								PC	
Stadium, and other outdoor assembly facility where primary use involves both spectator and performer								P	
Swimming pool, single neighborhood, below Junior Olympic size, no outside membership, subject to § 155.506.8	PC	PC							
Swimming pool, as a stand alone facility, indoor or outdoor, or outdoor as part of a recreational facility, public or private				P	P	P	P	P	
Swimming pool, any size, accessory to multi-family residential use, not within 100 feet of property line			ACC	ACC	ACC	ACC		ACC	
Tennis and racket club, commercial, indoor or outdoor					P	P	P	P	
Tennis and racket sports courts, indoor or outdoor			P	P	P	P	P	P	
Tennis and racket club and associated swimming facility, indoor and/or outdoor, with golf practice facility, subject to § 155.506.15									
Theater, drive-in								P	
Theater, housed within an enclosed structure					P	P	P	P	
Theater, outdoor stage facility					P		ACC	P	

INDUSTRIAL & MANUFACTURING USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Bakery and baking plant including manufacturing, wholesale and retail									
Blacksmith shop								P	
Bottling and canning works for nonalcoholic beverage including distribution									
Bus and transit vehicle repair and storage									
Contractor's facility with storage yard									
Distilling or manufacturing of alcohol and alcoholic beverage, subject to § 155.506.45									
Laundry and dry cleaning establishment greater than 10,000 sq ft gross floor area									
Outside storage, except as otherwise listed									
Mail order facility									
Manufacturing, processing, assembling of components into completed craft or custom made items in facilities not exceeding 3,000 sq. ft.					P	P		P	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 8

INDUSTRIAL & MANUFACTURING USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Manufacturing, heavy, which may include the mechanical or chemical transformation of materials or substances into new items, or the fabrication and/or the assembly of component parts, or other industrial processing, bulk storage, and handling of products primarily from extracted or raw materials, any aspect of which has potential to produce noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission beyond the property lines except as otherwise listed									
Manufacturing, light, which may include the assembly or processing of predominently previously prepared materials into finished products or parts and the packaging of such materials, all contained within an entirely enclosed building and no detectable noise, dust, glare, odors, vibration, smoke or steam, fire hazard, or other noxious emission shall exit the building except as otherwise listed									
Metal product fabricating, processing, and manufacturing, and machine shop without blast furnace or drop forge									
Metal product fabricating, processing, and manufacturing, and machine shop including the use of a blast furnace or drop forge									
Packing shed, fruit and vegetable									
Quarry, subject to § 155.506.38									
Recycled material, collection, processing and packaging within an enclosed structure					P	P		P	
Recycled material, collection, processing and packaging									
Sign manufacturing									
Truck Terminal									
Warehouse, distribution facility within enclosed building									
Wholesale sales with or without retail sales					P			P	

MISCELLANEOUS USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Auction sale of real and personal property located on site for the purpose of liquidating assets, subject to § 155.506.43.	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Accessory use, clearly incidental to the principal permitted use or structure on the lot	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	
Community Garden	P	P	P	P	P	P	P	P	
Donation Drop-Off Facility					ACC	ACC	ACC	ACC	

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 9

MISCELLANEOUS USES	R-VS	CrC	SRN	C-MF	MUD	TS	B-1SCD	ENT	AU
Electric and gas substation, sewage treatment plant and control house, pump and lift station, water storage tank, well lot and similar use, subject to § 155.506.11	PC	PC	PC	PC	PC	PC	PC	PC	PC
Farm, either in conjunction with or separate from a dwelling, which may conduct retail sales of products produced on the premises									
Farm, urban, subject to § 155.506.19	PC	PC	PC	PC	PC	PC	PC	PC	
Garage sale, yard sale, and similar, subject to § 155.506.43	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	
On-site demolition disposal site, subject to § 155.506.37	PC	PC	PC	PC	PC		PC	PC	
On-site demolition disposal site, accepting off-site material, subject to § 155.506.37									
Parking for uses permitted within the district	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Propane storage or other fuel storage, accessory to a permitted principal use or building, subject to the Fire Pevention Code of the National Board of Fire Underwriters	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Public utility transmission and distribution lines	P	P	P	P	P	P	P	P	P
Railroad right-of-way	P	P	P	P	P	P	P	P	P
Roadside stand, permanent									
Short term temporary use or festival of civic or nonprofit nature, subject to § 155.506.44	PC	PC	PC	PC	PC	PC	PC	PC	
Sidewalk sale, end of season sale, clearance sale, subject to § 155.506.43					ACC	ACC	ACC	ACC	
Temporary building and storage of materials in conjunction with construction of a building on a lot where construction is taking place or on adjacent lots, the temporary use to be terminated upon completion of construction, issuance of Certificate of Occupancy, or invalidation of building permit (see also § 155.506.43.C.4)	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Temporary, self-contained storage unit, subject to § 155.506.20	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	
Temporary use for business purpose, subject to § 155.506.43				PC	PC	PC	PC	PC	
Transit stop shelter, subject to § 155.506.34	PC	PC	PC	PC	PC	PC	PC	PC	PC
Transit station (bus, rail, etc.)					P	P	P	P	
Utility equipment stand, meter, box, and backflow preventer for single or groups of parcels	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC	ACC
Vending machine, located outside the required setback					P	P		P	
Vending machine, immediately adjacent to builidng, under overhang only				P	P	P	P	P	

(Am. Ord. 2025A, passed 6-9-14; Am. Ord. 2059, passed 12-8-14; Am. Ord. 2083, passed 5-11-15)

P - Permitted by Right
PC - Allowed under prescribed conditions as further outlined in § 155.506
ACC - Allowed as an accessory use

Table 505.3- 10

155.506. Prescribed Conditions for Certain Uses and Supplementary Regulations

In order to carry out the recommendations of the Matthews Land Use Plan and the purposes and provisions of this Title, certain specified uses are allowed in some or all of the zoning districts described in § 155.501 of this Title only upon meeting certain prescribed conditions or when receiving site plan, elevation plan or conditional zoning approval by the Town. These uses shall be subject to all of the applicable conditions and restrictions provided here.

155.506.1 Home-Based Businesses

A. Home-based businesses are a necessary and desirable part of the development of a community, but if left unchecked can have a deleterious effect on the value, use and enjoyment of adjoining property and the neighborhood. It is necessary to establish performance standards to measure the appropriateness of the many diverse home-based businesses in Matthews' neighborhoods. It is the intent of this section to:

1. Ensure the compatibility of home-based businesses with other uses permitted in residential and other zoning districts;
2. Maintain and preserve the essential character of residential neighborhoods;
3. Promote the efficient use of public services and facilities by assuring that services are provided to the residential population for which they were planned and constructed, rather than provided to commercial uses; and,
4. Prevent the generation of vehicular or pedestrian traffic in greater volumes than would normally be expected in a residential neighborhood.

Home-based businesses shall be required to meet the standards listed here when located within the R-20, R-15, R-12, R-9, R-MH, R-15MF, R-12MF, R-VS, CrC, SRN, MUD, TS, and ENT districts.

B. STANDARDS

In addition to all of the use limitations applicable in the district in which a home-based business is located, no home-based business shall be established, altered or enlarged in any district unless such home-based business complies with the following performance standards:

1. SCALE. The home-based business must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
2. FLOOR AREA LIMITATION. Use of the dwelling for this purpose must be limited to twenty five percent (25%) of one floor of the principal dwelling or fifty percent (50%) of one floor of an accessory building. Any separate building shall be accessory only to the individual dwelling unit where the home-based business is located (not in a communal structure).
3. OUTDOOR STORAGE PROHIBITED. No outside storage may be used in connection with the home-based business.
4. EQUIPMENT. Machinery that causes noises or other interference in radio, television, or digital reception is prohibited. Additionally, no equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot, in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units. Household equipment and furniture, such as computers, ovens, shelving, and counters may be used in connection with a legally established home based business.
5. NO EXTERIOR EVIDENCE. Internal or external alterations inconsistent with the residential use of the dwelling will not be permitted. There shall be no activity, structure, or other exterior evidence that the dwelling unit is being used for any nonresidential purpose in order to conduct the home-based business.
6. EMPLOYEES. Only residents of the dwelling may be engaged in the home-based business.
7. DISPLAYS. No display of products may be visible from the street.
8. USE OF VEHICLES. Only passenger vehicles or one (1) mid-range commercial vehicle as defined in §155.103.C. may be used in conjunction with a home-based business and must comply with § 155.607.1.C.14.f.
9. CLIENTS/CUSTOMERS ON-SITE LIMITED. Services provided for any home-based business must be limited to no more than two (2) clients at one (1) time. In the event of a time overlap between scheduled appointments, additional clients may be permitted on the premises. Direct sales of

products from the dwelling unit are prohibited, but a person may pick-up an order placed earlier.

10. WHOLESALING. No wholesale, jobbing or retail business shall be permitted unless sales are conducted entirely by mail, telephone, and internet or by appointment.

11. DELIVERIES. The business does not involve the receipt, shipment, delivery (except by mail or package delivery service) or storage of merchandise on or from the premises.

12. TRAFFIC AND PARKING IMPACT. The home-based business shall not have an adverse effect on the neighborhood through the congestion of Town streets. The home-based business shall not require more vehicle parking space than exists on the residential driveway on the property, or on assigned parking spaces serving the dwelling unit.

C. PARTICULAR HOME-BASED BUSINESSES PROHIBITED

Prohibited home-based businesses include, but are not limited to, the following:

1. Adult-oriented businesses
2. Antique shops
3. Appliance repair
4. Art galleries
5. Barber shops and beauty shops
6. Cabinetry making
7. Catering
8. Production of food and drink items identified by the NC Department of Agriculture and Consumer Services as high risk products
9. Food vendors
10. Funeral homes
11. Kennels, day care or commercial, animal grooming, or veterinary clinics
12. Mechanical equipment repair
13. Medical or dental offices, clinics or hospitals
14. Motor vehicle body shops and repair shops
15. Motor vehicle sales
16. Restaurants
17. Tourist homes and lodging houses (but excluding bed and breakfast inns)
18. Trucking
19. Warehousing
20. Welding

('72 Code, § 3102) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) Ord No. 1532; passed 1-8-07) **[formerly known as § 153.166]**

155.506.2 Equestrian-Oriented Subdivisions.

A. Equestrian-oriented subdivisions are residential developments which are designed with particular emphasis placed on equestrian activities and which provide those facilities as non-profit community stables, riding rings, pastures and riding trails. In addition, private stables may be located on individual residential lots. Equestrian-oriented subdivisions are permitted in the R-20 and R-15 districts.

B. STANDARDS

1. All buildings and structures related to the care of horses and to the operation of the riding facilities must be located at least one hundred feet (100') from any residential property line at the perimeter of the development.
2. Sites for community riding stables and similar facilities will be subject to the normal lot and yard requirements of the zoning district.
3. Private stables for less than four (4) horses on residential lots must be located in accordance with

the requirements for accessory structures.

4. Generally, riding trails should be located in the interior of the development and should not extend along adjoining residential property lines. Where a proposed trail is to be located along the exterior property line of the project, the trail must be a minimum of thirty feet (30') wide with adequate fencing provided to confine all equestrian activities to the project.

5. All stables and riding areas must be maintained according to the standards and requirements of the responsible County agency.

6. An equestrian-oriented subdivision may be established through the submission of the subdivision plans. The Board of Commissioners will approve the plans in accordance with provisions of this Title, and the additional standards listed below.

   a. Lots that will have private stables must be designated, and the general area in which those stables may be located must be indicated.

   b. All proposed community riding facilities, including community stables, riding rings, pastures, and riding trails must be indicated on the plans. A written statement describing the proposed means of ownership and proposed program for maintenance of these facilities and a copy of the proposed maintenance program must be included. A copy of the proposed maintenance program will be kept on file at the Mecklenburg County Land Use And Environmental Service Agency office. **[formerly known as § 153.094]**

155.506.3 Residential Care Facilities Within A Single-Family Environment.

A. Group homes, family care homes, adult care homes, stand-alone assisted living facilities, and sheltered households within a single-family detached dwelling unit are types of residential living environments specifically focused on providing care and support to persons with temporary or permanent physical, mental, or emotional limitations. When offered in a home setting at the scale of a single household, intermingled among other single family dwellings, these uses may be allowed in the R-20, R-15, R-12, R-9, R-15MF, R-12MF, R-VS, CrC, SRN, and MUD districts. Care facilities may also be located in several other districts as a use by right, or within other buildings and in association with other permitted uses, when meeting all applicable licensing standards.

B. STANDARDS

1. Each residential care facility shall be conducted within a single family detached dwelling. All residents and any staff who provide around-the-clock care shall have adequate sleeping, food preparation, eating, and toilet facilities within the principal dwelling unit.

2. In order to limit potential negative impacts on the surrounding neighborhood, such as substantial additional traffic or parking, each facility shall have a minimum separation of eight hundred feet (800') in a straight line distance between nearest points of separate care home properties. All facilities must comply with all applicable federal, state, and local licensing requirements and health regulations.

3. Office space within the facility for staff not providing care or services to the residents of the facility, such as administrative or financial aspects of the management company, shall not exceed two hundred (200) square feet.

4. Group homes and family care homes shall not exceed six (6) residents needing care, plus an attending care-giver. Additional on-site staff may be at the facility to provide services directly related to the residents.

5. Assisted living, adult care facilities, and sheltered households shall not exceed six (6) bedrooms for use by residents, with a maximum of two persons per bedroom (i.e., one individual person, one couple, a mother and child), and may also provide one (1) bedroom for a resident care-giver individual or couple.

155.506.4 Bed and Breakfast Establishments.

A. Bed and breakfast establishments provide for overnight and short-term lodging with one or more meals solely for the occupants of the leased sleeping quarters, as allowed by state statute. These establishments fall into two (2) categories based on their size and zoning category. Bed and Breakfast Guest Homes, with up to six (6) rooms dedicated to guests for overnight lodging within a single family detached dwelling, are permitted in the R-20, R-15, R-12, R-9, R-VS, and CrC Districts. Bed and Breakfast Inns are allowed in

the R-15MF, R-12MF, O, HUC, and B-1 Districts.

B. STANDARDS.

1. BED AND BREAKFAST GUEST HOMES. Bed and breakfast guest homes in the allowed residential districts must meet all lot size, setback, yard, height and open space requirements of the district in which they are located. The principal use of the structure is the single-family dwelling, and the bed and breakfast guest home is a secondary function within the principal house structure. For this reason, the facility must be owner-occupied and managed, with no employees other than resident family members permitted. Breakfast or other meals may be provided but only to overnight guests. No group functions, such as wedding receptions or banquets shall be allowed. New additions to the structure in order to accommodate more guest rooms are not permitted. No substantial modifications to the exterior of the structure shall be allowed, except for repair and maintenance. Exterior alterations required by North Carolina Building Code, such as fire escapes, handicap ramps, doorways, etc., shall be in keeping with the exterior architectural character of the structure and the residential character of the surrounding neighborhood. No separate exterior doorways for individual guest rooms shall be permitted unless the separate doorway was part of the original architecture of the house.

2. BED AND BREAKFAST INNS. Bed and breakfast inns in any permitted district shall be the permanent residence of the manager of the establishment, and no more than one non-resident employee is permitted in association with the inn. Breakfast or other meals may be provided but only to overnight guests. Exterior alterations required by North Carolina Building Code, such as fire escapes, handicap ramps, doorways, etc., shall be in keeping with the exterior architectural character of the structure. Guest rooms may be located within the principal house structure or in accessory structures already existing on the property. Additions to increase the number of available guest rooms may only be made to the principal house structure.

   a. SOCIAL EVENTS. In Bed and Breakfast Inns, any social event such as a wedding, reception, luncheon, or similar function, and which is not a function for the personal use of the resident manager, may be allowed if sufficient off-street or satellite parking is provided and documented in the required parking plan. Off-site parking, as described in § 155.607 may be used. The number of functions shall not exceed twenty-four (24) events a year nor more than four (4) events in a month.

   b. ACCESSORY COMMERCIAL USES. In Bed and Breakfast Inns in the HUC or B-1 Districts only, related commercial uses such as a tea room or antique or gift shop may be located on the same lot. The area available for such a related commercial use shall be limited to ten percent (10%) of the floor area of the principal structure, but does not need to be within the principal structure. These related commercial uses may be open to the general public when additional parking spaces are provided for this use, as required in § 155.607.

3. GUEST ROOMS. Individual guest rooms in any Bed and Breakfast establishment shall not be equipped with cooking facilities.

4. The manager of any Bed and Breakfast establishment shall keep a current guest register including names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests.

5. PARKING PLAN REQUIRED. A parking plan must be provided for any Bed and Breakfast establishment showing minimum parking spaces for the permanent dwelling(s), plus one (1) additional parking space per guest room. The required parking spaces shall not be between the established front setback (front of the house) and the street, or within five feet (5') on an interior side or rear yard lot line or ten feet (10') of a street side lot line on a corner lot. Fence, wall or landscape screening as described in § 155.606.5 shall be provided when the adjacent property is residential zoned or used. Parking for guests shall be accessed by the same driveway as that serving the permanent residence. **[formerly known as § 153.169]**

155.506.5 Room Renting and Boarding.

A. Room renting is permitted in the R-20, R-15, R-12, R-9, R-15MF, R-12MF, R-VS, CrC, and O districts, as provided below.

B. STANDARDS.

1. Room renting is permitted in all above-identified districts only within a one (1) family detached,

one (1) family attached, or a two-family/duplex dwelling. No more than four (4) roomers per dwelling unit shall be allowed.

2. Room renting is permitted in multi-family dwelling units in districts which allow multi-family units. No more than two (2) roomers per dwelling unit shall be allowed.

3. Room renting shall not be allowed within an accessory apartment.

4. The maximum number of roomers may be required to be reduced so that the entire housekeeping unit does not exceed the permitted number of unrelated individuals.

5. A common use kitchen with shared cooking facilities for all occupants of the dwelling will be permitted.

6. One (1) additional parking space shall be provided on the same lot for each two (2) rooms available to roomers.

7. The required additional parking spaces shall not be between the established front setback (front of dwelling) and the street, or within five feet (5') on an interior side or rear lot line, or within ten feet (10') of a streetside side yard on a corner lot. **[formerly § 153.177]**

155.506.6 Child Care Homes and Child Day Care Facilities.

A. Child day care homes with up to eight (8) children and located within the provider's home may be established in the R-20, R-15, R-12, and R-9 districts. Child day care homes and child day care facilities, whether part of or separate from a dwelling, and where the capacity of children served is based on size of the facility, may be established in the R-15MF, R-12MF, R/I, O, HUC, B-1, SRN, C-MF, MUD, TS, and ENT districts. Child day care facilities with separate standards may be allowed in the CrC district.

B. STANDARDS.

1. Child day care homes and facilities are required to be registered and licensed with the state in accordance with G.S. § 110-101.

2. An off-street drop-off/pick-up-area shall be provided. For child day care homes, a residential driveway is acceptable for this purpose.

3. For child care homes in detached single-family dwellings, no structural or decorative alteration that will affect the single-family character of the existing residential structure or be incompatible with surrounding residences is permitted.

4. For child day care homes, at least one hundred (100) square feet of outdoor play space per child must be provided. For child day care facilities licensed for six (6) to forty five (45) children, there shall be a minimum of two thousand two hundred fifty (2,250) square feet of outdoor play area. For child day care facilities licensed for forty six (46) or more children, there shall be a minimum of one hundred (100) square feet of outdoor play area for at least one-half (1/2) of the total number of children for which the center is licensed. Maximum number of children allowed on the outdoor play area at any one time shall be one (1) per one hundred (100) square feet of actual outdoor play area.

5. Outdoor space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback.

6. Yard and height requirements will be the same as those required for structures in the district in which it is located. In districts or locations without minimum yard requirements, or where the child care facility is part of a multiple use or multiple building setting, then a minimum land area dedicated to the child day care facility shall be four thousand five hundred (4,500) square feet.

7. Separate provisions for child day care facilities in the CrC District are outlined at § 155.503.2.C.8. **[formerly known as § 153.181]**

155.506.7 Institutional Uses In Residential Settings.

A. Some nonresidential uses are of a character and geographical need that they can be located within a residential neighborhood without causing significant disturbance to the quality of life. These types of institutional or governmental/public services may include: arboretum; fire and/or EMS stations and police stations; churches and places of worship under four hundred (400) seating capacity; and K-12 schools

under one hundred (100) students. These uses may be allowed in the R-20, R-15, R-12, R-9, R-MH, R-VS, and CrC districts when meeting the following provisions. A cultural community center may be allowed in the R-20, R-15, R-12, and R-9 districts when meeting the standards listed below. In the R/I district, churches and places of worship may be allowed at various sizes when certain dimensional criteria are met, as described here.

B. STANDARDS.

1. Arboretum may be publicly or privately maintained to either display certain landscape species or to protect certain living species or biological environments, and shall be a minimum of (1) acre in size. When general public access is intended, an arboretum shall have one (1) or more defined pedestrian entrances from a public street. Where public access is not desired, all road frontage shall include a planted hedge row or decorative fence. A decorative fence, if used, shall be wood or wood-look picket, wrought iron or simulated iron, brick wall, or similar feature that is no higher than four feet (4') and not chain link.

2. Fire and/or EMS stations and police stations, due to their shift work schedule, the number of employees and citizens who may visit the site, larger vehicle size and or volume of traffic throughout a twenty four (24) hour day, use of sirens for emergency response, and speed of exiting vehicles, are generally not compatible with tranquility of a residential neighborhood environment.

   a. They shall only be allowed in the listed residential districts when they front directly on a Class IV or higher street and have their main entrance and exit on that thoroughfare street.

   b. There shall be twenty feet (20') of landscape screening between any parking area and any non-streetside property when it is residentially zoned or used.

   c. Exterior lighting shall comply with the provisions in § 155.609.

   d. Any scheduled activities that are open to the public or employee/volunteer training exercises shall be held between the hours of 8:00 AM and 10:00 PM.

3. Churches and places of worship may be divided into categories based on seating capacity or daily activity, when located within the listed residential districts.

   a. Up to fifty (50) seating capacity and/or up to three thousand (3,000) square feet gross floor area:

      i. Minimum land area shall be one (1) acre and minimum lot width shall be eighty feet (80'). The minimum front setback for any building shall be the same as for the underlying zoning district, and all side and rear yards shall be a minimum of fifty feet (50') for any building. Maximum height shall be the same as the underlying zoning district.

      ii. No parking or outdoor accessory uses shall be allowed within the required front setback, or within twenty feet (20') of any non-streetside property line. All parking areas and outdoor accessory uses shall be screened from exterior side and rear property lines with twenty feet (20') of landscape screening. No fence shall be placed within the first twenty feet (20') of land area along exterior property lines.

      iii. Exterior lighting shall comply with the provisions in § 155.609. Lighting of outdoor accessory uses, such as ballfields, shall not be lighted between 10:00 PM and 8:00 AM.

      iv. Any scheduled activities that include use of land outside the building shall not take place earlier than 8:00 AM or later than 10:00 PM.

   b. Under four hundred (400) seating capacity and/or less than forty (40) daily attendees, but not meeting qualifications of subsection above:

      i. Minimum land area shall be two (2) acres and minimum lot width shall be two hundred feet (200'). The minimum front setback for any building shall be the same as for the underlying zoning district, and all side and rear yards shall be a minimum of fifty feet (50') for any building. Maximum height shall be the same as the underlying zoning district; however, the principal building's height

may be increased up to sixty feet (60') provided the side and rear yards are increased one foot (1') for each foot or fraction of a foot in added height.

ii. No parking shall be allowed within fifty feet (50') of the front property line, or within twenty feet (20') of any non-streetside property line.

iii. All non-streetside property lines shall have twenty feet (20') of landscape screening. No fence shall be placed within the first twenty feet (20') of land area along exterior property lines.

iv. Exterior lighting shall comply with the provisions in § 155.609. Lighting of outdoor accessory uses, such as ballfields, shall not be lighted between 10:00 PM and 8:00 AM.

v. Any scheduled activities that include use of land outside the building shall not take place earlier than 8:00 AM or later than 10:00 PM.

vi. Any facility with an assembly room of over two hundred (200) seating capacity, or any facility which operates every weekday throughout the year and has forty (40) or more persons (child or adult) regularly in attendance, shall be located on a Class IV or higher street and shall have its main entrance and exit on that thoroughfare street.

vii. Typical accessory uses to places of worship are permitted. These may include, but are not limited to day care centers, day nurseries, pre-schools, family life centers, church offices excluding district or regional administrative offices, gymnasium, book or video library, ballfields, and basketball courts. Accessory uses within an enclosed structure may be within the principal building or in an accessory structure. Outdoor accessory uses shall not be located within the required setback or the outer twenty feet (20') of a required side or rear yard.

viii. The CrC district has separate criteria for places of worship in this size category at § 155.503.2.

4. Churches and places of worship in the R/I district are allowed at different capacities when adhering to these dimensional standards:

a. Facilities without any common assembly areas, or facilities which would include one or more assembly rooms, any one of which will seat or accommodate less than one thousand (1,000) persons shall have a lot area a minimum of two (2) acres and a lot width a minimum of two hundred feet (200').

b. Facilities which would include one (1) or more assembly rooms, any of which will seat or accommodate more than one thousand (1,000) persons shall have a lot area a minimum of ten (10) acres and a lot width a minimum of two hundred fifty feet (250').

5. Elementary, middle, and senior high schools, with a capacity of less than one hundred (100) students:

a. Minimum lot area shall be two and one-half (2 ½) acres. The minimum front setback for any building shall be the same as for the underlying zoning district, and all side and rear yards shall be a minimum of fifty feet (50') for any building. Minimum lot width shall be two hundred feet (200'). Maximum height shall be the same as the underlying district.

b. No parking shall be allowed within fifty feet (50') of the front property line, or within twenty feet (20') of any non-streetside property line.

c. All non-streetside property lines shall have twenty feet (20') of landscape screening. No fence shall be placed within the first twenty feet (20') of land area along exterior property lines.

d. Exterior lighting shall comply with the provisions in § 155.609. Lighting of outdoor accessory uses, such as ballfields, shall not be lighted between 10:00 PM and 8:00 AM.

e. Any scheduled activities that include use of land outside the building shall not take place earlier than 8:00 AM or later than 10:00 PM.

f. A home school, regulated at NCGS 115C, Article 39, as a nonpublic school where the

parents or legal guardians determine the scope of academic instruction for children residing within the residence, is exempt from any of the criteria listed in this subsection § 155.506.7.B.5.

6. A cultural community center may be operated by a governmental agency or a nonprofit organization when offering educational opportunities on specific cultural topics and viewing of cultural artifacts on a predetermined schedule.

   a. When adjacent to single family uses, a cultural community center shall provide landscape screening on non-streetside lot boundaries.

   b. Any on-site parking and vehicle maneuvering areas shall not be placed within twenty feet (20') of an exterior property line or within the required front setback.

   c. Exterior lighting shall comply with §155.609.

   d. Any activities that are open to the public shall take place between the hours of 8:00 AM and 10:00 PM.

155.506.8 Recreational Uses In or Adjacent to Residential Settings.

A. Some recreational facilities near residential settings improve the quality of life for the neighborhood, but may cause unintended impacts if specific elements of use are not regulated. Parks and playgrounds operated on a noncommercial basis for purposes of public recreation are often located within or near the residents they are intended to serve. Golf courses, country clubs, swimming clubs, community recreation centers, and tennis or racket clubs may also be located in or beside residential neighborhoods. Swimming pools may be placed within a neighborhood or housing development, for use and enjoyment by residents. Predominately passive parks have the least potential for negative effects. These uses may be allowed in the R-20, R-15, R-12, R-9, R-MH, R-VS, CrC and R/I districts when meeting the following provisions.

B. STANDARDS.

1. Parks and playgrounds operated on a noncommercial basis for the purposes of public recreation may include a pocket park or playground at least one tenth (0.1) acre in size to neighborhood and community parks without permanent spectator seating facilities.

   a. When a park or playground has any area improved as one or more sports ballfield (i.e., softball, rugby), court (i.e., basketball, tennis), rink (i.e., skating, skateboarding), water feature (i.e., swimming pool, fountain, splash pad), or track (i.e., running, bicycle, cart) then there shall be a minimum of one hundred feet (100') of landscape buffer screen between the closest point of that improvement and any exterior property line.

   b. Any lighting included within any park or playground shall conform to the standards of § 155.609, and shall not be illuminated before 8:00 AM or after 10:00 PM.

   c. When any team sports activities are held at a park, no amplified sound system is allowed.

   d. On-street parking may be used where existing near a park or playground. Where off-street parking is provided, it shall not be located within fifty feet (50') of any property line and there shall be twenty feet (20') of landscape screening between the parking area and any non-streetside property line when it is residentially zoned or used.

2. Golf courses, country clubs, swimming clubs, community recreation centers and tennis or racket clubs operated on a noncommercial membership basis are generally larger, more intensively utilized recreational facilities needing additional buffering.

   a. Any buildings must meet the setback and yard requirements of the underlying zoning district.

   b. Structures associated with open air uses or swimming pools, any area improved as one (1) or more sports ballfield (i.e., softball, rugby), court (i.e., basketball, tennis), rink (i.e., skating, skateboarding), water feature (i.e., swimming pool, fountain, splash pad), track (i.e., running, bicycle, cart), or golf course shall have a minimum of one hundred feet (100') of landscape buffer screen between the closest point of that improvement and any exterior property line.

   c. Any lighting included within any listed recreational facility shall conform to the

standards of § 155.609, and shall not be illuminated before 8:00 AM or after 10:00 PM.

d. No amplified sound system is allowed outside any building.

e. Off-street parking shall be provided to meet the standards given in § 155.607. Parking shall not be located within fifty feet (50') of any property line and there shall be twenty feet (20') of landscape screening between the parking area and any non-streetside property line when it is residentially zoned or used. **[formerly known as § 153.186]**

3. Swimming pools may be located within a single neighborhood or housing complex as a private amenity and for exclusive use by the residents. Such pools shall be less than Junior Olympic size and shall not sell outside memberships. Pools, adjacent decks, and any structures associated with the swimming pool shall have a minimum of one hundred feet (100') of landscape buffer screen between the closest point of that improvement and any exterior property line.

4. Predominately passive parks are publicly owned parcels of any size which are left in a natural state, and may have minimal improvements such as but not limited to greenway or nature trails, scattered fitness stations, fishing or observation piers, identification signs of flora and fauna, and benches. No additional screening is required along outer perimeters unless there is no existing natural or planted landscaping between any man-made improvements and adjacent property, and then ten feet (10') of evergreen shrubs and trees shall be planted along the open boundary.

155.506.9 Accessory Apartments and Single Family Dwellings with Multiple Kitchens.

A. An accessory apartment is a second and subordinate dwelling on the same parcel of land as a single family dwelling. It may be located within the same building as the principal dwelling or may be in a separate building. A single family dwelling generally has one (1) full appliance kitchen. Accessory apartments and homes with multiple kitchens may be allowed in the R-20, R-15, R-12, R-9, R-VS, and CrC districts.

B. STANDARDS.

1. The maximum floor area of an accessory apartment shall not exceed fifty percent (50%) of the gross floor area of the principal dwelling unit on the lot. Under no circumstances may the accessory apartment be greater than seven hundred fifty (750) square feet.

2. A single-family dwelling may have more than one (1) full kitchen within the principal residential structure and/or an accessory building when full interior access exists between all living areas, such that no division of space would create a physically separate dwelling unit (duplex or accessory apartment), and the building(s) is/are clearly designed for use by a single household. **[formerly 153.054(C)(20 and 21)]**

155.506.10 Live Work Units.

A. Live work units are intended to be located within a transitioning neighborhood where a mix of residential and light nonresidential uses are desired, and in areas where mixed use is proposed. These uses when located within the O, R-VS, or SRN districts shall meet the following provisions.

B. STANDARDS.

1. The work area use shall be located on the first (ground) floor only and shall occupy less than fifty percent (50%) of the total area of the live work unit.

2. Up to two (2) nonresident employees may be allowed in the work portion of the live/work unit when additional parking spaces are provided as required at § 155.607.

3. Live work units shall not exceed three thousand (3,000) square feet in gross floor area. The residential and nonresidential portions may be side-by-side or stacked, and are not required to have a solid wall separation between them. Live work units shall be designed and constructed to meet all applicable building codes. **[formerly known as § 153.194]**

155.506.11 Electric and Gas Substations, Sewer treatment Plants, Water Storage Tanks, Well Lots, and other similar Utility Structures.

A. Electric and gas substations, sewer treatment plants and similar utility structures other than wireless or digital communications equipment may be required to be located within and near neighborhoods. The design of buildings, structures, and facilities on the site shall conform as closely as possible to the character of the area or neighborhood, so these facilities or structures will not adversely affect the safe and comfortable enjoyment or value of nearby properties. To limit potential negative impacts, the standards

listed here shall be applied to these uses within any zoning district.

B. STANDARDS.

1. Lots which will be used for utility structures or improvements but which have the potential in the future to be converted to another use shall conform to the minimum area for the district in which they are located. Any parcel created for a utility use and later has that use abandoned and removed shall not be eligible as a buildable lot unless it can meet dimensional standards of the zoning district in which it is located.

2. Unclimbable fences or comparable safety devices shall be installed and maintained in order to make the facility inaccessible to the public. Any fence or enclosure of equipment, facilities, stockpile, parking or other improvement, other than a building, shall be screened with landscape plant material on the side facing exterior property boundaries according to the provisions of § 155.606.

3. Sewage treatment plants, control houses, pump and lift stations, water storage tanks, well lots with community wells, and similar uses must be designed, constructed, and operated to have the least negative impacts on the health, safety, and general welfare of the surrounding community. **[formerly known as § 153.183]**

155.506.12 Private Stables.

A. Structures, pasture areas, corrals, and other enclosed areas for the keeping of horses on single family sites may be permitted in and near residential areas when provisions are followed to limit any inappropriate health or safety impacts to surrounding properties. Private stables may be allowed in the R-20, R-15, R-12, and R-9 districts as an accessory use to a residence when the following standards are in place. Separate provisions for Equestrian-Oriented Subdivisions control stables within them, and are at § 155.506.2.

B. STANDARDS.

1. Minimum lot size shall be one (1) acre.
2. Maximum number of horses is one (1) horse per acre.
3. All buildings and structures for the keeping and maintenance of animals, equipment, or manure, and all manure piles, pits, or bins shall be located at least one hundred feet (100') from any lot line.
4. There shall be no outdoor storage of equipment related to training or maintenance of horses.
5. No such use shall be operated for commercial purposes.
6. All stables and riding areas must be maintained according to the requirements and standards of the County Health Department. (Am. Ord. 2059, passed 12-8-14) **[formerly known as § 153.187]**

155.506.13 Cemeteries, Mausoleums, and Columbarium.

A. Private or public cemeteries, as a stand-alone use or in association with a place of worship, may be permitted in or near residential neighborhoods, in the R-20, R-15, R-12, R-9, R/I, CrC, O, R-VS, SRN, and C-MF districts, when meeting the following criteria.

B. STANDARDS.

1. Tombstones, monuments, and open wall columbarium must be located at least twenty five feet (25') from any side or rear lot line which adjoins lots in a residential area and at least ten feet (10') from any side or rear lot line which adjoins all other properties. In any case, they must be at least forty feet (40') from any street right-of-way.

2. Buildings for the maintenance, management, rent, or sale of cemetery lots, burial or remembrance sites, mausoleums, crypts, and columbarium within enclosed structures must be located at least one hundred feet (100') from any lot lines which adjoin lots in a residential area. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located. **[formerly known as § 153.189]**

C. CREMATORIUM.

1. Crematorium are allowed per NCGS 90-210.123 (a) and (b) on the same lot as a funeral home or cemetery, or on a parcel adjacent to a cemetery or funeral home use.

2. When on the same lot as a cemetery in any of the districts listed above at 155.506.13.A.., the crematorium shall be a minimum of four hundred feet (400') from any adjacent residential

dwelling unit.

3. When a cemetery is on property zoned one of the districts listed in 155.402.13.A. above, a crematorium may be located on an adjacent parcel zoned as a commercial or industrial district of B-1, B-3, B-D, B-H, I-1, I-2, or B-1SCD.

4. Crematorium may be allowed in association with a cemetery or funeral home or as a stand-alone use in other districts as listed in the Tables of Allowed Uses at 155.505.

155.506.14 Limited Food and Beverage Sales in Neighborhood Common Facilities.

A. Recreational and similar club facilities for enjoyment and use by residents and their guests may be allowed as accessory uses within single family subdivisions, multi-family developments, mixed style residential developments, and the residential portions of mixed use projects. These facilities may include assembly and social areas, fitness facilities, and a minimal kitchen preparation area. In addition, these facilities may include the retail sale of food and beverages as allowed here in any zoning district where such residential uses are permitted.

B. STANDARDS.

1. The sale of food and beverages may be only to residents and registered guests and may not be open to the general public.

2. An up-to-date register of all resident members must be maintained on the premises and must include the name of the guest, the name and address of the sponsoring member, and the date of entry.

3. Each individual member may sponsor no more than four (4) guests at any one time and must accompany guests to the club facility.

4. The sale of any food or beverage within the club facility must conform to all applicable laws of the state pertaining to the licensing and dispensing of food and beverages. **[formerly known as § 153.176]**

155.506.15 Commercial Indoor and /or Outdoor Tennis and Racket Clubs and Associated Swimming Pools.

A. Indoor and/or outdoor tennis and racket clubs and associated swimming clubs and swimming facilities, operated on a commercial basis may be allowed in the R/I district.

B. STANDARDS.

1. These facilities shall not have permanent spectator viewing facilities.

2. They shall have no more than ten (10) courts total.

3. The pool(s) shall not exceed three thousand nine hundred thirty six (3,936) square feet in water surface.

4. Membership is restricted to no more than three hundred (300) for tennis and no more than three hundred (300) for swimming.

5. Pool operation shall be limited to the hours of 10:00 AM to 8:00 PM.

6. No pool shall be within one hundred feet (100’) of any adjoining property line, measured from the pool edge or decking exterior adjacent to the pool, whichever would produce the greater distance.

7. No pool shall be within one hundred fifty feet (150’) of any residentially zoned or used property line, measured from the pool edge or decking exterior adjacent to the pool, whichever would produce the greater distance.

8. A landscaped or constructed border that is one hundred percent (100%) opaque to a height of six feet (6’) shall be installed between the pool and adjacent residential property.

C. STANDARDS FOR ALLOWED ACCESSORY USES.

1. A tennis pro shop may be an accessory use when:

a. It does not exceed in size a total of five hundred (500) square feet in heated space.

b. It is a part of a single structure, and up to one thousand five hundred (1,500) heated square feet is available for use by club members for recreational and social purposes, and not for the general public.

c. Within this maximum of one thousand five hundred (1,500) square feet all locker and shower rooms, exercise rooms, social areas and rest rooms shall be the only permitted uses.

d. The maximum total heated area of the accessory structure shall not exceed two thousand (2,000) square feet.

2. Golf practice facilities, including driving ranges, practice greens and sand traps may be accessory uses. The golf practice area may have its own enclosed building with commercial uses, such as cafeteria, snack bar, and sundries shop, when such uses do not exceed ten percent (10%) of the building's gross floor area. **[formerly § 153.056(B)(15, 19) and (C)(5,7)]**

155.506.16 Continuing Care Retirement Communities (CCRC).

A. A Continuing Care Retirement Community is a planned residential development for senior citizens seeking a secure living environment among their peers, where they are not dependent on themselves for daily necessities. These developments may be located within the R/I district subject to the criteria listed here.

B. STANDARDS

1. A continuing care retirement community may include up to twenty (20) independent living units per gross acre and up to five (5) assisted living units per gross acre along with skilled nursing facilities, community buildings and ancillary services.

2. The lot upon which a CCRC is located must have frontage upon a Class IV or higher street and the main entrance must be from this thoroughfare.

3. All building forming a part of a CCRC site shall be compatible in appearance and quality through the use of similar building materials, colors, architectural features and styles.

4. Signage shall comply with the provisions of § 155.608 and landscaping shall comply with the requirements of § 155.606.

5. The total floor area devoted to accessory uses shall not exceed twenty percent (20%) of the total floor area on the site. The following uses shall be permitted as accessory uses in any structure so long as such uses are ancillary to the CCRC's use (i.e. meaning they may be used by the residents, employees, business invitees, and guests of the facility but shall not be open to or marketed for use by those outside the community):

a. Medical and dental offices and medical and dental laboratories.

b. Health and allied services.

c. Healthcare facilities, medical offices and ancillary services.

d. Photographic studios, including commercial photography.

e. Health club, fitness center, physical therapy and spas.

f. Banks.

g. Retirement community management and maintenance facilities and marketing centers.

h. Eating and drinking places, pubs and taverns, retail bakeries, cafeteria services, candy, nut and confectionary stores and miscellaneous food stores.

i. Educational services, libraries, book and stationary stores, news dealers and newsstands.

j. Men's and women's clothing and/or accessory stores, shoe stores, miscellaneous apparel and accessory stores.

k. Miscellaneous general merchandise stores, pharmacies, florists, gift, novelty, and souvenir shops, and camera and photographic supply stores.

l. Pressing, alterations, garment repair and custom tailors.

m. Barbershops and beauty shops.

n. Indoor and outdoor swimming pools, putting greens, parks and open space, bowling, billiards and pool.

o. Places of worship.

p. Motion picture theaters, dance halls and studios, dance schools, theaters and auditoriums.

q. Radio and television production and broadcasting facilities.

r. Woodshops and arts and crafts studios.

6. Streets located within the interior of a CCRC may be either public or private. In the event the community is accessed by private streets, such access may be limited by means of a gate or other device subject to the Town ordinance on gated accessways. In addition, all private streets shall be designed and constructed in accordance with the standards for private streets adopted by the Town of Matthews.

7. The minimum lot area for a CCRC shall be five (5) acres. The minimum front setback, side yard and rear yard shall be fifty feet (50'). The maximum building height within a CCRC shall be sixty feet (60').

8. A temporary marketing/sales center may be located in a modular or manufactured structure, or site built, so long as all applicable building codes are followed, and the structure is removed from the site no later than one (1) month after the date on which the first Certificate of Occupancy for any building constructed on the site is issued. Alternately, permanent marketing/sales centers may be allowed as long as they meet the parking requirements of the UDO and are architecturally consistent with other components of the CCRC. **[formerly 153.195; 153.056(B)(23)]** (Ord. 2038, passed 9-8-14)

155.506.17 Skilled Care (Nursing Home) Facility.

A. A skilled care facility may range in size from a single household in a detached house to a large congregate care facility with multiple wings or floors devoted to different patient needs, and may be conducted in association with assisted living or independent senior living housing. When provided as an individual use or with assisted living beds, a skilled care facility may be located within the R/I, O, B-1, B-3, B-H, CrC, SRN, C-MF, MUD, and TS districts and shall adhere to the qualifications listed below.

B. STANDARDS.

1. The minimum lot size for a skilled care facility in the R/I district is two (2) acres, unless the facility has one (1) or more assembly rooms which can accommodate more than one thousand (1,000) persons, which would require a minimum land area of ten (10) acres..

2. The minimum lot area for a skilled care facility in the O, B-1, B-3, or B-H districts is nine thousand (9,000) square feet for the first five (5) residents plus two thousand five hundred (2,500) square feet for each additional five (5) residents or fraction of five (5).

3. Specific standards are given for skilled care facilities in the CrC district at § 155.503.2.C.8.c.

4. Skilled care facilities in the SRN, C-MF, MUD, and TS districts serving up to thirty (30) individuals shall have a minimum of one hundred fifty (150) square feet of secured outdoor recreation space for each resident. Facilities within these districts with a capacity of over thirty (30) residents shall have a minimum of one hundred (100) square feet of secured outdoor recreation space for each resident. **[formerly known as § 153.182]**

155.506.18 Motorcycle Safety Training Course.

A. A Motorcycle safety training course may be allowed in the R/I district under these criteria.

B. STANDARDS.

1. The motorcycle safety training course shall be operated under the supervision of the North Carolina Motorcycle Safety Education Program in conjunction with a Post Secondary Educational Facility.

2. The overall dimensions shall be no greater than three hundred feet (300') by two hundred feet (200') for the purposes of motorcycle safety awareness and certification. **[formerly 153.056(B)(20)]**

155.506.19 Urban Farms.

A. An urban farm providing space for the growing and harvesting of consumable food products by an individual or other community members, and may be allowed in any zoning district except I-2 and AU when meeting the qualifications listed below.

B. STANDARDS.

1. Accessory uses and structures may include, but are not limited to storage sheds for equipment, workspace for preparing starts to be planted or sorting harvested items, greenhouse or hoop house structures, enclosures for hydroponics or aquaponics and similar alternative forms of farming, gazebos or picnic shelters, benches, and solar or wind power generation equipment for farm use only that do not exceed thirty five feet (35') in height.
2. In addition to cultivation of products in the ground or a soilless medium, the keeping of bees or fowl may be an accessory use. Any animals on-site, whether temporary or permanent, shall be subject to the Matthews Animal Control Ordinance.
3. Manure, fertilizer, or composting bins and piles shall be placed a minimum of thirty feet (30') from any exterior property line, and maintained to prevent excessive smells, and to not attract insects or animals.
4. Fencing around the perimeter of growing areas is exempt from the fence height limits for the underlying district, when the additional height is to deter deer or other wildlife.
5. No cultivation or disturbance of ground cover shall take place within any FEMA floodplain.
6. When off-street parking is provided, it shall not be within ten feet (10') of any exterior property line.
7. When an urban farm is operated as a communal project, such as a community garden or neighborhood effort, some community benefit shall be identified as being met, such as a sensory garden for children, or a portion of harvested products will go to a local food distribution provider or food bank, or classes will be offered to the public on elements of organic farming. Anticipated dates and times of public access/public programs shall be provided to adjacent property owners each year.
8. An urban farm may be an accessory use on a parcel of land containing a separate principal use, or may be the principal use on a property. (Am. Ord. 2059, passed 12-8-14)

155.506.20 Temporary Portable Storage Containers.

A. A portable storage container is a temporary, self-contained storage structure, not including trailers for office or business use, which is designed and intended to be picked up and moved to various locations on demand. This unit maybe allowed in any zoning district, except the B-D and AU districts, under the conditions outlined here.

B. STANDARDS.

1. Prior to placement, the property and/or business owners providing the storage unit at a specific site are required to register it with the Town Planning office, showing a scale drawing of its placement in relation to driveways, any existing buildings, fences, or landscaping, street rights-of-way, and any neighboring drives or street intersections within one hundred fifty feet (150') of the proposed placement location.
2. When used in conjunction with a single family dwelling, a portable storage unit shall not be placed within the required front setback for more than thirty (30) days.
3. When used in conjunction with any other use, a portable storage unit shall not be placed within the required front setback.
4. Maximum time a temporary storage unit shall be placed on a parcel with any other use is ninety (90) days.
5. The temporary registration shall indicate drop-off and removal dates. **[formerly § 153.054.D.6]**

155.506.21 Subdivision or Residential Development Sales Office

A. New housing developments may have a temporary sales office from which to meet with prospective occupants in the R-20, R-15, R-12, R-9, R-MH, R15MF, R-12MF, R-VS, CrC, SRN, C-MF, MUD, TS, and ENT districts.

B. STANDARDS.

1. The sales office may be located within a subdivision being offered for sale by the same developer/builder as is responsible for the new housing. When located on a lot within a subdivision, the sales office shall conform to the front setback, side and rear yard requirements of

the underlying district.

2. The sales office may be located on the sale parcel as, or on a parcel immediately adjacent to, a new housing development site in housing development sites other than new subdivisions. A sales office may be located within a freestanding building which is intended to be temporary, a unit within a multi-family building, a community building within the development, or a model home.

3. A sales office other than a model home shall be terminated at the completion of the sale of seventy five percent (75%) of the total number of homes and/or lots within the development, and any improvements related solely for the sale office shall be removed from the site.

4. When a model home is used as a sales office, it may continue to be used as a sales facility until the last home is sold. **[formerly 153.054(B)(6)]**

155.506.22 Cottage Cluster Housing Development.

A. A Cottage Cluster Housing Development may be developed within the R-20, R-15, R-12, R-9, R-15MF, R-12MF, R-VS, CrC, and SRN districts when meeting the following prescribed conditions and when the property owner voluntarily seeks Parallel Traditional or Conditional-Only zoning with site plan approval by the Board of Commissioners. The cottage cluster housing development concept is intended to fill a niche in the Matthews residential market and for that reason this style is intended to fit within established single-family zoning district classifications as an alternative use of land through infill or redevelopment. It is also intended to allow flexible new design of neighborhoods in other residential districts. As small dwelling units, the cottages are anticipated to appeal to one (1) and two (2) person adult households which reduce the potential intensity of use within the general surrounding residential area. These developments are designed to provide residents with privacy and personal space of a detached house, significantly reduced outdoor maintenance responsibilities, and the opportunity for community interaction within a contained set of closely spaced dwelling units. Each cottage cluster housing development must have its own architectural theme or set of unifying design elements which shall govern individual house units and common buildings, accessory structures and common spaces. Individual cottages may be located on separate platted lots, or on undivided, commonly-owned land. Common land may be designed in one (1) or more parcels per overall development site, and different locations may have different amenities. Owners and residents within the development share the use and maintenance responsibilities of common land, including parking, driveways, storage areas, mail and utility installations, and other improvements. Generally a minimum and maximum number of houses per cluster will be assigned to each single-family zoning district, and a maximum total land area and minimum spacing between development sites shall be designated so a cottage cluster housing development complements but does not dominate the surrounding single family neighborhoods.

B. STANDARDS.

1. DIMENSIONAL REQUIREMENTS:

a. Minimum/Maximum land area for a cottage cluster housing development:

R-20, R-15	1 acre/4 acres
R-12, R-9, R-VS, CrC, SRN	½ acre/6 acres

b. Minimum exterior boundary front setbacks, side and rear yards (for the overall cottage cluster housing development)

District	Front setback [(1)]	Corner side yard [(2)]	Interior side yard	Rear yard
R-20	50	20	12	20
R-15	45	20	10	20
R-12	40	15	10	15
R-9	35	15	10	15
CrC	30	15	10	15
R-VS, SRN	25	15	10	15

[(1)] Front setback may be reduced up to ½ the distance given in the table for the district, to allow for the preservation of an existing tree, when the site plan shows the tree canopy and tree root protection zone will not be disturbed during or following development.

[(2)] Corner side yard on a public street.

c. Minimum/Maximum number of dwelling units:

	Per individual cluster	Overall development		
		½ to 1 Ac	1 to 2 Ac	Over 2 Ac
R-20	4 to 8	NA	4 to 10	5 per acre
R-15	6 to 12	NA	10 to 12	6 per acre
R-12	6 to 14	6	10 to 12	7 per acre
R-9	6 to 14	6	10 to 16	7 per acre
CrC	6 to 14	6	10 to 16	7 per acre
R-VS, SRN	6 to 14	6	12 to 18	7 per acre

d. Maximum gross floor area, heated and enclosed, per dwelling unit:

R-20, R-15	1400 sq ft
R-12, R-9, R-VS, CrC, SRN	1200 sq ft

e. Maximum land coverage (footprint) per dwelling unit with more than one (1) habitable level of heated enclosed space only:

R-20, R-15	900 sq ft
R-12, R-9, R-VS, CrC, SRN	750 sq ft

f. Minimum distance between separate cottage cluster housing developments:

R-20, R-15	1000’
R-12, R-9, R-VS, CrC, SRN	600’

Cottage cluster housing developments shall be separated from each other by the given minimum distance to promote housing-type diversity, to reduce potential cumulative impacts, and to help protect the existing neighborhood character. Where the intervening land between two (2) sites for cottage cluster developments is a combination of R-20 or R-15 and another eligible district, then the minimum spacing requirement shall be eight hundred feet (800’).

g. Maximum height of dwelling units, common buildings, and accessory structures: twenty eight feet (28’)

h. LOT SIZE FOR INDIVIDUAL COTTAGES. Because this community design concept focuses intently on shared space, individual platted lots are generally not anticipated, and therefore no minimum lot sizes are established. If individual lots are included in a proposal, they should, at a minimum, include the footprint of the dwelling and the private use space for front porch/patio and landscape area explained in § 155.506.22.B.2 below.

2. CRITERIA FOR EACH SEPARATE GROUP OR CLUSTER OF DWELLING UNITS:

a. Minimum separation between dwelling units ten feet (10’)

b. Private use space is required adjacent to each dwelling, which must include a covered front porch/patio and may include a landscape area, low fencing or hedge, and similar features which may be visible from other dwelling units in the cluster but clearly designed to be for the use of the residents of that particular dwelling only. A covered porch shall be raised at least 18 inches from the average finished grade at the front of the house. When a covered at-grade patio is designed in place of a raised porch, then the patio shall be surrounded by a decorative fence and gate accessed from the adjacent common space, or the patio and any contiguous landscaped area shall be raised above the finished grade level of the adjacent common space, Minimum and maximum areas shall be:

i. A covered porch or patio shall extend at least six feet (6’) from the front wall (heated area) of the house, and shall include at least forty eight (48) sq ft.

ii. The minimum combined private use space, including a porch or patio, landscaped ground, and walkway access from the adjacent common space shall be one hundred forty (140) sq ft.

3. CRITERIA FOR COMMON SPACE WITHIN OR ADJACENT TO EACH GROUP OF DWELLING UNITS:

a. A minimum of four hundred (400) sq ft of land area shall be designed as common space per dwelling unit within each separate cluster of houses. This common space shall be intended as a semi-private "yard" for the adjacent or surrounding houses, and will generally include a walkway from the exterior of the overall site or from parking areas to front entrances of the dwelling units.

b. Each common space may have amenities and improvements in keeping with any set of design details for the overall development, such as but not limited to fencing, entrance features to the common area, trees and decorative plants, benches, lighting fixtures, and patterned pavements.

c. Each group of dwellings shall have at least one-half (½) of the units directly adjacent to their associated common space, and all dwellings shall be visible directly from the common space.

4. PARKING WITHIN A COTTAGE CLUSTER HOUSING DEVELOPMENT:

a. Parking spaces for this style of housing development shall include resident and guest spaces, and may be provided in garage or carport structures, as part of other common buildings, or uncovered. The amount of required parking shall be based on gross floor area of dwellings. Often the design of the overall development will provide parking spaces separated from individual dwellings, which will be accessed by walkways through the common space to front entrances of the individual dwellings.

b. Minimum/Maximum parking for dwelling units:

GFA less than 750 sq ft 1 min/1.5 max plus 1 min/2 max visitor space(s) per ea 2 du's

GFA between 750 and 900 sq ft 1.5 min/2 max plus 1.5 min/2.5 max visitor space(s) per ea 2 du's

GFA greater than 900 sq ft 2 min/3 max plus 1.75 min/3 max visitor space(s) per ea 2 du's

c. Designated parking spaces shall be in close proximity to individual dwellings, and may be placed at the rear of individual units, or may be located elsewhere on the overall site. Parking shall not be located within the required front setback of the overall site. Unenclosed parking for more than 3 vehicles shall not be visible from any off-site public street, and shall be screened from view by landscaping, structures, or similar methods.

d. At least two (2) bicycle parking spaces shall be provided within a cottage cluster housing development.

5. DESIGN STANDARDS. The following design standards are intended to ensure that cottage cluster housing developments create a clear and distinct identity for their immediate development while fitting into an established residential neighborhood. Smaller footprints and proportions typical of cottages ensure the houses do not overwhelm the site. They include pedestrian amenities and take advantage of existing natural features on the site including topography and vegetation.

a. PUBLIC UTILITIES. All cottage cluster housing units shall be connected to public water and sanitary sewer services, and shall incorporate storm water detention and water quality techniques as required elsewhere in this code. Each development site may utilize master or individual meters for water.

b. EXISTING STRUCTURES ON SITE. When a parcel of land to be developed as a cottage cluster housing development includes an existing structure, it may remain and be incorporated into the overall layout, when the extent of any nonconformity is not increased. Any existing dwelling unit intended to remain as a single family dwelling shall be included in the maximum permitted density and shall be located within a group of dwellings. An existing dwelling may be converted to a common building and be located adjacent to a cluster of dwellings or separate from other structures. Any existing

accessory building or structure, such as a garage, storage shed, or swimming pool, may remain when located outside of any required setbacks and yards and meets the overall development's design theme.

c. ROOF LINES AND BUILDING HEIGHT. Because building separation is less than in a typical single family subdivision configuration, the design of the overall development must create an adequate opportunity for each unit to receive sunlight and have a sense of privacy. The pitch of roof lines, skylights, roof decks, and a variety of one (1), one and one-half (1 ½), and two (2) story house plans within each group of dwellings are methods that may be used to accomplish this. No more than three (3) houses may be located immediately adjacent to each other with the same building height. Minimum roof pitch shall generally be no less than 4:1, and flat or shed roofs shall generally be used only over covered porches or patios or outside access storage closets.

d. EXTERIOR BUILDING MATERIALS. Exterior walls of dwelling units and common buildings shall utilize complementary materials. No more than three (3) materials (excluding windows, doors, and trim) shall be used per individual building and they shall generally be carried around all sides of the structure. Preferred materials include masonry, horizontal wood siding, cementicious siding, blocks or panels, and stucco/simulated stucco. Roof eaves are encouraged to create a sense of dimension and to provide shade from summer sun. Gutters or other methods of diverting rain water to the ground away from door entranceways shall be incorporated into the dwelling architectural elements.

e. FACADES FACING INTERIOR COMMON SPACE. Each dwelling unit shall have a covered raised porch or at-grade patio, generally oriented toward the common space for the separate cluster of homes. Where a door entry to a dwelling faces a common space and is not accessed via the porch or patio, then that doorway shall have its own overhang or weather protection a minimum of five feet (5') wide in length and width. An open air deck or patio may also be included adjacent to a dwelling facing any common land area, whether in the private use portion of the fenced area between house and common space, or at a side or rear door access to a dwelling adjacent to common area used for parking, public services and utilities, or other community purposes. Bay or bow windows and building modulation with a depth measuring at least four feet (4'), when appropriate to the overall design concept for the housing cluster, are acceptable architectural elements facing a common space.

f. FACADES FACING ADJACENT DWELLINGS. In order to provide a sense of separation between closely spaced dwelling units, window and door placement should be designed so that openings in one house are not directly opposite any from the adjacent dwelling. Clerestory windows, translucent materials, stained glass, glass blocks, and skylights are examples of architectural elements that may be used to accomplish a sense of privacy for each dwelling unit.

g. FACADES FACING EXTERIOR PUBLIC STREETS. Where dwelling units or common buildings will face or be close enough to an exterior public street such that at least one half of the building will be visible from off-site, then that or those building facades shall include elevation elements such as windows, doors, porches, and changes in exterior materials. The intent is to avoid blank walls or facades that appear to "turn their backs" to the street, and instead have facades that give a welcoming appearance to off-site observers. Bay or bow windows and building modulation with a depth measuring at least four feet (4') , when appropriate to the overall design concept for the housing cluster, are acceptable architectural elements facing an exterior public street. No garage doors or exterior storage closets shall be visible from a public street.

h. GROUND SPACES AND PEDESTRIAN PATHWAYS BETWEEN DWELLING UNITS. The open land between dwellings in a group used as pedestrian access to one or more dwellings shall remain generally clear of obstructions for passage of people and delivery of goods. These spaces shall be designed and maintained to provide a clearly delineated pedestrian passageway at least in width. The use of sturdy, flat materials for safe pedestrian movement may include paver stones, pervious pavement, compacted gravel, or similar types of ground surfaces that minimize standing storm water. This walkway area shall be

free from any pools of standing water, shall not contain any fences or landscaping materials greater than three feet (3') in height, and shall not incorporate other potential obstructions to pedestrians. Outside of the pedestrian pathway area other plant species, garden arbors, benches, low lighting, fountains, window planter boxes, and similar structures are allowed.

i. COMMON BUILDINGS, SHARED ACCESSORY STRUCTURES AND USES. Common buildings may be included in a cottage cluster housing development and available for the shared use of all residents, and shall be consistent with the overall development's architectural design details. Common buildings may include shared kitchen, recreation and meeting facilities, and may include one dwelling unit, up to seven hundred fifty (750) gross square feet, available for use by residents' occasional guests. Common buildings may also include storage space for individual resident use or for shared community use. Separate structures may be erected on the overall site for storage or utilities, not to exceed five percent (5%) in gross floor area of the combined gross floor area of all dwellings. Where the community focus of a cottage cluster housing development involves a specific hobby or activity to be shared by all residents, such as farming or making pottery, then any accessory structures necessary to accommodate those activities (such as a tool shed or craft building with kiln) shall be consistent with the overall development's architectural design details, and shall not exceed ten percent (10%) in gross floor area of the combined gross floor area of all dwellings. Open air parking for more than three (3) vehicles shall not be visible from an exterior public street. Carports and enclosed garage structures for one or more vehicles shall include design elements consistent with the overall architectural theme of the cottage cluster housing development. Any structure sheltering vehicles shall not have open ends or garage doors visible from an exterior public street. All common and accessory structures shall comply with building code separation requirements.

j. ENERGY EFFICIENT DESIGN ELEMENTS. The overall development is encouraged to include elements such as solar orientation of buildings, protection and preservation of existing tree canopy, use of pervious pavement materials and rain gardens. Homes within each cottage cluster housing development are encouraged to incorporate energy efficient design elements, such as provision of shade structural elements for south- or west-facing windows, natural lighting options, light colored or reflective roofing materials, low-E glazing and high-performing wall/ceiling insulation, operable windows aligned to create air flow through the interior of buildings, use of energy conserving plumbing and HVAC equipment.

k. INTERNAL CIRCULATION. Clear hard surface passageways shall be provided for vehicular and non-vehicular movement throughout the cottage cluster housing development site. Generally, vehicular access to the overall site shall be limited to no more than one (1) entrance and one (1) exit (one-way pairing), or two (2) two-way access points onto adjacent public streets. Vehicular passageways may be in the form of public streets or alleys, private streets, or private driveways. All connections to exterior public streets and all internal public or private streets or alleys shall be constructed to the standards given in the Mecklenburg County Land Development Standards Manual. Parking and service use areas shall be accessed from the primary internal vehicular passageway. Provisions for service areas such as mail receptacles, and trash and recycling pick-up, shall be designed so they do not impede free traffic flow or obstruct visibility on exterior public streets or at curb cuts onto public streets. Pedestrian access connecting to exterior public streets/sidewalks, internal parking areas, common spaces, and all buildings within the overall site shall be provided for use by residents, guests, and service/delivery providers. Pedestrian use pathways shall be at least five feet (5') in width, and free from any potential obstructions. The use of sturdy, flat materials for safe pedestrian movement may include paver stones, pervious pavement, compacted gravel, or similar types of ground surfaces that minimize standing storm water. Bicycle use facilities may be separate or incorporated into the vehicular or pedestrian passageways.

l. LANDSCAPING. Preservation or existing trees is encouraged during the design of a cottage cluster housing development. Placement of circulation passageways and

buildings should take advantage of the environmental and aesthetic benefits of existing trees. New trees and other landscaping can be added to assist in separating different use areas from each other, such as parking from pedestrian-use common areas, and common areas from individual dwellings. Where a common area is dedicated to cultivation of crops, no trees are required.

6. SUBMISSION AND APPROVAL OF COTTAGE CLUSTER HOUSING DEVELOPMENTS. The property owner(s) shall sign an application for a Parallel Traditional or Conditional-Only zoning designation for a cottage cluster housing development, and may assign in writing any of the design, presentation, and construction responsibilities to an agent. During the zoning action process, the applicant shall hold a community meeting for property owners and residents within two hundred feet (200') of the site to inform them of the proposed development and to receive feedback from them. A copy of the letter announcing date, time, location, and purpose of the community meeting, the mailing list (names, mailing addresses, and property tax ID number), a list of attendees, minutes of the meeting, and a summary of changes considered or made as a result of the meeting shall be provided as established for zoning applications. The submission documents should, at a minimum, include: a statement explaining the overall architectural theme or set of design criteria being utilized to create a coordinated community within the site, which will complement the immediate surrounding neighborhood; an explanation of any topographical or environmental features distinctive to the site; a vegetation survey; a site plan, drawn to scale, showing the overall site, with proposed improvements and building locations; a statement of the number of dwelling units, each dwelling's maximum gross floor area, number of provided parking spaces, and identification of any service areas, special use common areas or common buildings, and whether any guest quarters are included within any common building; building elevations, renderings, or schematics to show overall architectural character; a landscape plan and exterior illumination plan; and any other details that will explain the proposed development.

7. As part of the zoning approval process, the site plan and elevation plans shall go through the staff review and recommendation process as any other conditional zoning action that is not an early designation. Staff reports and recommendations shall be provided to the Board of Commissioners and the site plans/elevation plans shall be approved as part of the conditional zoning action.

155.506.23 Medium Density Ecological Developments.

A. A medium density ecological development is a planned residential community that intentionally includes opportunities for wildlife to intermingle with built structures. This type of development is specifically designed for the CrC district, and may also be allowed in the R-VS, SRN, C-MF, MUD, and ENT districts. The requirements here are to promote innovative solutions to increasing wildlife habitat and improving the natural environment by designating areas of a development for that purpose. To compensate for the loss of land to development this measure increases housing density while requiring a greater amount of natural open space. That open space shall be rehabilitated to support wildlife habitats through using native plants and restoring natural features. Various techniques are required and others are allowed to create significant environmental improvements.

B. STANDARDS.

1. Allowable density is a maximum of ten (10) units per acre.
2. Minimum site area for development is one and one-half (1/2) acres.
3. Maximum site area for development is twenty (20) acres.
4. Development shall be attached townhomes, attached single family homes in a duplex, triplex or quadplex format or condominiums in a clustered format and shall exclude single family detached homes.
5. Dwelling units may be individually owned with no conveyance of property with ownership, therefore individual units shall be exempt from all lot size requirements.
6. Structures shall be limited to two (2) stories.
7. The combined footprint of all structures on the site shall equal no more than thirty five percent (35%) of the total site area.

8. Maximum roof height shall not exceed twenty eight feet (28').

9. Units shall present a consistent style or appearance while allowing for individual features so that one unit can be distinguished from another as seen from the adjoining street.

10. Any combination of innovative, durable, and sustainable, materials may be used. They shall have a life span under normal use of greater than twenty (20) years, and shall resist burning, deformation due to heat and deterioration due to UV exposure.

C. ADDITIONAL STANDARDS.

1. WILDLIFE HABITAT REQUIREMENTS.

a. Provide, restore or preserve wildlife habitat on at least twenty three percent (23%) of the site with a contiguous area no less than thirty feet (30') in any direction. Includes wildlife food sources including fruit bearing trees, shrubs, tall grasses and ground covers in the habitat area.

b. Provide a transitional natural area of shrubs, grasses and fruit bearing plants between ground cover areas and natural habitat areas on at least seven percent (7%) of the site area.

c. Provide ground covers, excluding grass on the remainder of the unbuilt and unpaved portions of the site that is not in the public right-of-way.

d. These areas for wildlife habitat shall have a permanent easement, recorded at the Mecklenburg County Register of Deeds granting the public perpetual use of the area as a wildlife habitat.

e. Exclude grass based lawns from the development except in enclosed courtyards or the public right-of-way.

f. Protection of existing vegetation is encouraged.

g. Compliance with current tree preservation and restoration ordinances is required.

h. Predominant use of native plant species is required.

i. Use of invasive non-native plant species is prohibited.

j. Use naturally based storm water management systems including rain gardens, constructed wetlands, drainage swales and retention ponds with marsh like edge conditions of at least eighteen feet (18') in continuous width for fifty percent (50%) of the pond perimeter.

2. PARKING AND PAVING REQUIREMENTS.

a. Provide paved walks to access dwellings at private or public rights-of-way.

b. Paving within the wildlife habitat area must be porous.

c. Each unit shall have at least one (1) enclosed parking space.

d. Garage frontage per dwelling unit may be no more than fourteen feet (14') of continuous frontage. Two-car garages may have side entries. Frontage breaks, which may be porches, entries, the main structure or other structures, must be no less than the width of the garage. The front of the garage may not extend beyond the face of the main dwelling and should be further from the street than porches and courtyards.

e. Each unit may have no more than one (1) open parking space in drives or other areas adjacent to or in front of the dwelling unit.

f. Total parking for the development must equal at least two (2) units per dwelling from all sources including enclosed, adjacent open, street parking and open shared parking.

3. ACCESSORY BUILDINGS & USES.

a. Dwelling units may not have accessory structures, other than detached courtyard walls, at the front or street side of the unit.

b. The development may have an accessory structure(s) for offices, maintenance, equipment, pump houses, pool houses and one assembly or meeting space of sufficient size to accommodate no less than fifty percent (50%)of the residents, which meeting space may be open or enclosed. The combination of all accessory structures may not

total more than fifteen percent (15%) of the built footprint of the total built structures on the site.

c. Accessory uses common to residential developments including pools, tennis courts, ball fields, recreational spaces and similar uses are allowed. Paved area in this section may be no more than four percent (4%) of the site.

4. ADDITIONAL COMPLIANCE ITEMS.

a. Submit documentation identifying selected additional compliance items and demonstrating compliance with the selected items.

b. At least ten (10) of the following nineteen (19) items are required for compliance.

c. Compliance with sixteen (16) of the nineteen (19) additional compliance items in this section shall allow an additional two (2) units per acre of unit density for a total of twelve (12) units per acre.

i. WILDLIFE HABITAT AREAS.

- Provide public access for wildlife observation of the wildlife habitat area
- Provide porously paved walking paths or porously paved sitting areas with sitting walls or similar structures for wildlife observation.
- Provide access from dwelling units to wildlife habitat area.
- Preserve existing trees in wildlife habitat or transitional areas.
- Provide water sources for wildlife use. May be periodically available depending on rainfall.
- Provide open area links no less than thirty feet (30') wide to adjacent habitat or undeveloped land that may be potential habitat including areas across street right of way or easements no more than one hundred feet (100') wide.

ii. SITE CONTEXT ISSUES.

- Connect to adjacent off site natural storm water management systems.
- Complement adjacent development with social, parking or habitat support.
- Provide balconies, porches or courtyards at the street side or front of each dwelling unit within fifteen feet (15') horizontally from pedestrian right of way to encourage social interactions. Balconies, porches or courtyards must have a minimum depth of six feet (6'). Where porch or courtyard walls in excess of four feet (4') high are used, they must have openings totaling a minimum of forty percent (40%) of the total wall area. Courtyard walls may have a maximum height of nine feet (9') including gabled and arched forms. Courtyard walls must be masonry or have a masonry substrate. Walkway openings adjacent to a defining wall may be counted as opening area. Openings in a wall, to be counted under this provision, must be a minimum of twelve inches (12") high by twelve inches (12") wide.
- Set front yard setbacks to a minimum of five feet (5') measured from outermost porch, courtyard or balcony walls to property line.
- Structures shall use only cistern or rain barrel based systems for irrigation of landscaped areas.
- Structures shall use green roof systems as an additional storm water management system.
- Area lighting within the site, provided by or at the request of the developer, whether free standing or structure mounted shall use "dark sky" compliant fixtures.

iii. PARKING AND PAVING.

- At least seventy five percent (75%) of all new paving on the site shall use permeable paving systems.
- Site paving for vehicle access limited to a maximum of fifteen percent (15%) of total site area
- Encourage on-street parking where sufficient width and accommodation has been provided on new streets or sufficient width and accommodation is present on existing public streets.
- Provide shared, landscaped, visitor off-street parking.
- Maximum space devoted to parking lots may not exceed twenty percent (20%) of total site. No single parking lot may exceed twelve percent (12%) of site. Multiple parking lots are encouraged to share access drives and vehicle circulation.
- Drain parking areas into available rain garden or constructed wetlands-style storm water management system.**[formerly § 153.067]**

155.506.24 [RESERVED]

155.506.25 [RESERVED]

155.506.26 [RESERVED]

155.506.27 [RESERVED]

155.506.28 [RESERVED]

155.506.29 [RESERVED]

155.506.30 [RESERVED]

155.506.31 Commercial uses in Multi-Family and Office Buildings.

A. Some commercial uses may be allowed in multi-family buildings and office buildings in the R-15MF, R-12MF, and O districts when conforming to the criteria listed here.

B. STANDARDS.

1. Allowable commercial uses may be located only in a multi-family building having a minimum of fifty (50) dwelling units or an office building having a minimum of thirty thousand (30,000) square feet of office space.
2. Gross floor area used for commercial purposes will be limited to twenty five (25) square feet per apartment in a multi-family building and ten percent (10%) of the gross floor area used for office or laboratory purposes in an office building.
3. Public entry to commercial facilities must be from interior of building with no direct public entrance from street or outside of building permitted.
4. No merchandise or merchandise display window may be visible from outside the building.
5. No business or identification sign pertaining to commercial uses may be visible from outside the building. **[formerly known as § 153.168]**

155.506.32 Motels and Hotels in the O District.

A. Motels and hotels for transitory lodging, with associated commercial uses, may be allowed in the O District.

B. STANDARDS.

1. All setback, side and rear yard, and height regulations of the O district shall be followed, and no part of the property may be located within one hundred feet (100') of any residential district.
2. Allowable commercial uses may be located only in a motel or hotel having a minimum of seventy five (75) rental units.
3. Gross floor area used for commercial purposes will be limited to seventy five (75) square feet per

rental unit. Ballrooms, conference rooms, meeting rooms, and similar assembly facilities will not be included in determining gross floor area used for commercial purposes.

4. Public entry to commercial facilities must be from the interior of the building. No direct public entrance from street or outside of building is permitted.

5. No merchandise or merchandise display window may be visible from outside the building.

6. No outside storage or display of merchandise shall be permitted.

7. No business or identification sign pertaining to commercial uses may be visible from outside the building. **[formerly known as § 153.173]**

155.506.33. Drive-In Service Windows.

A. Drive-in service windows are permitted as an accessory part of a principal facility or operation such as a dry cleaning establishment, bank, or pharmacy, in the Nonresidential Traditional zoning districts, except not in the HUC district, and the B-1SCD, MUD, TS, and ENT. This category specifically does not include drive-through lanes and windows for restaurants or prepared food establishments.

B. STANDARDS.

1. A site plan, drawn to scale, showing the building, driveway locations and internal circulation for all modes of transportation, and queuing spaces shall be submitted for Board of Commissioners review and approval for a new development site, or an Administrative Amendment, if a change to an existing developed lot is proposed.

2. Prior to any action on a request for drive-in service window, the Town Engineer shall submit a report regarding his/her findings that the drive-in window and its associated operational characteristics will not create a traffic hazard with respect to traffic congestion, the adequacy and safety of entry and exit points, or the on-site vehicular circulation pattern. **[formerly known as § 153.178]**

155.506.34 Transit Stop Shelters.

A. Transit stop shelters may be constructed and maintained by the Town or an authorized transit agency in any district as allowed by the provisions listed below.

B. STANDARDS.

1. Shelters may be located in any street right-of-way or within the required setback of property which adjoins a street. They may not be within thirty five feet (35') of an intersection or located so that they might obstruct the vision of drivers on the street. Only governmental signs are permitted in association with a transit stop shelter.

2. A building permit will be issued for a transit stop shelter only after the following conditions are met:

a. The plan has been approved by the Board of Commissioners regarding the location and integration of the shelter with the surrounding properties and its impact on nearby uses.

b. A transit stop shelter may be removed if the Board of Commissioners or transit agency determines that it no longer serves the best interests of the public. **[formerly known as § 153.184]**

155.506.35 Commercial Riding Stables.

A. Structures, pastures, corrals, and other enclosed areas for the keeping of horses may be allowed in the R/I and ENT Districts in accordance with the following requirements.

B. STANDARDS.

1. All buildings and structures for the keeping and maintenance of animals, equipment, or manure, and all manure piles, pits or bins shall be located at least one hundred feet (100') from any lot line.

2. All trails shall be a minimum of twenty feet (20') from any property line.

3. All stables and riding areas must be maintained according to the standards and requirements of the Mecklenburg County Health Department.

4. Lighting of training fields, trails, and parking lots shall meet the standards of § 155.609. Lighting

of outdoor facilities shall not be lighted between 10:00 PM and 8:00 AM. **[formerly known as § 153.192]**

155.506.36 Outdoor Sales In Conjunction With A Permanent Business.

A. Outdoor sales of goods in conjunction with a permanent business may be allowed in the HUC, B-1, B-3, B-D, B-H, I-1, I-2, MUD, TS, ENT and B-1SCD Districts with specific criteria being met.

B. STANDARDS.

1. All outdoor display and sales shall be operated and maintained as a part of, under the same ownership as, and on the same parcel of land as the principal use which includes a retail element. Outdoor sales shall not exceed the normal business hours of the principal establishment.

2. There must be a clearly defined physical access way from the outdoor sales area to a customer entrance of the principal use.

3. All sight triangles, required parking spaces, driveway accesses, internal driveway aisles and vehicular circulation paths, pedestrian walks must remain unobstructed by outdoor display, landscaping, signs, vehicular parking, or any other items that relate to the outdoor sales activity.

4. Where outdoor sales take place on a multi-tenant property, the outdoor sales area shall be physically located only adjacent to the business to which it is connected, and shall not block access to any other tenant on the multi-tenant parcel.

5. No goods, signs, or other items that are a part of the outdoor sales activity shall be attached to the principal building's wall surface.

6. The occasional or intermittent sale of goods from a semi-truck trailer without a cab, or from a temporary greenhouse or tent, for a short-term sale shall not exceed one hundred twenty (120) days during a calendar year. Any semi-truck, temporary greenhouse, or tent used as a part of outdoor sales shall not be located within any required front setback, any required parking, any driveway or any internal vehicular or pedestrian circulation areas. (Am. Ord. 2025A, passed 6-9-14) **[formerly known as § 153.193]**

155.506.37 On-Site Demolition Disposal Sites.

A. On-site demolition disposal sites may be allowed under specific conditions in all zoning districts except the R-MH, HUC, TS, and AU districts. Demolition disposal locations which receive materials from off-site may be allowed in the B-1, B-3, B-D, B-H, I-1, and I-2 districts only.

B. STANDARDS FOR ON-SITE DEMOLITION DISPOSAL.

1. Each on-site demolition disposal site shall be required to obtain a disposal site permit from the Mecklenburg County Department of Environmental Protection (MCDEP) prior to obtaining zoning clearance to begin use of the disposal site.

2. All requirements of MCDEP shall be followed, including adequate notice to MCDEP for inspections, certification of disposal area being at least the minimum depth above the seasonal high water table, temporary and permanent erosion control, proof of adequate separation from any residential or community wells, and proper compaction/final covering of disposal site following inspection.

3. In addition to MCDEP requirements, on-site disposal locations shall be a minimum of twenty five feet (25') from any existing residential structure, or to a required front, side or rear building setback or yard line on a lot being created at the time of, or following the closure of the disposal site.

C. STANDARDS FOR DEMOLITION DISPOSAL SITES RECEIVING FILL MATERIALS FROM OTHER LOCATIONS.

1. Each demolition disposal site shall be required to obtain a disposal site permit from the Mecklenburg County Department of Environmental Protection (MCDEP) prior to obtaining zoning clearance to begin use of the disposal site.

2. All requirements of MCDEP and the state shall be followed, including adequate notice of MCDEP for inspection, certification of disposal area being at least the minimum depth above the seasonal high water table, temporary and permanent erosion control, proof of adequate separation from any residential or community wells, and proper compaction/final covering of disposal site following inspection.

3. Demolition disposal sites shall be a minimum of one hundred feet (100') from any residential zone.

4. Any parcel or lot which contains any part of any such disposal site must have notification of its existence and extent of the site recorded as a part of the deed for the lot or parcel, even if no subdivision is required for the sale or development of the property.

5. No filling of any type will occur in any portion of a regulatory flood plain, including both the floodway and the floodway fringe area.

6. A demolition disposal site shall be an accessory use only and shall not be in use for more than twenty four (24) months. **[formerly known as § 153.190]**

155.506.38 Quarries.

A. Quarries may be established in I-2 Industrial Districts subject to all state provisions and to the additional requirements listed below.

B. STANDARDS.

1. The quarry and all its buildings, pits, and processing equipment must be effectively screened from the view of any adjoining property in a residential district in accordance with the provisions of § 155.606.

2. Dimensional requirements for quarries are specified below:

Required Minimum Distance from Adjacent Property That is Zoned		
	Nonresidential Mixed Use	Industrial
To any building	100 feet	20 feet
To any crushing of rock, processing of stone, gravel, or other material	300 feet	200 feet
To any blasting	400 feet	400 feet

(Ord. 1282, passed 1-13-03)

3. During operation of the quarry and after termination of quarrying operations at that site, the following safety features must be maintained:

a. ROCK QUARRIES.

i. From the edge of the pit, an area twenty feet (20') wide must be maintained free of any soil cover.

ii. From a point twenty feet (20') from the edge of the pit, the soil cover, if less than twenty feet (20') deep, must be graded back to a slope of one foot vertical or less, to one foot horizontal from the rock level to the top of the soil cover.

iii. If the soil cover to be stripped away exceeds twenty feet (20') in depth, a ditch eight feet (8') wide and three feet (3') deep at least ten feet (10') back from the edge of the cut may be substituted for the back sloping. If the pit has reached its maximum expansion in any direction, however, the permanent fence, as described in § 155.506.38.B.4 below, in connection with termination of quarrying operations, will suffice instead of the backsloping or ditch in that particular area.

iv. All dense underbrush must be removed from the soil cover for a distance of one hundred feet (100') from the edge of the pit.

b. GRAVEL QUARRIES AND SAND QUARRIES. When the pit exceeds a depth of twenty feet (20') from the surface of the ground, all dense underbrush must be removed from the soil cover for a distance of one hundred feet (100') from the edge of the pit.

4. FENCE REQUIRED. Upon termination of quarry operations at any pit that exceeds a depth of twenty feet (20') from the surface of the ground, either the pit must be backfilled to the slope of one foot (1') vertical, or less, to one foot (1') horizontal from the bottom of the pit to the surface of the

ground, or an unclimbable fence must be erected and maintained around the pit. The fence must be a minimum of six feet (6') high and constructed of wire mesh in rectangular shapes, and the sizes of the rectangles may not exceed two inches (2") by four inches (4"). ('72 Code, § 3117) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94; Am. Ord. 877, passed 5-9-94) **[formerly known as § 153.179]**

155.506.39 Specialty Sales Establishments with Related Activities.

A specialty sales establishment is one that predominately sells one type or group of merchandise, such as a bakery, butcher shop, confectionery, jewelry, handcrafts, gift basket, apparel, or similar item and which also incorporates related processing or assembly on-site. Such uses may, in addition: process sales through avenues other than in-store point-of-sale contact; include substantial on-site processing, assembly, and/or packaging of materials into final product; and/or provide off-site distribution, in the HUC, B-1, B-3, B-H, I-1, C-MF, MUD, TS, B-1SCD, and ENT districts when adhering to the standards given here.

Retail establishments specializing in, or limited to, one type or group of merchandise with very limited to no on-site processing or assembly of materials to create the final product for sale (i.e., no baking or meat cutting of food items, no assembling of several elements into a final jewelry piece or gift basket, no sewing into final garments) shall be considered general merchandise retail. (Am. Ord. 2038, passed 5-11-15)

A. A minimum of twenty five percent (25%) of the gross floor area, or one hundred fifty (150) square feet, whichever is less, shall be provided for on-site retail sales to customers and this area shall be open for business at least twenty five percent (25%) of the time each week the business facility is operating.

B. Office space for accepting mail, phone, on-line, or similar orders shall not exceed the space of the customer retail area.

C. Where on-site processing or assembly may take place during retail store operations, visibility of some portion of the processing or assembly activity is encouraged to be provided from the retail sales floor area where practicable in order to create a unique experience for the customers. A written explanation for not providing visibility of any merchandise preparation area shall be submitted to the Zoning Administrator who shall sign and maintain it on file. **[formerly § 153.196]**

155.506.40 Outdoor Commercial Amusements.

A. Outdoor commercial amusements, such as miniature golf, rides, slides, sports training and practice facilities, golf driving ranges, paintball course, water parks, cycle or skate tracks, skateboarding parks, and similar operations which involve use of individual physical movement and dexterity rather than purely mechanical means to propel customers or to accomplish the activities for which each amusement is designed. This category specifically excludes any firearms ranges, or any use of firearms. Because these uses may attract large numbers of users at a single time, or may generate noises, lights, traffic, and other effects that could interfere with enjoyment of the outdoors on adjacent properties, these uses may be allowed only when provisions to protect the transfer of off-site impacts into surrounding residential locations. These uses may be located within the B-H, I-1, and ENT districts.

B. STANDARDS.

1. All land improved for such uses, as well as any buildings and structures related to the uses, must be at least two hundred feet (200') from any property that is residentially zoned or used. This two hundred foot (200') separation requirement does not include parking or passive open space, and may include landscape screening.

2. Parking shall not be closer than twenty feet (20') to any non-streetside exterior property line when any dwelling units are on the adjacent parcel. Landscape screening as outlined in § 155.606 shall apply.

3. Exterior lighting shall conform to the provisions of § 155.609. When any dwelling units exist on an adjacent parcel, any exterior lighting at a height greater than twenty feet (20') and located within fifty feet (50') of the property line with the residential use, shall not remain lighted after 10:00 PM or be turned on before 8:00 AM.

4. When any dwelling units exist on an adjacent parcel, no outdoor amusement use activity shall be conducted or allowed to take place after 10:00 PM or before 8:00 AM for any portion of the site at or less than fifty feet (50') from the property line shared with residential use.

5. The Town Noise Ordinance shall be met by any outdoor commercial amusement use.

6. Entrance to and exit from the outdoor commercial amusement facility shall be by way of a Class V or higher public street.

7. The fairway portions of a driving range or golf school, yardage markers, distance flag markers, bunkers, or fairways, where such improvements in such areas are limited solely to the passage of, or the placement of, golf balls within such area, or the collection of golf balls by hand or by mechanical devices, must be located at least fifty feet (50') from any property line where any dwelling units are located. Driving tees, putting, greens, practice sand traps, or other similar accessory uses shall remain subject to the two hundred foot (200') minimum distance. ('72 Code, § 3132) (Ord. 477, passed 2-8-88; Am. Ord. 877, passed 5-9-94) (Ord. 1281, passed 5-13-02) **[formerly known as § 153.188]**

155.506.41 Communications Towers and Antennas.

A. The purpose of this section is to: meet requirements of Telecommunications Act of 1996; direct the location of tall communications towers where they have been determined to be least disruptive of existing or developing land use character, specifically to commercial road corridors; protect residential areas and land uses from potential adverse impacts of communications towers; preserve the low building profile and character of the downtown; protect land values of adjacent and nearby properties; minimize adverse visual impacts of communications towers through careful design, siting, landscape screening, and innovative camouflaging techniques; accommodate the growing need for communications towers; promote and encourage shared use/collocation of existing and new communications towers as a primary option rather than construction of additional single-use towers; encourage the use of concealment techniques instead of towers in providing support and height for antennas; protect public safety as it may be impacted by construction, wind damage, electric shock, unauthorized access to facilities, structural damage on non-tower supporting structures, monitoring visit traffic, lighting for visibility to hospital, traffic, police, or other helicopter or private aircraft, and related considerations. With or without towers, a communications antenna is considered a principal use or a secondary principal use on any site, except when it is either incidental to a business use on the same lot and used by that business for its operational communications, or is on the same lot as a phone or cable consumer outlet or operations center. They are permitted as a secondary principal use in residential districts (R-20, R-15, R-12, R-9, R-MH, R-VS, and CrC) where a permitted nonresidential principal use exists.

B. STANDARDS.

1. RESIDENTIAL DISTRICTS. Antennas may be located in stealth applications on supporting structures which are or will be the principal use or a permitted accessory structure to the principal use of the site in any residential district, and shall not be more than eighty feet (80') in overall height (antenna and supporting structure). Where structures which existed as of June 9, 1997 exceed eighty feet (80') in height, such as electric transmission towers, these structures may also be used for antenna locations. When an existing stealth structure is used, communications antennas may not increase the stealth structure's height by more than twenty feet (20') per antenna, up to forty feet (40') additional in height, and only when such location shall not require the antenna to be lighted.

2. MULTI-FAMILY DISTRICTS. Antennas may be located on buildings or in stealth applications on supporting structures in the R-15MF, R-12MF, SRN, and C-MF districts, and shall not be more than eighty feet (80') in overall height (antenna and supporting structure). Where structures which existed as of June 9, 1997 exceed eighty feet (80') in height, such as electric transmission towers, these structures may also be used for antenna locations. Because these districts typically have multi-story construction, location of antennas on building walls and rooftops is the preferred application. Maximum heights are given in the table below.

3. MIXED USE AND NONRESIDENTIAL DISTRICTS. Antennas may be located on towers or other supporting structures in the R/I district (except as given in table below), and all mixed use or nonresidential districts except the HUC and AU districts up to the overall heights listed below.

MAXIMUM ANTENNA TOWER HEIGHT (FEET) IN MULTI-FAMILY, MIXED USE AND NONRESIDENTIAL ZONING DISTRICTS			
District	Adjacent to any residential zoning district		When no residential district is adjacent
	Non-stealth	Stealth	1 user/2 users/3 users/Trunked Public Safety
R-15MF, R-12MF, SRN, C-MF	Not permitted	80*	80*/ 100/ 120/ not permitted
R/I	Not permitted	80*/***	80*/ 100 / 120 / not permitted
0	50	80*	100*/ 120 / 140 / not permitted
B-1, B-1SCD, B-D	50	80*	120*/ 140 / 160 / not permitted
B-H	50	80*	160*/ 180 / 200 / not permitted
B-3, I-1, MUD, TS, ENT	60	80*	180*/ 200 / 220 / not permitted
I-2	60	80*	200*/ 220 / 240 / 400 **

(Ord. 919, passed 4-28-97)

* Where there are existing nonresidential structures that exceed the above-given height limit (such as electric transmission towers), then these structures may also be used for antenna locations. These limits may be increased by twenty feet (20') for each additional user co-locating on the stealth structure up to an additional forty feet (40'), and only when such location will not require the antenna to be lighted.

**(1)There are no residential zoning districts within one thousand foot (1,000') radius of the proposed tower site.

(2) The owner//developer and/or lessee of the proposed tower must possess a license (see Form FCC 574 or replacement Form FCC 600), to operate a Trunked Public Safety and Special Emergency Radio Services system in accordance with FCC Regulations Part 90, Subpart B and C, 90.15 and 90.33 respectively, and such tower will be used by licensee for the operation of a Trunked Public Safety and Special Emergency Radio Services system.

(3) Location of non-Public Safety system antennas for co-locators shall not be restricted to two hundred forty feet (240') or less, but such co-location antennas shall be located below the principal Public Safety system antennas.

(4) The proposed tower is designed to allow co-location by at least two users and applicant for the tower provides written documentation that a co-locating provider has/can lease space.

*** When utilizing a stealth tower, the above given height limits may be increased up to an additional 40' at the time of initial construction. Photo simulations must be provided. Said simulations must show all exterior edges of the property. Additional documentation such as coverage maps may also be provided. Site plan to be reviewed and approved by Town Board. **(Ord. 1965, passed 9-9-13; Ord. 2025A, passed 6-9-14)**

4. SPACING. Towers shall be spaced from each other by the minimum radius as given below:

TOWER HEIGHT	MINIMUM DISTANCE
tower under 80 feet to tower under 80 feet	1,200 feet
tower under 200 feet to tower under 200 feet	1,800 feet
tower over 200 feet to tower under 200 feet	2,200 feet
tower under 200 feet to tower over 200 feet	2,200feet
tower over 200 feet to tower over 200 feet	2,500 feet
tower over 240 feet to tower over 240 feet	15,000 feet*

*This limit may be decreased with approval by the Board of Commissioners.
(Ord. 919, passed 4-28-97)

5. MINIMUM LOT AREAS FOR TOWERS. Different types of towers are allowed in different zoning districts. In the R-15MF, R-12MF, SRN, C-MF, R/I and O districts, only monopole towers are permitted. Lattice towers are permitted in mixed use and nonresidential districts where communications towers are allowed. Guyed towers are allowed only in the I-2 District. Towers requiring guy wires are discouraged due to the extensive footprint necessary for the overall installation. A tower and its related equipment (including guy wire ground connections) must be located on a separate lot or leased portion of a larger lot and must meet setback and yard requirements of the appropriate district. Where a guyed tower is requested, the applicant must provide documentation from an engineer outlining why another option is not possible. Minimum lot size for communications towers shall be as follows:

Lattice	150 feet x 150 feet
Monopole	100 feet x 100 feet
Guyed	350 feet x 350 feet

These lot size requirements are waived when a stealth or concealed structure is used or when a monopole tower is attached to a mixed use or nonresidential building and all related equipment is located within such building.

6. REQUIRED LANDSCAPING.

a. When a communications tower (not a stealth or concealed structure) is requested, the following landscape screening requirements shall apply:

i. A one hundred percent (100%) opaque wall or fence six feet (6') or higher around tower, related equipment structure(s), and parking, plus a minimum of two (2) rows of evergreen shrubs, planted in staggered fashion, ten feet (10') on center in each row, with initial plant height of three feet (3'); or

ii. A non-opaque fence or wall, six feet (6') or higher around tower, related equipment structure(s), and parking, plus a minimum of three (3) rows of evergreen trees and shrubs planted in staggered fashion so that the plant materials create a fifty percent (50%) opaque screen, six feet (6') high, at time of planting. Trees shall be minimum six feet (6') tall and shrubs shall be three feet (3') tall at time of initial planting. The combination of trees and shrubs shall be expected to create a one hundred percent (100%) opaque screen, six feet (6') tall, within three (3) growing seasons. The required plant material shall be located between the required fence or wall and the lot or lease lines. Vehicular entrance gate openings shall not be directly visible from any public street, or the gates shall be one hundred percent (100%) opaque from the ground up a minimum of six feet (6').

b. When a stealth application is employed which does not totally conceal wiring or related equipment at the ground level, such as an electric transmission tower, then the following landscape screening requirements shall apply:

i. A one hundred percent (100%) opaque wall or fence, six feet (6') or higher around ground level equipment, structure(s), and parking, plus a minimum of two (2) rows of evergreen shrubs, planted in staggered fashion, ten feet (10') on center in each row, with initial plant height of three feet (3'); or

ii. A non-opaque fence or wall, six feet (6') or higher around ground level equipment, structure(s), and parking, plus a minimum of three (3) rows of trees and evergreen shrubs planted in staggered fashion so that the plant materials create a fifty percent (50%) opaque screen three feet (3') high and twenty five percent (25%) opaque screen six feet (6') high at time of planting. Trees shall be minimum six feet (6') tall and shrubs shall be three feet (3') tall at time of initial planting. When located within the easement for electric transmission towers, landscaping plans shall also meet the utility company's requirements.

7. SETBACK FROM STREETS AND PROPERTY LINES. All antenna placements shall be subject to the district's setback and yard requirements, as well as the distance requirements given in § 155.601.8. Where the distances given below are different, the more restrictive shall apply. Other than the

Highway Overlay District, any communications tower up to eighty feet (80') in height shall be set back a minimum of one hundred feet (100') from any public street. Any communications tower between eighty feet (80') and one hundred twenty feet (120') in height shall be set back a minimum of one hundred twenty five feet (125') from any public street. Any communications tower over one hundred twenty (120') feet in height shall be set back a minimum of one hundred seventy five feet (175') from any public street. Where antennas are located in a stealth application, they shall be set back a minimum of forty feet (40') from any public street. In each case, distance shall be measured from edge of right-of-way to the tower, the front of the stealth structure, the related equipment, or the guy wire ground connection, whichever is the closest.

8. REMOVAL OF TOWERS, ANTENNAS, AND EQUIPMENT. Whenever a tower, antenna, or related equipment ceases to be in active operation, it shall be removed within one hundred twenty (120) days.

9. ANNUAL NOTIFICATION. During January of each calendar year, the supporting structure owner and all service providers shall jointly submit annual registration for each antenna location within the Town limits with the Town Planning office. The information provided shall include the location, type of tower or other support, height of tower/antenna, name/address/phone of company and contact person within each company responsible for the antenna and/or support structure, indicate whether or not there are collocating users at the same facility or whether there is the capability to have collocating users at the facility. This information shall be kept for reference and shall be available for public inspection. When an antenna location ceases operation, the user and the support structure owner are jointly responsible for updating their registration information. Both shall notify the Town in writing of the final date of operation, and shall include the anticipated date of removal of all antennas, towers, equipment, and other structures associated with that location. This end usage notice shall be submitted within thirty (30) days of the last day of operation.

10. SUBMISSION OF ZONING APPLICATION. All antenna locations or additions, including co-locations, which require approval through a zoning action, shall submit a site plan and elevation of the proposed facility as a part of the zoning application. The site plan shall include at a minimum: construction type of the tower/other supporting structure and related equipment storage; total antenna height; whether the tower/structure will include or allow for co-location; zoning of all adjacent lots; the nearest residential zoning in a straight-line distance when all adjacent lots are nonresidential; lot boundaries or lease lines; all existing or proposed buildings and structures on the lot, or on larger parcel when a leased portion; method of screening; and vehicular access. If the antenna request is denied or restricted, a written explanation for the denial or restriction shall be given in the minutes of the Board of Commissioners meeting where such decision is made. (Ord. 912; passed 1/27/97)

11. So as to promote and encourage shared use/co-location of existing communications towers, the foregoing provisions of this § 155.506.41 shall not apply to:

    a. the essentially equivalent replacement of a tower that was in existence as of January 27, 1997; or

    b. the placement of additional communications antennas and/or supporting or related equipment or equipment buildings on or in the immediate vicinity of a tower that is in existence as of January 27, 1997, provided that any additional equipment or buildings located on the ground shall be reasonably screened from view from the public roadway. (Ord. 920, passed 6-9-97) **[formerly known as § 153.172]**

155.506.42 Veterinary Clinics, Veterinary Hospital, Animal Day Care Kennels, Commercial Kennels, and Animal Grooming Facilities.

A. Veterinary clinics, day care kennels, and animal grooming facilities are allowed in the B-1, B-H, I-1, I-2, B-1SCD, MUD, TS, and ENT districts with prescribed standards as given here. Veterinary hospitals and commercial kennels are allowed in the B-D, I-1, and I-2 districts when meeting the associated standards below.

B. STANDARDS.

1. Provisions for adequate containerized solid waste disposal shall be assured with removal no less frequently than one (1) time a week. Any form of disposal which allows odors or fumes shall be

in violation of this requirement.

2. The drainage of all liquid by-products shall be discharged by a permitted sanitary sewer line and shall not be disposed of by way of storm sewers.

3. Outside storage of materials, feed or waste shall not be permitted.

4. All building plans, whether for a new or existing structure, must be accompanied by a certification by a registered architect or acoustical engineer that no sounds emitted through the business' outside walls or ceiling/roof of the building will exceed forty five (45) decibels.

5. All animals shall be treated, washed and fed within an enclosed building with the exception of occasional single day special events, such as dog flea dips. No outdoor special events shall be allowed at an animal day care kennel.

C. Additional Standards for veterinary clinics, animal day care kennels, and animal grooming facilities:

1. Each use, either individually or in a shared use setting shall be within a completely enclosed building with no outside storage or animal areas, except for day care kennels as allowed below.

2. The boarding of animals is not permitted for day care kennels or animal grooming facilities. At veterinary clinics, restricted boarding only is possible, and shall be limited to occasional overnight observation, emergency and/or surgery recovery and those animals with special needs, such as geriatric care.

3. Animal grooming may be done as a single-use establishment, within a retail pet specialty store, or as a part of a veterinary clinic or hospital.

4. For day care kennels only, any outdoor play and exercise areas or runs shall be fenced or securely enclosed on all sides to a minimum height of six feet (6') and shall be located to non-streetside side or rear yards. Perimeter landscape or screening requirements shall be placed on the exterior of all enclosed animal use areas. **[formerly known as § 153.185]**

155.506.43 Temporary Uses For Business Purposes.

A. A business shall be determined by the Zoning Administrator to be a temporary use if it does not meet the zoning and/or building code criteria for a permanent business designation and is not a short-term civic or nonprofit temporary use allowed under the standards of § 155.506.44. A person *conducts business* when he engages in business within the Town zoning jurisdiction by one (1) or more of the following: *i)* maintains a business location within the Town limits, *ii)* solicits business, either personally or through agents, within the Town limits, *iii)* picks up or delivers goods within the Town boundaries, or *iv)* delivers service within the Town limits.

The Zoning Administrator is authorized to grant permanent business designation, which shall include: a permanent structure with appropriate restroom facilities, able to receive a final Certificate of Occupancy; designated parking spaces including handicap-accessible spaces as required by Building Code; driveway permit; required on-site landscaping; adequate garbage/dumpster location and screening; loading/service areas, where needed; and any other elements as the Zoning Administrator may determine to be necessary. A person seeking a permanent business designation while operating under a temporary use permit must obtain this designation within the stated forty five (45) day time period in order to avoid any possible temporary use violations and subsequent enforcement by the Zoning Administrator or the Town's Code Enforcement Officer. (Ord. 1127, passed 7-10-00)

Temporary uses may be allowed in any district where that use is allowed by right as a permanent use, when adhering to the following criteria.

B. STANDARDS FOR TEMPORARY USES FOR BUSINESS PURPOSES

1. Temporary uses for business purposes shall conform to the required front setback, side and rear yard requirements of the district in which they are located.

2. These temporary uses shall apply for a temporary use permit before start of any operation. A temporary use permit shall be valid for forty five (45) days and cannot be renewed for any time extension. The forty five (45) day time period will begin as of the date of issuance of the temporary use permit, or at a later date as specifically listed on the permit.

3. A valid temporary use permit must be displayed on-site as long as the temporary use is in

operation.

4. After the temporary use is concluded, the property shall not be used for another temporary use for business purposes for a period of one (1) year from the issue date of the temporary use permit. In the case where a property is occupied by a use that constitutes a temporary use without a valid temporary use permit, and five (5) days after a warning of violation is delivered it still remains on-site without a valid permit, then that property shall not be eligible for another temporary use for a period of twenty four (24) months from the issue date of the last valid temporary use permit. (Ord. 127, passed 7-10-00)

5. One (1) identification sign will be allowed for the temporary use, up to sixteen (16) square feet maximum. The sign may be either freestanding or attached to a structure, but no portion shall extend into the right-of-way, or into a sight triangle at intersections or driveway entrances. Such sign will be allowed for a temporary use regardless of other existing permanent signs on the same property.

6. Hard surface parking as may be required elsewhere in this chapter shall not be required for a temporary use, although the minimum number of parking spaces and adequate on-site vehicular maneuvering space shall be required the same as for the use on a permanent location.

C. ADDITIONAL STANDARDS FOR CERTAIN TEMPORARY USES.

1. FARMERS' MARKET. A farmers' market is an open space and/or building where agricultural products, excluding livestock, and related items are displayed for sale to the public by multiple farmers and individuals. The merchandise offered for sale shall predominately be fresh and locally produced food items not commercially handled or processed, hand-made crafts and food or drink mixes, living or freshly cut plants and flowers, and similar items with local connection. This is typically a use which does not operate every day and every week, but may have varying hours based on the seasons. A minimum of five (5) vendors providing merchandise for sale shall be on-site while the market is operating. Farmers' markets are not subject to the forty five (45) day per twelve (12) month period or temporary use permit requirements for business-related temporary uses in § 155.506.43.A above. Farmers' markets may be allowed in the HUC, R/I, MUD, TS, and ENT districts.

   a. A farmers' market may be located at a permanent location devoted only to this use even when it is not in operation, or may set up on outdoor space and/or in buildings controlled by other uses when not within any required front setback, side or rear yards, any required parking or interior driving aisles, any pedestrian walkways, or any storm water drainage facilities.

   b. A farmers' market may have one (1) identification sign up to sixteen (16) square feet maximum. A second sign of the same size on a different street frontage may be allowed when the farmers' market is the principal use of the property and the signs face and are located on the two separate street frontages. Signs may be either freestanding or attached to a structure, but no portion shall extend into the right-of-way, or into a sight triangle at intersections or driveway entrances. A sign for the farmers' market will be allowed regardless of other existing permanent signs on the same property.

2. PUSHCART VENDORS. A pushcart is a vehicle which is non-motorized, is not horse-drawn, and is designed with and has wheels for easy maneuverability by humans rather than a concession vehicle which is designed to be towed by a motorized vehicle. Pushcart vendors are not subject to the forty five (45) day per twelve (12) month period or temporary use permit requirements for business-related temporary uses in § 155.506.43.A above. Pushcart vendors are allowed in the HUC, MUD, TS, and ENT districts under the following prescribed conditions.

   a. Pushcart food vendors are subject to the regulations set forth by the Charlotte-Mecklenburg Environmental Health Department.

   b. One accessory structure item, such as a freestanding table or display rack is permitted in addition to the pushcart if it is clearly necessary in order to conduct the business.

   c. Business can only be conducted from pushcarts; business may not be conducted from tents, vehicles, concession trailers, or freestanding items (such as tables, merchandise display racks or newsstands and the like).

d. Pushcarts may be placed at a single spot or may be maneuvered by the operator within the allowed zoning district. Pushcarts may move across and do business upon public rights-of-way when not blocking any vehicular access areas or parking spaces, or creating any other public safety concerns, and when maintaining at least five feet (5') of clear pedestrian space around the pushcart and related freestanding items. Pushcarts may also locate on or move over private property when operators have written permission from the property owner of each lot to do so.

e. Prior to start of business, the operator of a pushcart shall register with the Town Planning office. The pushcart operator shall provide a written explanation of the type of business to be conducted (what merchandise/food to be offered), and expected dates and times of day to be operating, and a map showing possible set-up locations or travel routes intended to be used. This registration information shall be kept on file in the Planning office. It is the responsibility of the pushcart operator to provide revised registration documents when the type of merchandise, dates and times of use, and/or locations are changed.

3. MOBILE FOOD TRUCK VENDORS. A mobile food truck vendor is a food service establishment operated from a licensed vehicle which is designed to accommodate the safe storage, processing, and preparation of food and or beverages to distribute to customers who come to the vehicle. A mobile food truck is expected to relocate on a frequent basis. Mobile food truck vendors are allowed in the HUC, B-1, B-3, B-H, MUD, TS, B-1SCD, and ENT districts when meeting the following criteria.

a. When parking to provide service to customers, a mobile food truck shall not be located within the public right-of-way, within a required setback or sight triangle, or within any required landscape buffer or area.

b. The operator of a mobile food truck shall register his/her vehicle and proposed stopping locations with the Town Planning office. Required items for a complete registration include: written and signed permission from the property owner or leasing/management agent for each location where the truck may locate; a site plan drawing of each location indicating where on the property the truck may park while serving customers, and showing how safe vehicular and pedestrian circulation will be achieved; proposed hours of operation at each location; food truck operator's name, address, and phone contact information; the name, address, and phone contact of the commissary or commercial kitchen where the food truck will return to be cleaned and restocked. A signed registration shall be valid for a calendar year and must be renewed annually between December 1 and January 15. Registration requests may be submitted at any time, and shall only be valid for the remainder of that calendar year.

c. Trash receptacles must be provided for customers and shall be located no further than ten feet (10') from the food truck. Separate receptacles for garbage and recycled items are required when any products are available for purchase that include recyclable containers or packaging. The food truck operator is responsible for removing all trash, litter and refuse from the site daily, including promptly collecting waste improperly discarded by customers.

d. A food truck may be located at any registered location between the hours of 8:00 AM and 9:00 PM. A food truck shall not remain on a registered site overnight.

e. A mobile food truck shall not locate on any required minimum parking spaces within four hundred feet (400') of the customer door for any business on the registered site. No separate parking will generally be required for a food truck, although additional parking may be required at the discretion of the Zoning Administrator when parking congestion is observed at that location. If sufficient parking cannot be provided for the existing permanent business(es) and the mobile food truck on a specific site or at a specific time of day, then the food truck's registration will be revoked or modified by the Zoning Administrator for that location.

f. All applicable local and state regulations shall be met.

g. If a mobile food truck is issued a notice of violation for one or more registered locations,

and the violation is not resolved within ten (10) calendar days, then the registration shall be revoked for that or those locations for the remainder of the calendar year. If a mobile food truck is issued a notice of violation at an unregistered location, and does not come into compliance within ten (10) calendar days, then that food truck shall not be eligible for a registration within Matthews for the remainder of that calendar year.

h. When mobile food vendors are participants of a special event within the Town allowed under Section **§** 155.506.44 below, and the event has received permission to conduct activities within specific public right-of-way, then mobile food truck vendors may be located within that designated public right-of-way, may operate during the hours the event is open to the public, and may remain parked there overnight for the duration of the special event.

4. CONTRACTORS' OFFICES, EQUIPMENT SHEDS, AND TRAILERS. When a property is undergoing new development, renovation, remodeling, or redevelopment, temporary structures for contractor use may be allowed on the same site, only for the duration of the construction project while building permits are in effect. No such office, shed or trailer shall contain sleeping accommodations or cooking facilities. All construction related structures shall be removed from the site upon lapse of building permits or issuance of the last Certificate of Occupancy.

5. SIDEWALK SALES, END OF SEASON SALES, CLEARANCE SALES. Sporadic and seasonal sales, when conducted on the same lot and within close proximity to the associated permanent business public entrance, may take place for a period not to exceed seven (7) consecutive days and not more than three (3) times in a calendar year. Merchandise shall not block any required parking spaces or vehicular drive aisle, or any pedestrian walkway.

6. GARAGE SALES, RUMMAGE OR YARD SALES. Garage, rummage or yard sales, when conducted on the site of a residential dwelling or on private property in a residential area may take place on the same parcel up to three (3) consecutive days for a total of up to ten (10) days in a calendar year. Garage, rummage or yard sales may be held on a nonresidential property except in the AU district by the owner/occupant of the parcel or may be conducted by other person(s) with the consent of the property owner, for up to three (3) consecutive days. Garage, rummage or yard sales conducted by any and all parties on any nonresidential property shall not exceed a total of ten (10) days in any calendar year. (Am. Ord. 2059, passed 12-8-14) **[formerly known as § 153.191(A through F)]**

7. AUCTION OR ESTATE SALES. Auctions or estate sales of real and personal property located on the site of a residential dwelling or business establishment for the purpose of liquidating assets of that household or business establishment may take place on a parcel one time for up to three (3) consecutive days in any calendar year. A nonresident auctioneer or sales coordinator may be present to conduct the sale, but the items offered shall come from the site and its owners or heirs of owners or business operators.

155.506.44 Short-term Temporary Uses and Festivals of Civic or Nonprofit Nature.

A. A short-term temporary use which is of a civic or nonprofit nature, or a festival of local, national, or historic significance hosted and coordinated by public or nonprofit agencies to entertain or raise public awareness of an issue or opportunity of general interest may take place in any zoning district when meeting prescribed standards.

B. STANDARDS.

1. Any special event or festival of a civic or nonprofit nature shall be of seven (7) days or less duration.

2. Any such event shall meet minimum all side and rear yard requirements of the district in which they are located, but may be located within the required front setback when the Chief of Police or designee determines that public safety will not be adversely affected.

3. Short-term temporary uses shall apply for and receive a temporary use permit prior to the start of operations, or shall receive authorization from the Town Board of Commissioners to hold the event prior to the start of any activities. The starting time of a short-term temporary use shall be when any outdoor set-up actions and/or street closings begin, and the completion of the event shall be when all equipment and supplies are removed from the site and streets are reopened for regular

use. This time period shall not exceed seven (7) days, and no time extension is allowed.

4. Parking, screening, buffers, and similar requirements as may be required elsewhere in this Title shall not be required for a short-term temporary use. (Ord. 477, passed 2-8-88; Am. Ord. 824, passed 6-13-94) **[formerly known as § 153.191(G)]**

155.506.45 Alcohol and Alcoholic Beverages, Wine, and Beer.

A. The production of any beverages with alcoholic content may be accomplished at many scales, for personal use and as a hobby, or for commercial sale, and can be allowed in different settings based on the size of the operations. Microbreweries and brewpubs may be allowed in the HUC, B-1, B-3, B-H, I-1, I-2, B-1SCD, MUD, TS, and ENT districts with prescribed conditions. Distilling of alcoholic beverages be permitted in the I-1 and I-2 districts when adhering to the requirements listed here.

B. STANDARDS

1. In the HUC district a brewpub cannot exceed five thousand (5,000) square feet gross floor area. A microbrewery in the HUC district shall not exceed five thousand (5,000) square feet gross floor area.

2. In the B-1, B-3, I-1, B-1SCD, MUD, TS, and ENT districts a brewpub or microbrewery cannot exceed seven thousand five hundred (7,500) square feet gross floor area.

3. In the HUC, MUD, TS, and ENT districts microbreweries shall have a tap room that is oriented to the street or main pedestrian entrance of the business. A minimum of five hundred (500) square feet shall be provided for the tap room and this area shall be open to the public for business at least twenty five percent (25%) of the time each week the microbrewery is operating.

4. No loading or distribution activities shall take place outside the enclosed building of a microbrewery between the hours of 9:00 PM and 7:00 AM when the microbrewery is located within five hundred feet (500') of any dwelling unit or institutional use in existence at the time the microbrewery receives a Certificate of Occupancy.

5. All microbreweries and brewpubs shall comply with the Town Noise Control Ordinance, Title 92A. **[formerly 153.197]**

6. The distilling of alcohol and alcoholic beverages in the I-1 district shall not exceed three thousand (3,000) square feet gross floor area. Manufacturing facilities greater than three thousand (3,000) square feet shall only be in the I-2 district.

7. Any distilling or manufacturing of alcohol and alcoholic beverages shall be separated by a minimum of five hundred feet (500') from any dwelling unit in existence at the time the manufacturing facility receives any related building permit for construction or upfit.

8. No manufacturing of alcohol and alcoholic beverage shall produce or create any noxious smells or odors detectable to the public from the public right-of-way. **[formerly 153.198]**

155.506.46 ADULT USES.

A. Adult uses may take multiple forms as further defined here, and are only allowed in the AU district when meeting the standards given below.

1. ADULT ARCADE: shall mean any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images to persons in booths or viewing rooms where the images so displayed depict or describe specified sexual activities or specified anatomical areas.

2. ADULT BOOKSTORE OR ADULT VIDEO STORE: shall mean a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following: *i)* books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or *ii)* instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

3. ADULT CABARET: shall mean a nightclub, bar, restaurant or other commercial establishment that

regularly features, exhibits, or displays as one of its principal business purposes: *i)* persons who appear nude or semi-nude; or, *ii)* live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or, *iii)* films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities or specified anatomical areas.

4. ADULT MOTEL: shall mean a hotel, motel or similar commercial establishment that: *i)* offers accommodations to the public for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe specified sexual activities or specified anatomical areas as one of its principal business purposes; or *ii)* offers a sleeping room for rent for a period of time that is less than ten (10) hours; or *iii)* allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

5. ADULT MOTION PICTURE THEATER: shall mean a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities or specified anatomical areas.

6. ADULT THEATER: shall mean a theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict specified anatomical areas or specified sexual activities.

7. ESCORT AGENCY: shall mean a person or business that furnishes, or offers or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration. An *escort* means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

8. NUDE MODEL STUDIO: shall mean any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. Nude model studio shall not include a proprietary school licensed by the state or a college, community college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college or university supported entirely or partly by taxation; or in a structure: *i)* that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and, *ii)* where in order to participate in a class a student must enroll at least three days in advance of the class; and, *iii)* where no more than one (1) nude or semi-nude model is on the premises at any one time.

9. SEXUAL ENCOUNTER CENTER: shall mean a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

10. Additional definitions related to this group of Adult Uses allowed in the AU district include:

    a. SPECIFIED ANATOMICAL AREAS: shall mean human genitals in a state of sexual arousal.

    b. SPECIFIC SEXUAL ACTIVITIES: shall include any of the following: *i)* the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or, *ii)* sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or, *iii)* masturbation, actual or simulated; or, *iv)* excretory functions as part of or in connection with specified anatomical areas, specified sexual activities, or nude or a state of nudity.

    c. NUDE OR A STATE OF NUDITY: shall mean *i)* the appearance of a human anus, male genitals, or female genitals; or, *ii)* a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

    d. SEMI-NUDE: shall mean a state of dress in which clothing covers no more than the

genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps and devices. **[formerly § 153.059(D) and (E)]**

B. STANDARDS.

1. PLACEMENT AND FACILITY SIZE. As outlined at § 155.503.9, any adult use must meet certain dimensional standards, including maximum building size and separation from other uses.

2. SUBMISSION OF ZONING APPLICATION. A request for an adult use shall be accomplished through a change of zoning district process. Any proposed location for an adult use shall submit a site plan and elevation of the proposed facility as a part of the zoning application. The site plan shall include at a minimum: an explanation of how the separation and dimensional standards given at § 155.503.9 are being met including zoning of all adjacent lots, the nearest residential an institutional uses and nearest establishment with an on-premise ABC license in a straight-line distance; all existing or proposed buildings and structures on the lot, and all doorways leading into the buildings; driveways, parking, and interior circulation; method of screening; and total area of the buildings.

155.506.47 Archery or Firearms Range, Indoor Only.

A. An archery or firearms range is allowed in the I-1, I-2, B-1SCD, and ENT districts when all activity is conducted completely within an enclosed building.

B. STANDARDS.

1. The building housing this use shall be constructed so as to significantly muffle noise generated by the firing of weapons so that no sound over 40 decibels may be heard at the property line. Sound absorbing materials, unpainted heavy masonry walls, or other options shall be identified on the site plan as the intended methods of noise reduction outside the range structure.

2. Structural details shall conform to the minimum design standards outlined in the latest revised edition of the NRA Range Source Book, Section 3, Chapters 1 through 12, OSHA, military, or other design criteria. The specific design standards being followed shall be identified on the site plan.

3. Parking areas and building entrances must be adequately lighted to prevent any shadows or dark spaces between any parking space and the entrance doorway. Matthews Police Department may be requested to provide recommendations on adequate safety of parking lot location, design, and screening.

4. No mechanical or ventilation equipment shall be visible from a public right-of-way. Exhaust air discharged from the range shall meet all state and federal requirements, and designed to separate discharge from any air supply intakes for the same or nearby uses to prevent cross-contamination of heavy metal-laden air.

5. No storage of lead, ammunition, firearms, gunpowder, or other hazardous or dangerous materials, as may be identified by the Matthews Police Department, shall be stored in an accessory structure. No cleaning or repair of guns shall be allowed within an accessory structure.

155.506.48 Solar Collector Installation.

A. A solar collector is a device or structure which transforms solar radiant energy into other forms of energy. A series of such collectors are often placed in close proximity to each other for cumulative energy production and transmission. Such installations may be located as an accessory use, such as in a residential environment to power household utilities or to provide heat for potable water or enclosed spaces on individual properties, or may be concentrated on a site as a principal use primarily to generate power which is transmitted off-site. Accessory solar collector installations for individual dwellings or personal and direct use by the occupant of the structure are allowed in any district. Larger installations for energy generation may be allowed in most nonresidential and mixed use districts as provided below. Design of a solar collector installation shall take into account the existing restriction and/or potential future loss of solar access as a result of any trees, landscaping, buildings, other structures, and topography in existence at the time the solar collector installation received permits from Mecklenburg LUESA to be installed. Such obstructions, when off-site or part of a previously approved landscape plan, shall not be removed or pruned at any time to increase solar access.

B. STANDARDS.

1. Accessory solar collector installations may be roof mounted or ground mounted. Roof mounted collectors and related equipment elements shall not extend beyond the exterior perimeter of the roof or building upon which the collectors are installed, except piping or similar related equipment can wrap around roof edges or be located along exterior walls when they extend no more than six inches (6”). Roof mounted collectors may be located on the principal building or on accessory structures on the lot. When the structure or property has historic designation, then any roof mounted collectors shall be placed so they cannot be viewed from any adjacent public street and shall obtain a Certificate of Appropriateness prior to installation. When supported directly by the ground, solar collectors shall meet all required dimensional standards for setbacks and yards, and shall not exceed twenty five feet (25’) in height when oriented at maximum tilt. Whether installed at a fixed angle or capable of tilting to follow the sun, a solar collector installation shall not cause any solar glare to persons on the ground, in vehicles, or inside buildings.
2. Ground mounted solar collector installations as a principal use shall have all collectors and related equipment and components no closer to an interior (nonstreet) property line than twenty feet (20’), and no closer than thirty feet (30’) to any public street. The installation shall be enclosed by a fence at least six feet in height at least ten feet (10’) inside the property lines, with landscape plant materials between the fence and the property lines on all sides. This planted area shall be a combination of evergreen and deciduous shrubs at least three feet (3’) in height at time of initial planting and spaced no further than ten feet (10’) on center, and shall be of varieties that will not grow in height or width to block the sun’s rays from reaching the solar collectors. Existing trees within ten feet (10’) of the site’s outer boundaries shall not be removed or pruned to improve the capacity of solar collectors. Perimeter landscaping, and screening as required by § 155.606 shall not be required in order to allow maximum solar access. Streetscape trees are required, although they may be of a small maturing variety where larger species would restrict solar access to some adjacent collectors.
3. When a principal use, ground mounted solar collectors and all equipment and associated devices shall not exceed twenty five feet (25’) in height. Solar collector installations which are roof mounted on mixed use and nonresidential buildings shall not exceed the maximum building height of the underlying zoning district and any overlay zoning district when at full tilt. Whether installed at a fixed angle or capable of tilting to follow the sun, a solar collector installation shall not cause any solar glare to persons on the ground, in vehicles, or inside buildings.
4. No outside storage related to the solar collector installation shall be allowed. No signs shall be visible off-site for the solar collector installation, except one (1) identification sign at a gated entrance to a ground mounted facility, not to exceed forty (40) square feet in area. A wayfinding or governmental sign may be attached to a solar collector installation, when appropriate. No noxious fumes, odors, noise, or similar nuisance factors shall be created on-site. Any electrical wiring for the system shall be underground except where necessary to connect to the local utility power grid or the associated building using the generated power.
5. All solar collector installations shall comply with the state Building Code and Electrical Code.
6. The current and future owner and/or operator of a solar collector installation shall assume all risk associated with diminished performance caused by any adjacent structure, building, or landscaping, present or future, which may interfere with receiving maximum solar radiation, regardless of when the adjacent structure is constructed or when landscaping is installed or grows.
7. It shall be the current and future owner and/or operator of a solar collector installation to maintain the facility in good working order, and to remove all obsolete or unused systems within one (1) year of cessation of operation.
8. Roof mounted or ground mounted solar collector installations as a principal use are allowed in the Traditional Business and Industrial districts and the B-1SCD district. Roof mounted principal use installations are allowed in the C-MF, MUD, TS, and ENT districts.

155.506.49 Gas (Fueling) Station with Convenience Store.

A. A typical gas station is open to the public to purchase fuel for their vehicles, generally with several pumps offering various grades of gasoline, diesel, or alternative fuels, and may also have on-site air pumps, car vacuums, a car wash facility, and an enclosed retail sales area where individuals may pay for their fuel and purchase prepared or fresh food and drink items, and miscellaneous merchandise. While fuel dispensing,

retail store, and car wash facility may be separate business enterprises, they work in tandem on the property. When properly designed to limit incompatible aspects of the business site from adjacent parcels, these uses may be allowed in certain nonresidential and mixed use districts, including the B-H, I-1, B-1SCD, MUD, and ENT districts.

B. STANDARDS.

1. Buildings and structures with vertical planes of walls and windows – store, car wash, retaining wall, etc. – shall be located at the minimum setback or maximum build-to line for at least fifty percent (50%) of the lot width, except for corner lots. On a corner lot, these structures shall be located along the setback or build-to lines of both streets, at least forty percent (40%) on one and at least sixty percent (60%) on the other. Structures shall be set at an angle or out of any sight triangles at intersections and driveway access points.

2. Vehicular access points shall be situated as far away as possible from any street intersections.

3. Whenever possible, a gas station with convenience store shall share vehicular access points with adjacent parcels to reduce the number of curb cuts onto public streets. No more than two (2) shared curb cuts on public streets shall be allowed for a gas station site, and these must be a minimum of one hundred fifty feet (150') apart when on the same street, or may be located on two different streets. When no shared access is possible, then only one (1) access curb cut shall be allowed for the gas station facility. Vehicular access points onto private interior driveways may be spaced no less than forty feet (40') apart, with no limitation on the number. Any vehicle access, whether adjoining a public or private driving area, shall not be greater than twenty four feet (24') in width, unless including a center median with a safe pedestrian refuge.

4. Pedestrian pathways shall be provided from the adjacent public street's sidewalk to the store building, and from required on-site parking to the store building. The pedestrian circulation shall not conflict with on-site vehicular circulation patterns.

5. One (1) queuing space shall be designed for each pump location. Queuing spaces shall not conflict with or block on-site parking spaces or the entrance area to the site.

6. On-site circulation for tanker trucks shall be designed for forward movement only.

7. Noise-generating areas, such as vacuum stations, refrigeration motors, car wash mechanical equipment, and air conditioners, shall not be located within forty feet (40') of any adjacent residential or institutional use.

8. The architectural character, lighting, signs, and landscaping of all buildings and structures comprising business activities of a gas station with convenience store shall conform to the existing or planned character and exterior materials found in the surrounding neighborhood.

   a. When more than fifty percent (50%) of the surrounding neighborhood buildings within four hundred feet (400') of the gas station parcel property boundaries have some style of pitched roof, then the gas station structures, including a car wash and canopy over the gas pumps, shall have a pitched roof with a minimum pitch of 4:12.

   b. Gas pump islands and canopy shall not be placed within twenty feet (20') of any public street, to allow space for street trees and other landscaping amenities.

   c. Buildings shall be designed to have consistent or complementary architectural characteristics wrap all sides. Where loading, dumpster, utility equipment, or similar areas need to be placed outside the building, they shall be shielded from view from public streets. Walls used as screening shall be of the same exterior materials and colors as the buildings, and shall be high enough to completely conceal dumpsters or permanently located equipment.

   d. The canopy over gas pump islands shall be visually consistent in design features with on-site buildings. All canopy columns or supports shall be clad with exterior materials and colors consistent with the buildings, and this cladding shall be proportionate to the height and scale of the canopy. Vertical edges of the canopy shall not be illuminated. A canopy shall not exceed twenty feet (20') in height.

   e. Windows of the store building shall be transparent glass to allow unobstructed views in and out of the building. Window signs are limited to ten percent (10%) of the total glass

area.

f. Landscaping, lighting fixtures, and other on-site elements shall be consistent and complementary in design.

9. Attached signs may be placed on canopies and buildings in number and size as allowed by the underlying zoning district. Because they are inter-related, all uses on the site shall be considered one business establishment for purposes of determining allowed maximum signage. One freestanding sign for the site shall be allowed at the size given for the zoning district.

10. No more than two (2) gas stations shall be allowed to locate at any intersection, and shall be on different corners to allow convenient access to different flows of traffic. In all other configurations, one gas station shall be separated from another gas station by a minimum of five hundred feet (500'), measured in a straight line distance from nearest property edges.

155.506.50 [RESERVED.]
(Ord. 2025A, passed 6-9-14; Am. Ord. 2141, passed 4-11-16)

Chapter 6. General Development Standards

155.601. General Regulations

155.601.1 Zoning Affects Every Building and Use

No building, structure, or land may be used or occupied, and no building, structure, or part may be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with all the regulations of this Title for the district in which it is located, except as otherwise provided by this Title. ('72 Code, § 24-1009) (Ord. 477, passed 2-8-88) **[formerly known as § 153.036]**

155.601.2 Prohibited Reduction of Yards and Lot Area

No lot existing at the time of passage of this Title may be reduced in its dimensions or area below the minimum requirements of this Title for the district in which it is located unless specifically authorized by other provisions of this Title. ('72 Code, § 24-1011) (Ord. 477, passed 2-8-88) **[formerly known as § 153.038]**

155.601.3 Combination of Substandard Lots

In certain circumstances, substandard lots which have been previously recorded will be required to be combined for zoning purposes. At any time after the adoption of this Title, if adjoining lots are in the same ownership and any of the lots are below Title standards for lot width or lot area for the district in which it is located, that lot shall not be eligible for development unless one or more adjoining lots are combined with the substandard parcel into one or more lots which do meet the minimum ordinance requirements and are properly recorded. However, if the combination results in the creation of a single lot with more than one and one-half times the width and area than is required by this Title then it may be divided into two lots of equal width and area, and shall include a note on the recorded plat explaining the application of this section ('72 Code, § 24-1007) (Ord. 477, passed 2-8-88) **[formerly known as § 153.035]**

155.601.4 Encroachment of Open Space or Utility Easements Prohibited

No open area of land on a parcel which does not have, or has not been identified for, coverage by a principal or accessory building, structure, or outdoor use may be encroached upon or reduced in any manner, except to conform to yard, setback, off-street parking spaces, and such other regulations designated in this Title. Any land area designated as open space on a final plat, other recorded plan document, Town approved site plan, or County approved request for permit for some land disturbing activity shall not be encroached upon or reduced in any manner except in conformance with all approved documents. No public utility easement for water, sanitary sewer, or storm water, recorded in the Mecklenburg County Register of Deeds may be encroached upon by any structure, although such easement may be used for parking (but not any associated landscaping). ('72 Code, § 24-1010) (Ord. 477, passed 2-8-88) (Ord. 1127, passed 7-10-00) **[formerly known as § 153.037]**

155.601.5. Every Lot Must Abut a Street

Except for the following, no building, structure, or use of land for any purpose may be placed on a lot which does not abut a street:

A. A one-family detached dwelling may be constructed on a lot that does not abut a street, provided that the lot is at least two acres in size, is provided with access to a public street by an easement at least fifteen feet (15') in width for the exclusive use of the single-family dwelling, and the easement is maintained in a condition passable for emergency and service vehicles. In situations where two (2) or more one-family detached dwelling lots have required minimum road frontage on a public street, but do not desire, or are prohibited from having, direct vehicular access to such street from each individual lot, then, subject to Town approval and NCDOT (if applicable), a shared driveway may be created on one or more of the lots through an easement guaranteeing cross access usage to all affected parcels. (Ord. No. 1609-A, passed 2-11-08)

B. A one-family attached dwelling unit need not abut a street, provided that at least one unit of each dwelling group abuts a street and provided that access to each dwelling unit is made available via either a public right-of-way or private vehicular or pedestrian way owned by the individual unit owner in fee or in common

ownership.

C. One-family attached dwelling units need not abut a street, provided that all portions of every dwelling unit are within four hundred feet (400') of a public or private street that furnishes direct access to the property and that access to each dwelling unit will be made available via either a public right-of-way or a private street or vehicular or pedestrian way owned by the individual unit owner in fee or in common ownership. ('72 Code, § 24-1012) (Ord. 477, passed 2-8-88)

D. A tract of land of any size without required minimum road frontage may be used for an urban farm or for growing forestry products when it is provided with access to a public street by an easement at least fifteen feet (15') in width for the exclusive use of the farming or forestry activity.

E. Individual dwelling units within a cottage cluster housing development do not need to abut a street, provided there is a shared driveway access connecting to a public street. **[formerly known as § 153.039]**

155.601.6. Fractional Requirements

When any requirement of this Title results in a fraction of a unit, a fraction of one-half (1/2) or more will be considered a whole unit and a fraction of less than one-half (1/2) will be disregarded. When the determination of the number of dwelling units permitted on a lot results in a fraction of a dwelling unit, a fraction of one-half (1/2) or more will be considered a dwelling unit and a fraction of less than one-half (1/2) will be disregarded. ('72 Code, § 24-1013) (Ord. 477, passed 2-8-88) **[formerly known as § 153.040]**

155.601.7. Modification of Development Standards

Within the R-VS, CrC, and MUD Conditional-Only districts, and for cottage cluster housing developments in any allowed districts, which are approved or proposed under the provisions of this Title, certain development standards may be modified. This modification is allowed under the provisions of § 155.401.7. ('72 Code, § 24-1309) (Ord. 477, passed 2-8-88) **[formerly known as § 153.051]**

155.601.8. Structures Above Height Limit

A. The following structures, features, or equipment are permitted above the height limit in any nonresidential district and for non-residential uses in residential districts, when upon or extending through the roof of a building: roof structures for elevators, stairways, tanks, ventilating fans, air conditioning or similar equipment for the operation or maintenance of buildings, satellite dishes, and any device used for screening those structures and equipment. Any of these features must be set back from the edges of buildings or otherwise visually screened so that no more than one-half (1/2) of their height is visible from the ground at any property line of the lot on which the building is located. Chimneys and skylights are also permitted above the height limit in these districts but are not subject to screening requirements.

B. The following structures are permitted above the height limit, subject also to provisions at § 155.605, on lots in the residential/institutional, office, business, and industrial districts which do not adjoin lots in any residential district: steeples and clock or bell towers (either attached to the principal structure or as a separate freestanding structure associated by architectural design to the principal structure), flagpoles, smokestack or chimney separate from a building, water tanks, or similar structures. If this type of a structure is on a lot which adjoins a residential district then the structure or that part of the structure above the height limit must be separated from any such adjoining lot line by a distance equal to its height measured from the ground. (See also § 155.608.6.A. for limits on flagpole height.)

C. The structures listed in § 155.601.8.B above are also permitted above the height limit in residential districts. However, any part of such a structure which extends above the height limit must be separated from any adjoining property line by a distance equal to its height measured from the ground and must meet yard requirements of the zoning district. Maximum permitted height of these structures in any residential district is eighty feet (80') unless further restricted elsewhere in this Title.

D. Electric and telephone poles used to support electric power and other utility wire lines are permitted above the height limit in any district up to sixty feet (60'). Electric transmission line towers are exempt from height limits or separation requirements. ('72 Code, § 1605) (Ord. 477, passed 2-8-88: Am. Ord. 643, passed 11-5-90; Am. Ord. 775, passed 4-12-93; Ord. 912 passed 1/27/97) **[formerly known as § 153.076]**

155.601.9 Certain Encroachments into Yard Allowed

A. Architectural features such as cornices, eaves, steps, gutters, and fire escapes may project up to three feet (3') into any required yard or beyond any required setback unless that feature would obstruct driveways which may be used for service or emergency vehicles.

B. A portion of the required rear yard on a single-family residential zoned lot used for a single family home may be utilized for an extension of the principal structure, including garage, porch, deck, greenhouse, covered patio, or similar unheated space when meeting the following criteria:

1. No more than twenty percent (20%) of the area of the required rear yard may be used to accommodate an extension of the principal structure.
2. No such extension may encroach into the rear yard more than twenty five percent (25%) of the depth of the required rear yard.
3. No such extension may be more than fifty percent (50%) of the width of the dwelling at the rear building line.
4. Any such extension shall meet the required minimum front setback and side yard requirements for a principal structure on the lot, including street side yard requirements on corner lots.
5. Such extension shall not be allowed into any utility easement.
6. Such extension shall maintain a minimum four foot (4') building separation from any other building within the lot.
7. No extension of the principal structure into the required rear yard shall be converted to an enclosed heated area.

C. Structural accommodations to meet ADA standards may encroach into a required setback or yard when necessary and no alternative application is appropriate. ('72 Code, § 1610) (Ord. 477, passed 2-8-88; Ord, passed 8-13-12) **[formerly known as § 153.081]**

155.601.10 Private Alleys Included in Lots

When a private alley is allowed, the lot lines of adjacent properties may meet at the centerline of the alley, and the land area of the alley portion may be included in calculating minimum lot area. However, in order to assure sufficient and unencumbered travel lane width, all minimum distances to buildings or parking spaces shall be measured from the outer edges of the alley pavement and not from the lot line. ('72 Code, § 1611) (Ord. 477, passed 2-8-88) **[formerly known as § 153.082]**

155.601.11 Specific Standards for Certain Side and Rear Yards

A. ADJOINING RAILROADS OR WATERFRONT. In nonresidential districts, side and rear yards as may be established for those districts are not required adjacent to railroad rights-of-way or on the waterfront side of lots adjacent to impounded water. In these instances, the required minimum side or rear yard shall be ten feet (10'). Any other provisions of this Title shall also apply, and if there is any conflict between this and other provisions, the most restrictive shall apply. ('72 Code, § 1612) (Ord. 477, passed 2-8-88) **[formerly known as § 153.083]**

B. CORNER OR THROUGH/DOUBLE FRONTAGE LOT. When a lot has public street frontage on more than one side, one or more of the following standards may apply in addition to the underlying minimum yards of the zoning district. When the standards listed here and the zoning district's side and/or rear yard requirements differ, the standards requiring the greater distance shall take precedence.

1. If two (2) corner lots are separated by a common lot line, the corner side yards for the lots shall be a minimum of ten feet (10').
2. If the rear lot line of a corner lot is also the side lot line of an adjacent lot to the rear, then the corner side yard must be at least fifty percent (50%) of the required front setback for the adjoining lot.
3. If the side lot line of a corner lot in any zoning district abuts a thoroughfare, the corner side yard must be at least forty five feet (45') in a lot used for residential purposes, and at least thirty five feet (35') in a lot used for mixed use or nonresidential purposes.
4. If both the front setback and rear yard of a lot in any single-family residential district abut public streets, the minimum rear yard will be the same as the minimum front setback for that district.

5. When the rear yard of a through lot in any zoning district abuts a thoroughfare, the minimum rear yard depth must be at least fifty five feet (55'). **[formerly known as §§ 153.085, 153.086, and 153.095(B) and (C)]**

C. ZERO LOT LINE DWELLINGS. When a zero lot line dwelling is allowed in various zoning districts, the underlying front setback, side and rear yards and other dimensional standards for that district will apply with the exception of one side or rear yard dimension, which may be reduced down to zero (0) feet to allow placement of the structure at or near the one lot line. When this is done, a maintenance easement of at least five feet (5') in width shall be created and recorded at the Mecklenburg County Register of Deeds for the adjacent property, to allow for access, repair and general maintenance of the structure along the zero lot line. Eaves, bay windows, gutters, mechanical equipment, and similar extensions or attachments to the principal structure shall not be placed on or extend over the property line. The lot line to which the zero dimension is applied shall not be the streetside side yard of a corner lot. No windows or door openings shall be located within the wall portion at the lot line in order to create a sense of separation for the adjacent parcel.

155.601.12 Location of Required Yards on Irregular Lots

The location of required front, side, and rear yards on irregularly shaped lots will be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Title to achieve an appropriate spacing and location of buildings on individual lots. ('72 Code, § 1613) (Ord. 477, passed 2-8-88) **[formerly known as § 153.084]**

155.601.13 Sight Triangle

A. STANDARDS. Within a sight triangle, and except as provided in § 155.601.13.B below, no structure, sign, plant, shrub, tree, berm, fence, wall, mailbox or object of any other kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between two (2) feet and ten (10) feet above the level of the center of the street intersection.

B. EXEMPTIONS. The standards of this § 155.601.13 shall not apply to:

1. Existing natural grades, which, by reason of natural topography, rises twenty four (24) or more inches above the level of the center of the adjacent intersection.

2. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between two feet (2') and ten feet (10') above the level of the center of the abutting intersection.

3. Fire hydrants, public utility poles, street markers, governmental signs, and traffic control devices. (Ord. No. 1532, passed 1-8-07)

C. REDUCED SIGHT TRIANGLE FOR CERTAIN DISTRICTS. A modified sight triangle with dimensions no less than twenty five feet by twenty five feet (25' x 25') may be allowed within the Downtown Overlay district and within the C-MF, MUD, TS, and ENT districts with the approval of the Town Engineer. This provision may only be applied adjacent to Town-maintained streets (not state roads), and only when the adjacent building or approved outdoor amenity is at, or less than, twenty feet (20') from the public street right-of-way line. Outdoor amenities that may justify a reduced sight triangle may include, but are not limited to, a retaining wall or substantial sharp change of natural grade, stairs, fire escape, or low wall that visually and physically separates the public right-of-way from the adjacent private use area and cannot efficiently be relocated elsewhere on the site. The reduced sight triangle must be located where the travel lane closest to the building is controlled by either a signal or signage. **[formerly part of § 153.078]**

155.601.14 More than One Principal Building per Lot

More than one (1) principal nonresidential building may be located on a lot if a paved access driveway at least ten feet (10') wide is maintained from a public street to each building for use by service and emergency vehicles. Unless a lesser standard is allowed elsewhere in this Title and by applicable building codes, a minimum separation of four feet (4') is required between separate buildings. No more than one (1) principal residential building may be located on a lot, except under the provisions for accessory apartments, cottage cluster developments, multi-family developments, manufactured home parks, overnight camping trailer parks, and institutionalized residential facilities. In the case of attached single-family development where the side or rear lot lines match the center of common shared walls, the approved preliminary subdivision plat indicating the proposed lot lines shall be used for building permit approval, although temporary or final Certificates of Occupancy shall not be issued until a final plat is approved and recorded.

('72 Code, § 1619) (Ord. 477, passed 2-8-88; Am. Ord. 871, passed 9-12-94) (Ord. 1127, passed 7-10-00) **[formerly known as § 153.088]**

155.601.15 Driveways

Driveways in any mixed use or nonresidential district may be used to provide access to uses in any of these districts. ('72 Code, § 1618) (Ord. 477, passed 2-8-88) **[formerly known as § 153.087]**

155.601.16 Vibrations

No use in any district may operate in such a way that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments. ('72 Code, § 1620) (Ord. 477, passed 2-8-88) **[formerly known as § 153.089]**

155.601.17 Noise

Every use of land must be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities. Every nonresidential use must be operated in such a way that any noise which may be detected by the human senses without instruments at all public right-of-way and property lines is no louder than the noise which could be expected from uses permitted in those districts. In instances where more restrictive provisions of this Title may apply, they will control. See also the Town Noise Ordinance. ('72 Code, § 1621) (Ord. 477, passed 2-8-88) **[formerly known as § 153.090]**

155.601.18 Special Requirements for Lots along Thoroughfares

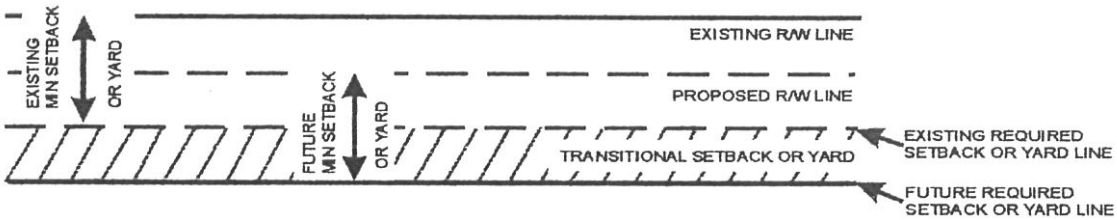
A. TRANSITIONAL SETBACK/YARD REQUIRED.

1. DETERMINATION OF TRANSITIONAL SETBACK/YARD. The required setbacks and/or streetside yards prescribed for each zoning district which abut a proposed, but not yet constructed thoroughfare, shall be measured from the proposed right-of-way line established for each street classification as designated on a Town or regional Thoroughfare Plan.

2. USE OF TRANSITIONAL SETBACK/YARD. A transitional setback or yard shall also be applied for each parcel which abuts a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare as designated by the adopted Thoroughfare Plan. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for *(i)* those uses which are prohibited in the required setbacks or yards elsewhere in this Title, or *(ii)* to satisfy any minimum parking requirements if parking is not allowed in the setback or yard by the particular zoning district. The transitional setback or yard (the area between the existing required setback/yard and the line established when measured from the future widened right-of-way) may be used for parking only when such parking exceeds the minimum parking requirements At the time that the proposed right-of-way is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses constructed after July 10, 2000, which are within the transitional setback or yard that are not otherwise permitted in the setback or yard by the zoning district regulations. The property owner shall have one year from the date of right-of-way acquisition to remove any such uses. (Ord. 1127, passed 7-10-00)

3. EXCEPTIONS. The standards of § 155.601.18.A.1 and § 155.601.18.A.2 will not apply to any development satisfying one or more of the following circumstances: *(i)* Any multi-building site or multi-lot development which has at least one (1) building built or under construction, or has a valid unexpired building permit issued for at least one building prior to July 10, 2000; *(ii)* Any project which had a site plan not requiring any additional right-of way approved prior to July 10, 2000 through a zoning action of the Board of Commissioners, or through a Highway Overlay Compliance Review, a Downtown Overlay Compliance Review, or Landscape Plan Review by Town Staff.

4. An affected property owner shall have the right to request a variance to transitional setback or yard requirements to the Board of Adjustment. In granting relief, the Board of Adjustment may impose reasonable and appropriate conditions and safeguards to protect the interest of neighboring properties.



B. Either the provisions for site perimeter screening at §155.606.6.A or the provisions for loading area screening at §155.606.6.B must be provided along the rear yard and along the side yard of any lot which abuts a thoroughfare when located within the following districts: all Traditional zoning districts except HUC, and Conditional-Only districts R-VS, CrC, SRN, C-MF, B-1SCD, and AU. ('72 Code, § 1631) (Ord. 477, passed 2-8-88) **[formerly known as § 153.095]**

155.601.19 Prior Cluster Subdivisions

Provisions for Cluster subdivisions were in effect in previous Matthews development ordinances, until August 13, 2012. A cluster development has been defined as a tract of land of at least ten acres initially owned by a single person, firm, partnership, association, or corporation which is planned and developed as a single project. Any existing cluster development shall be considered to be in conformance with all lot dimensions and minimum required setbacks and yards as long as the subdivision remains substantially the same as recorded. Minor revisions to individual lots may be made and the cluster dimensional standards provided here may be applied to those altered lots. Alternative dimensional standards for lot area, and for front setbacks, side and rear yards for any lot line on the interior of the proposed subdivision were allowed when shown on a final plat recorded prior to the given end date. Because these dimensions remain legal within the R-20, R-15, R-12, and R-9 districts when they were put into effect prior to the date given above, the applicable table of dimensions for Cluster development is provided here as a historical guide. These dimensions and the Cluster provisions here are no longer available to new development.

	R-9	**R-12**	**R-15**	**R-20**
Minimum lot area	6,750	9,000	11,250	15,000
Minimum lot width	60 feet	60 feet	70 feet	80 feet
Minimum side yards (1)	Six feet one side, eight feet other side			
Minimum setback	20 feet	25 feet	30 feet	30 feet
Average setback**	25 feet	30 feet	35 feet	35 feet
Minimum rear yard (1)	25 feet	30 feet	35 feet	35 feet
Minimum unobstructed Open space	50%	55%	60%	65%
Maximum height	35 feet	35 feet	35 feet	35 feet

** Arithmetic average of all setbacks for all lots on one side of a block, or of all lots on a cul-de-sac.

(1) Any side and/or rear yards which form the outer boundary of a Cluster development must conform to the conventional minimum requirements of the district in which the development is located. **[formerly § 153.093 and § 153.206]**

155.601.20 Accessory Structures

A. Accessory structures shall not be permitted in any required front setback or side yard or within three feet (3') of any exterior property line. If located on a corner lot, the accessory structure shall not be nearer to the side street than the principal structure.

B On parcels with single-family attached or detached dwellings, no accessory structure shall be the greater of: taller than twenty feet (20') in height; or exceed the height of the principal structure. The size of all accessory structures on such a residentially-used lot shall not exceed fifty percent (50%) of the heated area of the principal structure.

C. Accessory structures on properties with multi-family uses or mixed uses that include dwellings shall not exceed fifty percent (50%) of the heated area of all residences.

D. Underground accessory structures may be permitted within any required yard or setback as long as the any ventilating or other similar equipment extends no higher than thirty two inches (32") above the finished grade, is at least three feet (3') away from any property lines, and does not cover more than five percent (5%) of the required yard area. Accessory structures such as piers and docks may also be permitted in any required setback or yard on lots which adjoin bodies of water. **[formerly § 153.077]**

155.601.21 Fences and Walls in Residential Districts and Developments

A. Within the single-family residential districts (R-20, R-15, R-12, R-9, R-MH, R-VS, CrC), no wall or fence may exceed four feet (4') in height in any required front setback, or no more than six feet (6') in height within any required side or rear yard.

B. For any housing development in other districts which are exclusively or primarily residential in nature, including R-15MF, R-12MF, SRN, and C-MF, no wall or fence may exceed six feet (6') in height in any required front setback, or required side or rear yard.

C. Fence height shall be the vertical distance measured on the exterior side of the fence from the ground directly under the fence to the highest point of the fence, exclusive of capitals or ornamental projections which are no closer than five foot (5') intervals. When applicable, the finished side of the fence shall face the exterior of the property.

D. Where the ground elevation is inconsistent, the fence height along any unbroken run, up to sixteen (16) lineal feet, may be averaged, as long as no point along that unbroken run exceeds ten percent (10%) of the stated height limit. Fence capitals or ornamental projections on columns or posts may extend six inches (6") above the actual fence height if they are spaced centerline to centerline between five feet (5') and twelve feet (12') apart. Capitals or ornamental projections may extend twelve inches (12") above the actual fence height if they are spaced centerline to centerline greater than twelve feet (12') apart, or may extend eighteen inches (18") above the actual fence height if they are spaced centerline to centerline greater than twenty four feet (24') from any other capital or ornamental projection.

E. Fully opaque fences and walls are not desired at entrances to housing areas or along front setbacks of dwellings. Privacy fences and walls which are intended to create private yards, courtyards, or play spaces for use by residents are allowed along street edges, but should incorporate landscaping or other features to visually break the appearance of a solid single plane for pedestrians.

F. The wall or fence height limitation does not apply to walls and fences constructed around structures and facilities for public utilities, communications towers and related equipment, or similar essential nonresidential uses. Walls and fences related to these uses are subject to landscape screening provisions elsewhere in this Title. ('72 Code 1624) (Ord.477, passed 2-8-88; Ord. 912, passed 1/27/97; Ord 1526, passed 1/8/07; Ord 1577, passed 7/23/07) **[formerly § 153.091]**

155.601.22 Accessory Uses and Buildings

No accessory use or building may be located on a residential property unless an allowed principal use is present. When the principal use is a residential dwelling, the principal building on the site must have a valid Certificate of Occupancy before an accessory building may receive a permit for construction. Other accessory structures may receive a permit for construction after the permit for the principal building is issued. When the principal use on a parcel is an open use of land, then a construction permit for an accessory building or structure may be issued.

155.601.23 Unit Ownership (Condominium/Townhouse/Planned Community) Development

When a development is proposed for construction or conversion to a form of condominium, twenty plus (20+) townhouses, or a planned community, which would be subject to the regulations outlined in NCGS 47A, 47C, and 47F, such development shall conform to normal use and development requirements of this Title for the district within which it is proposed to be located, including recordation of a final plat showing lots, when applicable. Any required improvements included in an approved zoning site plan or conditional zoning action shall be indicated as "must be built" on documents for the development. A copy of the recorded declaration shall be provided to the Town Planning office. **[formerly known as §153.170]**

155.602. Site Plan Layout – General Urban Design Principles

155.602.1 General

With proper urban form, a greater integration of building uses is natural and comfortable. The following general principles are encouraged to be applied throughout the Town in all zoning districts, and must be followed when Conditional-Only zoning designation is requested for the SRN, C-MF, MUD, TS, and ENT districts:

- Buildings form the public realm that is primarily streets and pedestrian pathways.
- The street is a coherent space, with consistent building form. This agreement of buildings facing across the public realm contributes to a clear public space and identity.
- Buildings oversee the street with active fronts. This overview of the public realm contributes to vital and safe public space.
- Land should be clearly public or private—in public view and under surveillance or private and protected.
- Buildings are designed for communal encounters, and must be designed for the urban situation within the Town. Views are directed to the public space as much as possible.
- Vehicle storage/parking, (not including on-street parking), garbage storage and collection, and mechanical equipment are kept away from the public realm.

155.602.2 Civic Use Areas.

Within the various Conditional-Only district there may be appropriate locations for improvements and structures available to the general public. Their design can significantly enhance the ambiance of the public realm.

A. CIVIC BUILDINGS. Civic buildings contain public or civic uses of special significance to residents, employees, or visitors. Civic buildings are used for the following purposes: community services, day care, education, government, places of worship, or social services. Civic buildings must be designed to physically express their community prominence, which means they should generally be sited adjoining or surrounded by civic spaces or where they provide a visual landmark by being placed at the axial termination of a street.

B. CIVIC OUTDOOR SPACES. Civic greens, squares and plazas shall be designed, planted and maintained according to the following requirements. Squares and plazas are generally intended to be active pedestrian centers and should be designed appropriate to their high foot traffic level with a higher percentage of paved surface area and should provide scattered short-interval seating accommodations. Civic greens are spaces intended for less intensive foot traffic and visitors may stay for a longer duration. Use of pervious paving materials is encouraged to allow oxygen to reach tree roots.

1. Trees planted within civic spaces provide a landscape and civic architecture that complement the surrounding building architecture. A clear view through the public space between two (2’) to eight feet (8’) in height is important for safety and urban design purposes. The foliage of newly planted trees may intrude below the eight foot (8’) clear vision level for up to four (4) growing seasons, and low hanging branches of large maturing preserved trees may encroach into the eight foot (8’) clear vision space when not extending over a paved walkway.

2. Materials and Configurations.

   a. Street trees shall be planted along the perimeter of the square or civic green at an average spacing not greater than forty feet (40’) on center. Where the natural shape and spread of large maturing trees would not properly occur at this spacing, an explanation of proposed alternate tree layout and comparison of tree count as shown and per the forty foot spacing shall be included on the Landscape Plan for the civic space. The required trees shall be selected from the approved Street Tree List in § 155.606.14.

   b. At least sixty percent (60%) of the trees within any civic space shall be large maturing trees, both evergreen and deciduous, except where existing trees are preserved that are predominately small maturing species. Existing trees shall be preserved to the greatest extent practical in designing civic spaces.

   c. Except for tree trunks, street lights, civic buildings, public art, or monuments, there shall be a clear view between two (2’) and eight feet (8’) above grade.

d. Asphalt alone as a paving material is prohibited within a civic space, but may be incorporated in the pedestrian use and travel portions along with other paving materials. Stamped asphalt, concrete, brick, stone pavers, cobblestone, and similar materials may be used within civic spaces.

3. Greens, squares and plazas must be located so that building walls that will face the civic space will have at least twenty five percent (25%) of their primary facade, including at least forty (40) percent of the ground story's primary facade, in transparent windows.

155.603. Buildings – General Urban Design Principles

155.603.1 General

These principles favor an aesthetic that is traditional in a broad sense, and which create an architectural aesthetic of load-bearing walls and regionally appropriate materials. The principles also specify certain details, such as window proportions, roof or parapet configurations, shop fronts, and overhang features. The intent behind these urban design principles is to foster a unique image while utilizing regionally appropriate elements. While materials, techniques, and product types are identified in this Title as allowed, use of equivalent or better practices and products are encouraged. They shall be submitted to the Town Planning office either for Administrative Amendment as explained at § 155.401.5 or Flexible Design as explained at § 155.401.7., whichever applies. Many of the principles apply only in conditions where the building elements are clearly visible from the public use realm, including streets, shared parking areas, and civic spaces. These urban design principles therefore concentrate on the views from the public realm and minimize interference in the private realm. For example, an architectural element that is visible only through an opening in the street wall is not clearly visible from the public realm. The following general principles are encouraged throughout the Town in all zoning districts and must be followed when Conditional-Only zoning designation is requested for the SRN, C-MF, MUD, TS, and ENT districts.

155.603.2 Exterior Building Walls

Exterior building walls shall generally reflect and complement the traditional materials and construction techniques of the Charlotte region on all sides of any structure which may be visible from the public realm. They should express the construction techniques and structural constraints of traditional, long-lasting, building materials. Simple configurations and solid craftsmanship are favored over complexity and ostentation in building form and the articulation of details. All building materials to be used shall express their specific properties. For example, heavier more permanent materials (masonry) support lighter materials (wood).

155.603.3 Roofs and Parapets

Roofs and parapets should demonstrate a commonsense recognition of the climate by utilizing appropriate pitch, drainage, and materials in order to provide visual coherence.

155.603.4 Windows and Doors

The placement, type, and size of windows and doors help to establish the scale and vitality of the public realm. For nonresidential and mixed use buildings, they allow interplay between the business interiors and the street or public realm space. For residential buildings, they foster "eyes on the street" surveillance which provides for security and safety in the area. Windows should be divided by multiple panes of glass. This helps the window "hold" the surface of the façade, rather than appearing like a "hole" in the wall, an effect produced by a large single sheet of glass.

155.603.5 Signage

Signs along mixed use and nonresidential frontages should be clear, informative to the public and should weather well. Signage is desirable for advertising shops and offices, and as decoration. Signs should be scaled to the nature of the particular area of the designated district, such as a mixed-use, pedestrian-oriented first floor environment, a high volume and free-flowing traffic corridor, or predominately residential. Inappropriate use or placement of signage increases driver distraction, intrudes into and lessens the urban environment pedestrian experience, and creates visual clutter.

155.604. Dimensional Standards

155.604.1 TABLE OF DIMENSIONAL STANDARDS							
	RESIDENTIAL TRADITIONAL ZONING DISTRICTS						
	R-20	R-15	R-12	R-9	R-MH	R-15MF	R-12MF
Minimum lot area (sq ft)	20,000	15,000	12,000	9,000	10,000	15,000	12,000
Minimum overall development area (sq ft or ac)	NA	NA	NA	NA	NA	15,000	12,000
Maximum overall development area (sq ft or ac)	NA	NA	NA	NA	NA	NA	NA
Area for each additional dwelling unit (sq ft)	NA	NA	NA	NA	NA	3,500	3,000
Minimum lot width (ft)	90	80	70	60	70	90	80
Minimum width when a corner lot (ft)	90	80	70	60	70	90	80
Minimum front setback (ft)	50	40	35	30	25	40	35
Maximum build-to line (ft)	NA	NA	NA	NA	NA	NA	NA
Minimum side yard, interior (ft)	12	10	10	8 & 6	8	10	10
Minimum corner side yard (streetside) (ft)	12	10	10	10	10	10	10
Minimum rear yard (ft)	60	55	50	45	30	55	50
Maximum building height (ft)	35	35	35	35	35	35	35/45(10)

Any parcels within the Downtown Overlay or Highway 51 Overlay shall also meet build-to lines, minimum lot sizes, and minimum setbacks/yards

For corner lots or through/double frontage lots, see also § 155.601.11

For lots adjacent to existing or proposed thoroughfares, see also § 155.601.18

(10) Required minimum side and rear yards must be increased one foot (1') for each foot or fraction of a foot in height over the given maximum when adjacent to a residential district, or one foot (1') for each two feet (2') in height over the maximum given limit when adjacent to all nonresidential districts

155.604.2 TABLE OF DIMENSIONAL STANDARDS									
	NONRESIDENTIAL TRADITIONAL ZONING DISTRICTS								
	R/I	O	HUC	B-1	B-3	B-D	B-H	I-1	I-2
Minimum lot area (sq ft or ac)	2 AC (1)	9,000	NA	NA	NA	NA	NA	NA	NA
Minimum overall development area (sq ft or ac)	2 AC (1)	9,000	NA	NA	NA	NA	NA	NA	NA
Maximum overall development area (sq ft or ac)	NA	NA	NA	NA	NA	NA	NA	NA	NA
Minimum lot width (ft)	200	60	NA	NA	NA	NA	NA	NA	NA
Minimum width when a corner lot (ft)	200	60	NA	NA	NA	NA	NA	NA	NA
Minimum front setback (ft)	50	30	(5)	40	40	40	40	40/20(15)	40
Maximum build-to line (ft)	NA	NA	(5)	NA	NA	NA	NA	NA	NA
Minimum side yard, interior (ft)	50	8 & 6	(6)	10 (3)	25 (3)	10	10 (3)	10 (8)	10 (8)
Minimum corner side yard (streetside) (ft)	50	10	10	10	10	10	10	10	10
Minimum rear yard, adjacent to residential (ft)	50	40	10	20	25	20	20	20	20
Minimum rear yard, adjacent to other districts (ft)	50	20	10	10	10	10	10	20	20
Maximum building height (ft or stories)	60 (2)	40	40, or 3 stories (7)	40	50 (4)	40	40	40 (4)	40 (4)
Minimum building height (ft)	NA	NA	NA	NA	35	NA	NA	NA	NA

Any parcels within the Downtown Overlay or Highway 51 Overlay shall also meet build-to lines, minimum lot sizes, and minimum setbacks/yards

For corner lots or through/double frontage lots, see also § 155.601.11

For lots adjacent to existing or proposed thoroughfares, see also § 155.601.18

(1) See § 155.605.2 for min lot size based on presence and size of assembly room(s)

(2) Structures may exceed the maximum height provided the required side and rear yards are increased 1 ft for each foot or fraction of a foot in height over 60'

(3) No side yard required when not adjacent to a residential district.

(4) Structures may exceed the maximum height provided the required side and rear yards are increased 1 ft for each foot or fraction of a foot in height over the given maximum when adjacent to a residential district, or 1 ft for each two feet in height over the maximum given limit when adjacent to all nonresidential districts

(5) Front setback or max build-to line is based on downtown street type. See § 155.502.10.C and Downtown Design Guidelines and Streetscape improvements

(6) Side yards not required. If one or more present, each must be at least 4'.

(7) Buildings facing on a public green and used for public and/or institutional uses, may increase maximum building height to 55'.

(8) Side yards must be a minimum of 20' when adjacent to a residential district.

(15) Front setbacks may be reduced when meeting the provisions established at § 155.502.15.
(Ord.2025A, passed 6-9-14; Ord. 2059, passed 12-8-14)

155.604.3 TABLE OF DIMENSIONAL STANDARDS									
	CONDITIONAL-ONLY ZONING DISTRICTS								
	R-VS	CrC	SRN (12)	C-MF	MUD (12)	TS	B-1SCD	ENT (12)	AU
Minimum lot area (ft or ac)	(11)	7,500 (9)	NA	NA	NA	NA	NA	NA	NA
Minimum overall development area (ft or ac)	1/2 AC	NA	1 AC	3 AC (13)	15 AC(13)	NA	3 AC	NA	NA
Maximum overall development area (ft or ac)	15 AC	NA	15 AC	15 AC	NA	6 AC	NA	NA	2 AC
Minimum lot width (ft)	(11)	65 (9)	40	40	NA	NA	NA	NA	NA
Minimum width when a corner lot (ft)	(11)	65	40	40	NA	NA	NA	NA	NA
Minimum front setback (ft)	(11)	25 (9)	NA	NA	14	NA	40	NA	40
Maximum build-to line (ft)	NA	NA	20	20	20	20	NA	20	NA
Minimum side yard, interior (ft)	(11)	8 (9)	10	10(14)	NA	NA	25	NA	20
Minimum corner side yard (streetside) (ft)	10	10	10	10	NA	NA	25	NA	20
Minimum rear yard (ft)	(11)	30 (9)	10	10 (14)	NA	NA	25	NA	20
Maximum building height/ max ht with increased yards (ft)	35	35	45	45/60 (10, 14)	45/60 (10)	60	40/50 (10)	60/80 (10)	35
Minimum building height (ft)	NA	NA	NA	18	18	24	14	24	NA
Exterior project edge adjacent to any residential district: undeveloped/developed	NA	NA	NA	=/>3 ac: 60 (14) =/<1 1/2 ac: 20 (14)	50/100	NA	NA	NA	NA
Exterior project edge adjacent to all other districts	NA	NA	NA	=/>3 ac: 25 (14) =/<1 1/2 ac: 10 (14)	15	NA	NA	NA	NA
Minimum Setback/yard along an interstate highway	NA	NA	NA	NA	50	NA	NA	NA	NA

Any parcels within the Downtown Overlay or Highway 51 Overlay shall also meet build-to lines, minimum lot sizes, and minimum setbacks/yards

For corner lots or through/double frontage lots, see also § 155.601.11

For lots adjacent to existing or proposed thoroughfares, see also § 155.601.18

(9) Dimensions for single parcels of development sites under five (5) acres not being developed as a SF detached subdivision. See other dimensional standards at §155.503.2

(10) Required minimum side and rear yards must be increased one foot (1') for each foot or fraction of a foot in height over the given maximum when adjacent to a residential district, or one foot (1') for each two feet (2') in height over the maximum given limit when adjacent to all nonresidential districts

(11) Dimensional standards vary depending on the overall tract area and style of housing provided. See § 155.604.4

(12) Single family attached and detached, all styles, must follow R-VS dimensional standards at § 155.604.4 or Cottage Cluster provisions at §155.506.22

(13) A C-MF designation within one-half (1/2) mile of the intersection of Trade and John Streets shall be less than one and one-half (1 1/2) acres, with no required minimum size. (see §155.503.4.C.2)

(14) See § 155.503.4.C.3 and 4 for further qualifications. (Ord. 2025A, passed 6-9-14)

155.604.4 Table of Dimensional Standards - R-VS District

A. For land parcels or alternative housing project development areas up to three (3) acres in size:

	Single-Family Detached	Zero Lot Line	Two-Family or Duplex	Single Family Attached
Minimum lot area (sq ft)	3,000	3,000	2,500 / du	2,000 / du
Minimum lot width (ft)	30	25	20 / du	20 / du
Minimum setback (ft)	20	20	20	20
Minimum side yard (ft)	8 / 6	0[1] / 10	0[1] / 8	0[1], 8 for end unit
Minimum rear yard (ft)	25	20	25	20
Maximum height (ft)	35	35	35	35

[1] Any wall constructed on the side lot line must be a solid, windowless wall. If there is an offset of the wall from the property line, that offset portion must be at least eight feet (8') from the side lot line. A five foot (5') maintenance easement and maximum eave encroachment of three feet (3') within the maintenance easement must be established in the deed restrictions and covenants of the adjoining lot, where applicable to a zero (0) foot side yard not adjoining another structure. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance.

B. For land parcels or alternative housing project development areas over three (3) acres in size:

	Single-Family Detached	Zero Lot Line	Two-Family or Duplex	Single Family Attached
Minimum lot area (sq ft)	4,500	4,500	4,500 / du	3,000 / du
Minimum lot width (ft)	40	35	35 / du	30 / du
Minimum setback (ft)	20	20	20	20
Minimum side yard (ft)	8 / 6	0[1] / 15	0[1] / 8	0[1], 8 for end unit
Minimum rear yard (ft)	30	20	30	20
Maximum height (ft)	35	35	35	35

[1] Any wall constructed on the side lot line must be a solid, windowless wall. If there is an offset of the wall from the property line, that offset portion must be at least eight feet (8') from the side lot line. A five foot (5')maintenance easement and maximum eave encroachment of three feet (3') within the maintenance easement must be established in the deed restrictions and covenants of the adjoining lot, where applicable to a zero (0) foot side yard not adjoining another structure. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance.

C. For nonresidential uses allowed in the R-VS district:

Minimum lot area	1 acre, or as required at § 155.506.7, whichever is greater
Minimum lot width	80 feet, or as required at § 155.506.7, whichever is greater
Minimum setback	25 feet, or as required at § 155.506.7, whichever is greater
Minimum side yard	20 feet, or as required at § 155.506.7, whichever is greater
Minimum rear yard	25 feet, or as required at § 155.506.7, whichever is greater
Maximum height	35 feet, unless a greater height is allowed at § 155.506.7

155.604.5 Table of Dimensional Standards -- Nonresidential Uses in SRN and C-MF Districts.

Although the SRN and C-MF districts are primarily higher density residential, they are intended to create a balanced neighborhood environment. In order to encourage walking opportunities for residents, and to concentrate daily convenience activities near homes, the SRN and C-MF districts may include a variety of nonresidential uses. Residential and nonresidential uses may be located within a mixed use building or may be in separate buildings within the overall development site. In order to prevent inappropriate impacts on the residential quality of life, the extent of nonresidential use in the SRN and C-MF districts shall be subject to the following:

	Minimum Dwellings To Include Any Nonresidential Use	**Maximum size of Any Nonresidential Building (stand-alone)**	**Maximum size of Any Individual Establishment**	**Maximum Overall Nonresidential Uses in District**
SRN	40	8,000 sq ft GFA	3,500 sq ft GFA	5,000 sq ft per ea 20 du; max of 40,000 sq ft
C-MF	60	10,000 sq ft GFA (must be minimum 2-story)	4,000 sq ft GFA	6,500 sq ft per ea 20 du; max of 80,000 sq ft

As an example, a five (5) acre tract is developed under the SRN district with an average of sixteen (16) dwelling units per acre, for total of eighty (80) dwelling units in the overall development site. This would allow a maximum of 20,000 sq ft of nonresidential uses.

80 total du/20 = 4

5,000 x 4 (groups of 20 du) = 20,000 sq ft

In a second example, a five (5) acre tract is developed under the C-MF district with an average of twenty four (24) dwelling units per acre, for a total of one hundred twenty (120) dwellings in the overall development site. This would allow a maximum of 39,000 sq ft of nonresidential uses.

120 total du/20 = 6

6,500 x 6 (groups of 20 du) = 39,000 sq ft

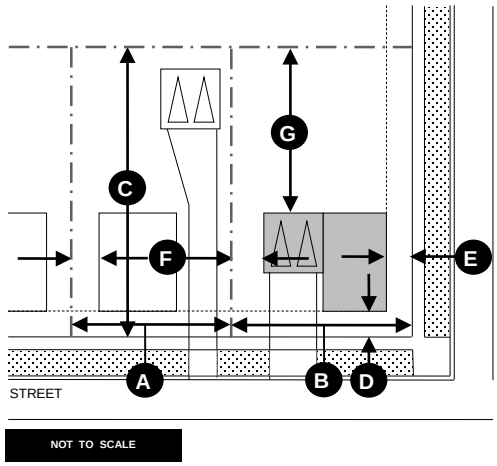
155.605. Lot Development Standards

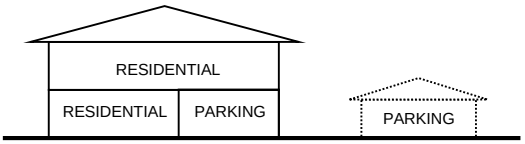
155.605.1. Residential Only Buildings.

A. ONE- AND TWO-UNIT RESIDENTIAL BUILDINGS

1. TYPE A-1 BUILDING: SINGLE-FAMILY DETACHED HOUSE. Single-family detached dwelling units may take a variety of forms, including:

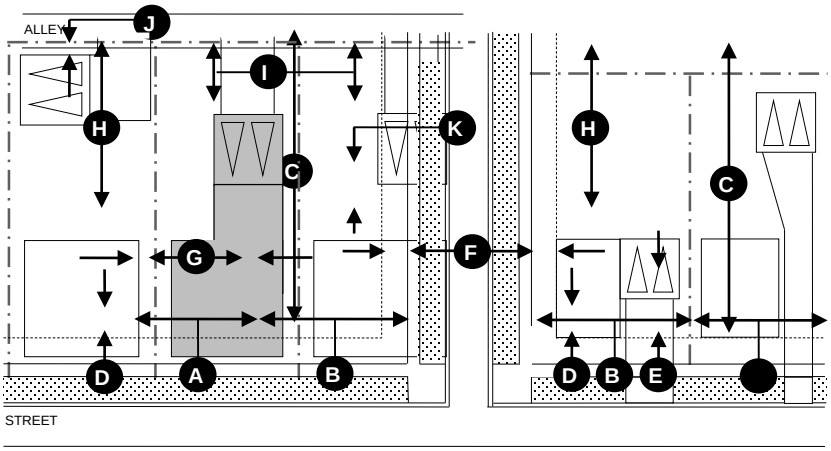
Front Vehicular Access – typical suburban, contemporary style home on a detached lot meeting required minimum front setback, side and rear yard standards, with vehicular drive access from the front or corner street side

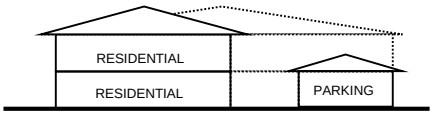




BUILDING USE

Rear Vehicular Access – contemporary home on a detached lot meeting required minimum front setback, side and rear yard standards, with vehicular drive access via a rear alley (public or private)





BUILDING USE

Accessory Apartment – a detached home on a lot with an accessory apartment within an accessory building on the same lot (illustration)

House and Accessory Unit Within Principal Building – a detached homes with an accessory dwelling within the same principal dwelling structure (illustration)

a. Type A-1 Building is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-20	§ 155.604.1	Residential	Residential/Parking
R-15	§ 155.604.1	Residential	Residential/Parking
R-12	§ 155.604.1	Residential	Residential/Parking
R-9	§ 155.604.1	Residential	Residential/Parking
R-MH	§ 155.604.1	Residential	Residential/Parking
R-15MF	§ 155.604.1	Residential	Residential/Parking
R-12MF	§ 155.604.1	Residential	Residential/Parking
O	§ 155.604.2	Residential	Residential/Parking
HUC	§ 155.604.2	Residential	Residential/Parking
R-VS	§§ 155.604.3 & 155.604.4	Residential	Residential/Parking
CrC	§§ 155.604.3 & 155.503.2	Residential	Residential/Parking
SRN	§ 155.604.3	Residential	Residential/Parking

b. CONDITIONS OR RESTRICTIONS. Accessory apartments shall meet the provisions at § 155.506.9. Conditions may be added through site plan or conditional zoning actions.

c. Accessory residential structures. See § 155.601.20.

2. TYPE A-2 BUILDING: ZERO LOT LINE DETACHED HOUSE. A zero lot line house may be placed on a lot where standard front setback and side and rear yards apply to all but one side or rear yard. When this one minimum building yard is eliminated so the structure sits at the lot line, a maintenance easement is required on the adjacent lot.

ZERO LOT LINE HOUSE – DETACHED (illustration)

a. Type A-2 Building is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-15MF	§ 155.604.1[1]	Residential	Residential/Parking
R-12MF	§ 155.604.1[1]	Residential	Residential/Parking
R-VS	§§ 155.604.3[1] & 155.604.4	Residential	Residential/Parking
CrC	§§ 155.604.3[1] & 155.503.2	Residential	Residential/Parking
SRN	§ 155.604.3[1]	Residential	Residential/Parking
C-MF	§ 155.604.3[1]	Residential	Residential/Parking
MUD	§ 155.604.3[1]	Residential	Residential/Parking

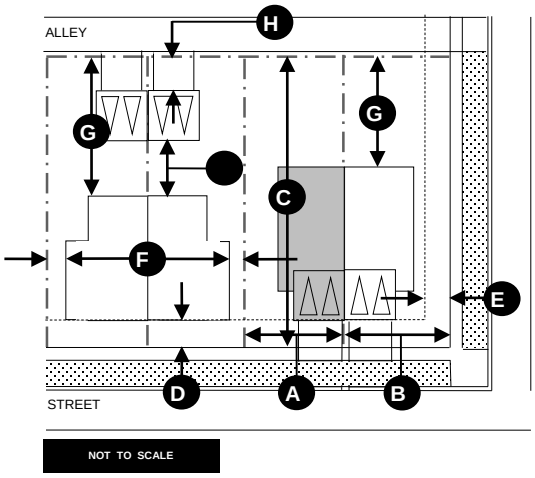
[1] See § 155.601.11.C.

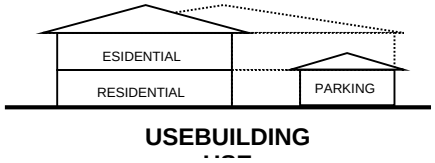
b. CONDITIONS OR RESTRICTIONS. The zero lot line shall not be the on streetside of a corner parcel. Where conditions are allowed, and when two (2) or more detached zero lot line houses are in a row, they shall utilize a consistent pattern of zero lot lines (i.e., all use the east side yard line) to create a private side courtyard for adjacent properties.

c. Accessory residential structures. See § 155.601.20.

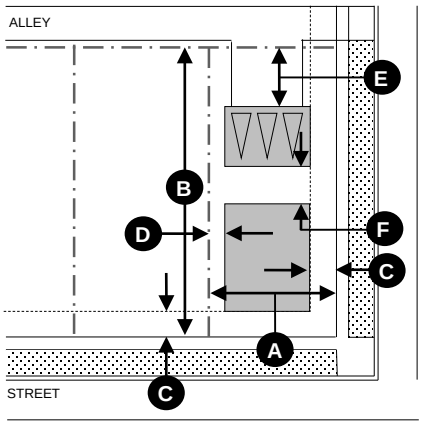
3. TYPE A-3 BUILDING: TWO-FAMILY OR DUPLEX. A residential building with two (2) separate dwellings, generally side-by-side and each having their own private lockable entrance, located on one lot. A two-family dwelling may also have one dwelling unit stacked on top of the other on a single lot. A two-family or duplex design is different from an accessory unit within a single-family home due to interior floor area.

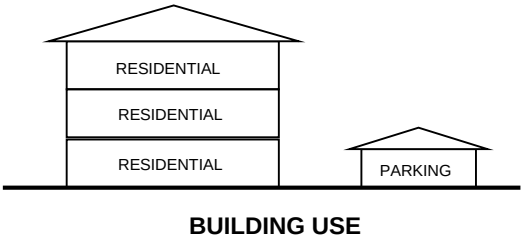
Side-by-side Duplex





Stacked Flat





a. Type A-3 Building is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-15MF	§ 155.604.1	Residential	Residential/Parking
R-12MF	§ 155.604.1	Residential	Residential/Parking
O	§ 155.604.2	Residential	Residential/Parking
HUC	§ 155.604.2	Residential	Residential/Parking
R-VS	§§ 155.604.3 & 155.604.4	Residential	Residential/Parking
CrC	§§ 155.604.3 & 155.503.2	Residential	Residential/Parking
SRN	§ 155.604.3	Residential	Residential/Parking
C-MF	§ 155.604.3	Residential	Residential/Parking
MUD	§ 155.604.3	Residential	Residential/Parking

b. CONDITIONS OR RESTRICTIONS. None apply but may be added through site plan or conditional zoning actions.

c. Accessory residential structures. See § 155.601.20.

4. TYPE A-4 BUILDING: MANUFACTURED HOME. A single-family dwelling constructed to HUD standards rather than North Carolina State Building code may be located either within a manufactured home park or a manufactured home subdivision. Site-built or modular construction homes and related accessory structures may also be associated with the housing development.

Manufactured home (illustration)

a. Type A-4 Building is allowed in the R-MH district in a platted and recorded subdivision of individual lots or within a park setting, as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-MH	§ 155.604.1 for subdivisions	Residential	Residential
	§ 155.502.5 for parks	Residential	Residential

b. CONDITIONS OR RESTRICTIONS. Manufactured homes must have been constructed after July 1, 1976 and must meet or exceed the construction standards of the United States Department of Housing and Urban Development that were in effect at the time of construction. In addition, manufactured homes shall also meet the following criteria:

i. All manufactured homes shall have a minimum of six hundred (600) square feet, and when located on individual lots, shall be placed so that their longest axis is nearly parallel to the front lot line;

ii. All manufactured homes shall have a minimum width of nine feet (9');

iii. The pitch of the roof shall have a minimum vertical rise of three feet (3') for each twelve feet (12') of horizontal run;

iv. The towing apparatus, wheels, axles, and transporting lights shall be removed and not included in the length and width measurement;

v. All manufactured homes shall be set up in accordance with the standards set by the North Carolina Department of Insurance;

vi. Each manufactured home shall have a continuous masonry, metal, or vinyl curtain around its entire base which is unpierced except for required ventilation and access. Skirting materials shall be compatible with the exterior finish of the manufactured home. In addition, any access panel shall not be installed on the elevation facing the front lot line. It is the intent of this subsection to eliminate the exposure of the undercarriage of the manufactured housing unit and to prevent the harborage of rodents and other vermin which constitute a threat to the public health and safety;

vii. The exterior siding shall consist of one or more of the following:

- vinyl or aluminum lap siding whose reflectivity does not exceed that of a flat white paint; or
- cedar or other wood siding; or
- brick or stone siding

vii. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured housing unit shall be installed or constructed in compliance with the North Carolina State Building Code, attached firmly to the primary structure and anchored firmly to the ground in a permanent fashion. Stairs shall only be used in conjunction with a porch or entrance platform with a minimum dimension (length and width) of five feet (5'). It is the intent of this subsection to prohibit the use of stairs only at any entrance to a manufactured home.

viii. Before a manufactured home placement permit is issued, verification of an operative septic system or connection to a public sewer system, and connection to a potable water supply shall be required.

c. ACCESSORY RESIDENTIAL STRUCTURES. No storage shall be allowed on or around a manufactured home other than items contained in a completely enclosed storage facility. This requirement does not include the storage of operable grills, bicycles, and other items that are clearly incidental to the dwelling unit. Also see § 155.601.20.

5. Type A-5 BUILDING: COTTAGE CLUSTER. This style of housing involves multiple detached structures sharing

a tract of land with shared common amenities and shared open space.

Cottage cluster (illustration)

a. Type A-5 Building is allowed in the following districts when adhering to the standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-20	§ 155.506.22	Residential	Residential/Parking
R-15	§ 155.506.22	Residential	Residential/Parking
R12	§ 155.506.22	Residential	Residential/Parking
R-9	§ 155.506.22	Residential	Residential/Parking
R-15MF	§ 155.506.22	Residential	Residential/Parking
R-12MF	§ 155.506.22	Residential	Residential/Parking
R-VS	§ 155.506.22	Residential	Residential/Parking
CrC	§§ 155.506.22 & 155.503.2	Residential	Residential/Parking
SRN	§ 155.506.22	Residential	Residential/Parking

b. Conditions or restrictions. See § 155.506.22.

c. Accessory residential structures. See § 155.601.20.

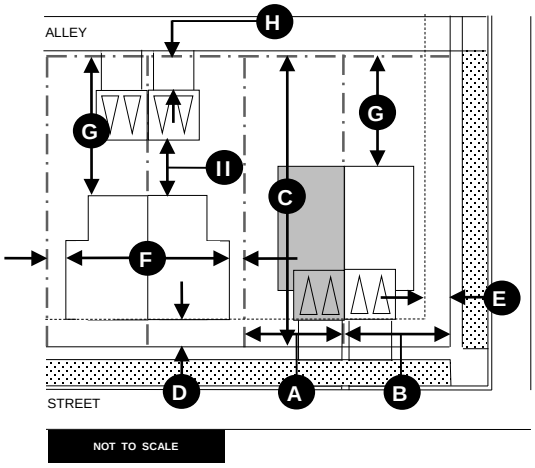
B. ATTACHED HOUSING WITH INDIVIDUAL LOTS

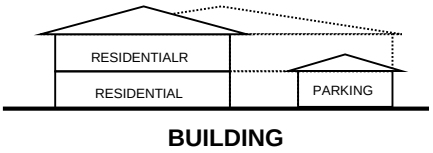
1. TYPE B-1 BUILDING: SINGLE-FAMILY ATTACHED HOUSE. Single-family attached dwelling units may take a variety of forms, including:

Attached Row with Front Vehicular Access – multiple units attached side-by-side meeting required minimum front setback and rear yard standards, with vehicular drive access from the front or corner street side

Attached Row with Rear Vehicular Access – multiple units attached side-by-side meeting require front setbacks, with vehicular access via a rear alley (public or private)

Attached Row, front and rear access





Pinwheel, Quadraplex, Triplex and similar – multiple dwellings attached at various walls such that front doors are situated along different angled planes, so that units are arranged other than in a straight line row

Pinwheel, triplex (illustrations)

a. Type B-1 Single-Family Attached Building is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-15MF	§ 155.604.1	Residential	Residential/Parking
R-12MF	§ 155.604.1	Residential	Residential/Parking
HUC	§ 155.604.2	Residential	Residential/Parking
R-VS	§§ 155.604.3 & 155.604.4	Residential	Residential/Parking
CrC	§§ 155.604.3 & 155.503.2	Residential	Residential/Parking
SRN	§ 155.604.3	Residential	Residential/Parking
C-MF	§ 155.604.3	Residential	Residential/Parking
MUD	§ 155.604.3	Residential	Residential/Parking
TS	§ 155.604.3	Residential	Residential/Parking
ENT	§ 155.604.3	Residential	Residential/Parking

b. CONDITIONS OR RESTRICTIONS. None apply but may be added through site plan or conditional zoning actions.

c. Accessory residential structures. See § 155.601.20.

2. TYPE B-2 BUILDING: MEDIUM DENSITY ECOLOGICAL DEVELOPMENT. Medium density Ecological Development is an optional design of housing that coordinates and encourages human dwellings in close association with wildlife in an urban environment.

(illustration)

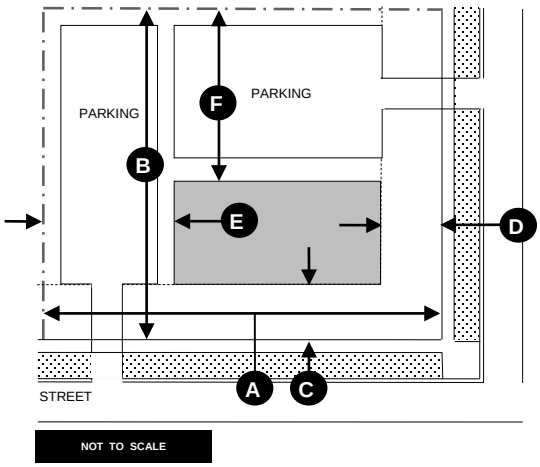
a. Type B-2 Medium Density Ecological Housing is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

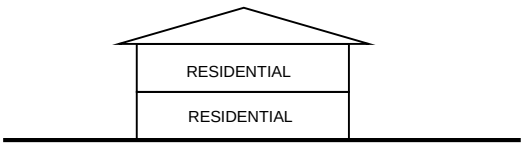
District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-VS	§ 155.506.23	Residential	Residential/Parking
CrC	§§ 155.506.23 & 155.503.2	Residential	Residential/Parking
SRN	§ 155.506.23	Residential	Residential/Parking
C-MF	§ 155.506.23	Residential	Residential/Parking
MUD	§ 155.506.23	Residential	Residential/Parking
ENT	§ 155.506.23	Residential	Residential/Parking

b. CONDITIONS OR RESTRICTIONS. See § 155.506.23.

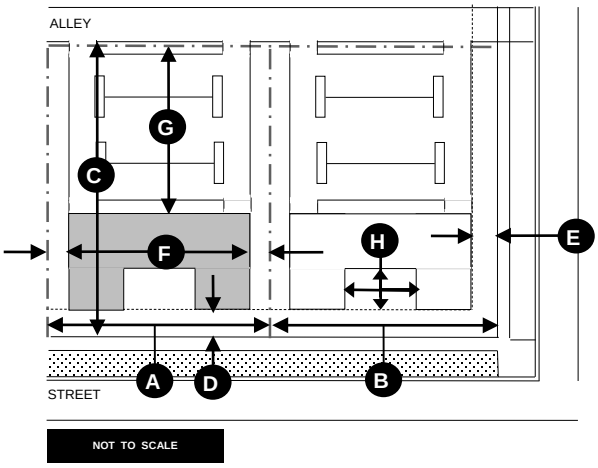
c. Accessory residential structures. See § 155.601.20.

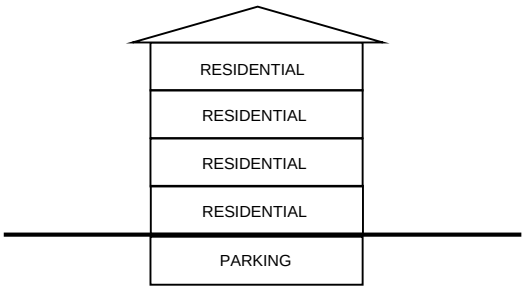
3. TYPE B-3 BUILDING: Multi-Family Residential within a Building or Buildings





BUILDING USE





BUILDING USE

a. Type B-3 Multi-Family Residential is allowed in the following districts when adhering to the lot standards and dimensional requirements as given:

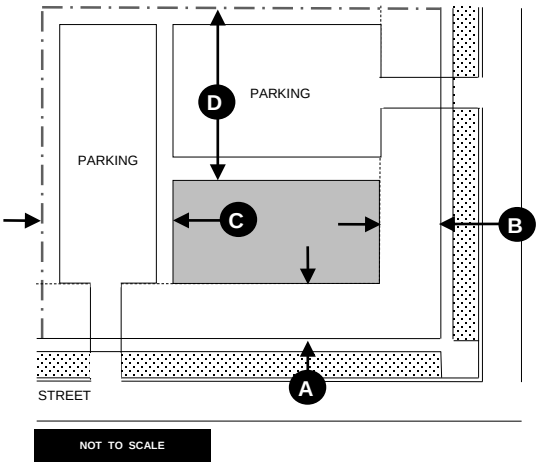
District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-15MF	§ 155.604.1	Residential	Residential/Parking
R-12MF	§ 155.604.1	Residential	Residential/Parking
HUC	§ 155.604.2	Residential	Residential/Parking
B-1	§ 155.604.2	Residential	Residential/Parking
SRN	§ 155.604.3	Residential	Residential/Parking
C-MF	§ 155.604.3	Residential	Residential/Parking
MUD	§ 155.604.3	Residential	Residential/Parking
TS	§ 155.604.3	Residential	Residential/Parking
ENT	§ 155.604.3	Residential	Residential/Parking

b. CONDITIONS OR RESTRICTIONS. None apply but may be added through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory residential structures. See § 155.601.20.

155.605.2. Institutional Buildings.

A. Institutional Buildings, for churches and places of worship, schools, hospitals, CCRCs, and similar institutional settings.



BUILDING USE

1. TYPE I-1 BUILDING: Buildings for institutional uses within the Traditional residential districts.

   a. Type I-1 Institutional facilities are allowed in some or all of the following districts (see Tables of Allowed Uses at § 155.505) when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-20	§ 155.506.7	Institutional	Institutional
R-15	§ 155.506.7	Institutional	Institutional
R-12	§ 155.506.7	Institutional	Institutional
R-9	§ 155.506.7	Institutional	Institutional
R-MH	§ 155.506.7	Institutional	Institutional
R-VS	§ 155.506.7	Institutional	Institutional
CrC	§§ 155.506.7 & 155.503.2	Institutional	Institutional

   b. CONDITIONS OR RESTRICTIONS. Some institutional uses without assembly areas may be allowed in other zoning districts, as provided in the Tables of Allowed Uses at § 155.505. In those cases, the dimensional requirements for lots and building placement for the underlying zoning district shall control. Additional conditions may be applied to any institutional use through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

   c. Accessory structures and uses. See § 155.601.20.

2. TYPE I-2 BUILDING: Facilities in the R/I district which do not include any common assembly areas.

   a. Type I-2 Institutional facilities in the R/I district shall meet the following dimensional standards:

District	Lot/Dimensional Standards		Building Usage	
			Upper Floors	Ground Floor
R/I only			Institutional & Residential	Institutional, Residential, and Parking
	Minimum lot area	2 ac		
	Minimum lot width	200’		
	Minimum front setback	50’		
	Minimum side yard	50’		
	Minimum rear yard	50’		
	Maximum height	60’[1]		

[1] Structures may exceed the maximum height, provided that the required side and rear yards be increased one foot (1’) for each foot (or fraction of a foot) in height over sixty feet (60’), and provided the Fire Chief or County Fire Marshal confirms there is adequate firefighting equipment available locally or through mutual aid.

   b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied to any institutional use through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

   c. Accessory structures and uses. See § 155.601.20.

3. TYPE I-3 BUILDING: Facilities in the R/I district which include one or more assembly rooms, any one of which has the capacity to contain more than two hundred (200) but less than one thousand (1,000) persons.

   a. Type I-3 Institutional facilities in the R/I district shall meet the following dimensional standards:

District	Lot/Dimensional Standards	Building Usage

		Upper Floors	Ground Floor
R/I only		Institutional & Residential	Institutional, Residential, and Parking
	Minimum lot area	2 ac	
	Minimum lot width	200’	
	Minimum front setback	50’	
	Minimum side yard	50’	
	Minimum rear yard	50’	
	Maximum height	60’[1]	

[1] Structures may exceed the maximum height, provided that the required side and rear yards be increased one foot (1’)for each foot (or fraction of a foot) in height over sixty feet (60’), and provided the Fire Chief or County Fire Marshal confirms there is adequate firefighting equipment available locally or through mutual aid.

b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied to any institutional use through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory structures and uses. See § 155.601.20.

4. Type I-4 Building: Facilities in the R/I district which include one or more assembly rooms, any of which has the capacity to contain one thousand (1,000) or more persons.

a. Type I-4 Institutional facilities in the R/I district shall meet the following dimensional standards:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R/I only		Institutional & Residential	Institutional, Residential, and Parking
	Minimum lot area	10 ac	
	Minimum lot width	250’	
	Minimum front setback	50’	
	Minimum side yard	50’	
	Minimum rear yard	50’	
	Maximum height	60’[1]	

[1] Structures may exceed the maximum height, provided that the required side and rear yards be increased one foot (1’) for each foot (or fraction of a foot) in height over sixty feet (60’), and provided the Fire Chief or County Fire Marshal confirms there is adequate firefighting equipment available locally or through mutual aid.

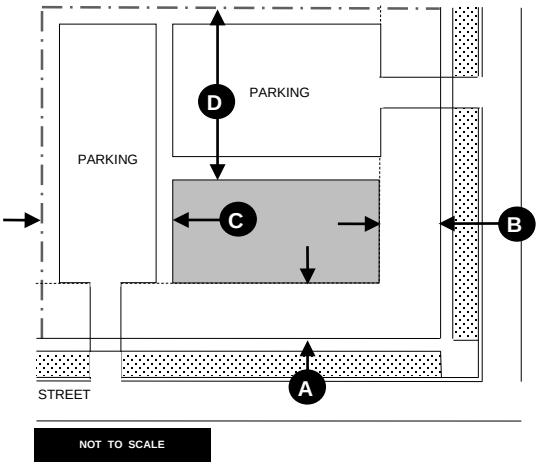
b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied to any institutional use through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory structures and uses. See § 155.601.20.

155.605.3. Commercial and Mixed Use Buildings.

A. NONRESIDENTIAL USES BUILDINGS

1. TYPE C-1 BUILDING: Office, Service, Restaurant, Retail Sales, Single Story.



BUILDING USE

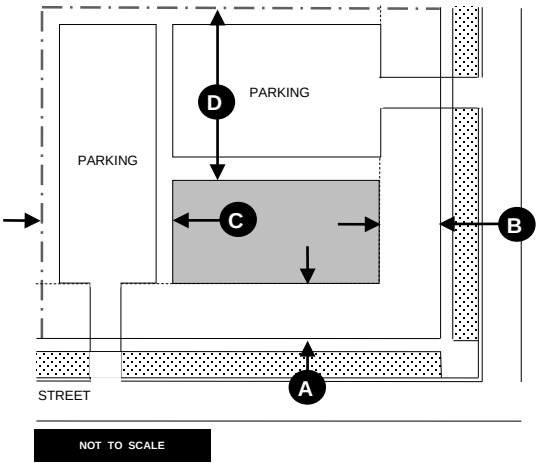
a. Type C-1 Single story nonresidential uses buildings are allowed in some or all of the following districts (see Tables of Allowed Uses at § 155.505) when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
R-20, R-15, R-12, R-9, R-MH, R-VS, CrC	§ 155.506 (specific uses only)	NA	Nonresidential
R-15MF, R-12MF	§ 155.506 (specific uses only)	NA	Nonresidential
SRN, C-MF	§ 155.604.5	NA	Nonresidential
R/I, O, HUC, B-1, B-3, B-D, B-H, I-1, I-2	§ 155.604.2	NA	Nonresidential
MUD, TS, B-1SCD, ENT, AU	§ 155.604.3	NA	Nonresidential

b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, or within garage structures.

c. Accessory structures and uses. See § 155.601.20.

2. TYPE C-2 BUILDING: Nonresidential Uses, Multiple Stories.



BUILDING USE

a. Type C-2 multi-story nonresidential uses buildings are allowed in some or all of the following districts (see Tables of Allowed Uses at § 155.505) when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
SRN, C-MF	§ 155.604.5	Nonresidential	Nonresidential/Parking
R/I, O, HUC, B-1, B-3, B-D, B-H, I-1, I-2	§ 155.604.2	Nonresidential	Nonresidential/Parking
MUD, TS, B-1SCD,			

ENT, AU	§ 155.604.3	Nonresidential	Nonresidential/Parking

b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory structures and uses. See § 155.601.20.

B. Mixed Use Buildings, Residential and Nonresidential

1. TYPE C-3 BUILDING: Mixed uses including both residential units and nonresidential establishments.

(illustration)

a. Type C-3 mixed uses (residential and nonresidential uses) buildings are allowed in the following districts (see Tables of Allowed Uses at § 155.505) when adhering to the lot standards and dimensional requirements as given:

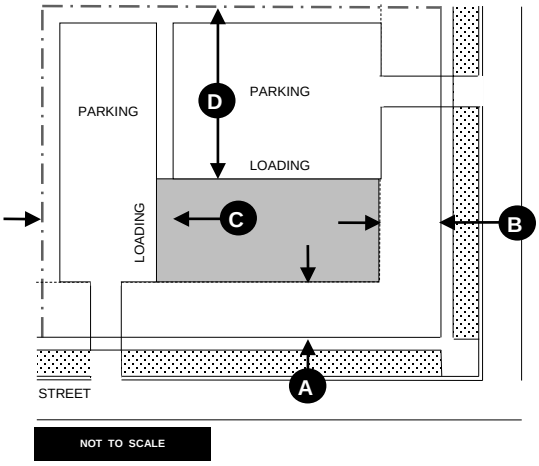
District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
SRN, C-MF	§ 155.604.5	Any Allowed Uses	Any/Parking
R/I, O, HUC, B-1	§ 155.604.2	Any Allowed Uses	Any/Parking
MUD, TS, ENT	§ 155.604.3	Any Allowed Uses	Any/Parking

b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory structures and uses. See § 155.601.20.

C. INDUSTRIAL BUILDINGS.

1. TYPE C-4 BUILDING: Industrial, warehousing and distribution.



BUILDING USE

a. Type C-4 industrial or warehouse uses buildings are allowed in the I-1 and I-2 district, and some uses also are allowed in the B-D district (see Tables of Allowed Uses at § 155.505) when adhering to the lot standards and dimensional requirements as given:

District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
B-D	§ 155.604.2	Industrial/Warehouse	Industrial/Warehouse/Parking
I-1, I-2	§ 155.604.2	Industrial/Warehouse	Industrial/Warehouse/Parking

b. CONDITIONS OR RESTRICTIONS. Additional conditions may be applied through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed

configuration, within garage structures, or as the lower level(s) of a building with other uses.

c. Accessory structures and uses. See § 155.601.20.

D. Heavy Industrial uses with significant Outdoor Storage or are substantially open air operations.

1. Type C-5 Open/Outdoor Use.

(illustration)

a. Type C-5 open air/outdoor uses buildings are allowed in the I-2 district when adhering to the lot standards and dimensional requirements as given:

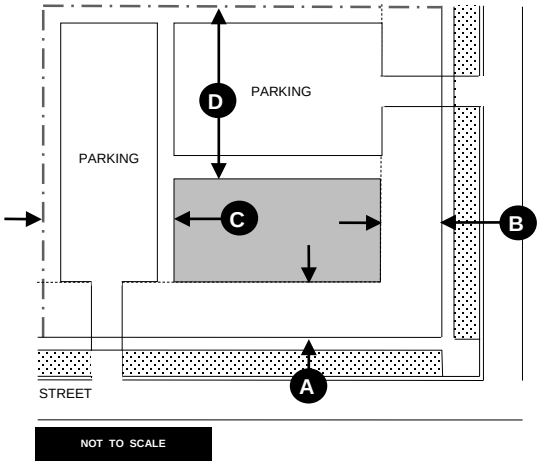
District	Lot/Dimensional Standards	Building Usage	
		Upper Floors	Ground Floor
I-2	§ 155.604.2	NA	Accessory/Industrial/Warehouse

b. Conditions or restrictions. Additional conditions may be applied through site plan or conditional zoning actions. Parking may be in an open pavement lot, in a covered shed configuration, or within garage structures.

c. Accessory structures and uses. See § 155.601.20

B. NON-RESIDENTIAL BUILDINGS.

9. TYPE 9 Building (Institutional Building, 200 to 1,000 persons)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

R/I

b. LOT STANDARDS

Lot Width:	200 feet	A
Lot Width, Corner Lot:	XX feet	B
Lot Area (acres):	2	C
Lot Coverage (max):	65%	

c. BUILDING PLACEMENT STANDARDS

Front Setback:	50 feet	D
Corner Side Setback:	50 feet	E
Side Setback:	50 feet	F
Rear Setback:	50 feet	G

Permitted Yard Obstructions: See Section

d. VERTICAL STANDARDS

Maximum Height:	60 feet*
Maximum Stories:	2
Fences and walls:	See Section

**See allowance for additional height in § 153.056.D.1*

e. BUILDING USE STANDARDS

Upper Floor:	Residential/Institutional
Ground Floor:	Residential/Institutional/Parking
Additional Standards:	max. 200 to 1,000 persons

f. PARKING STANDARDS

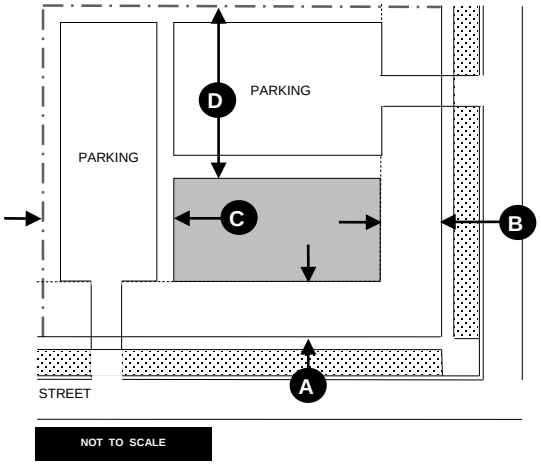
Number of off-street parking

spaces required:	4
Alley:	Required
Covered parking:	Optional

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

10. TYPE 10 Building (Institutional Building, 1,000 persons or more)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

R/I

b. LOT STANDARDS

Lot Width:	250 feet
Lot Width, Corner Lot:	XX feet
Lot Area (acres):	10
Lot Coverage (max):	70%

c. BUILDING PLACEMENT STANDARDS

Front Setback:	50 feet	A
Corner Side Setback:	50 feet	B
Side Setback:	50 feet	C
Rear Setback:	50 feet	D
Permitted Yard Obstructions:	See Section	

d. VERTICAL STANDARDS

Maximum Height:	60 feet*
Maximum Stories:	2
Fences and walls:	See Section

**See allowance for additional height in § 153.056.D.1*

e. BUILDING USE STANDARDS

Upper Floor:	Residential/Institutional
Ground Floor:	Residential/Institutional/Parking
Additional Standards:	1,000 persons or more

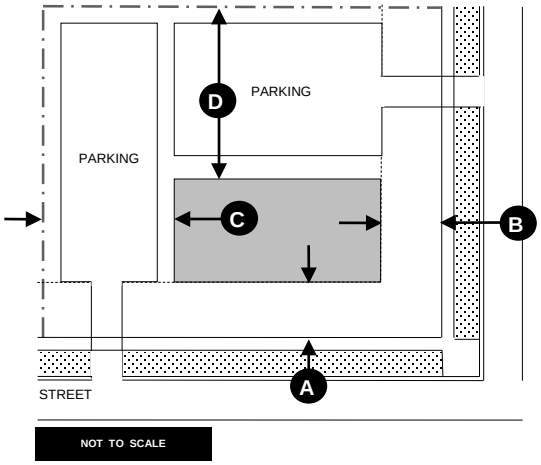
f. PARKING STANDARDS

Number of off-street parking spaces required:	4
Alley:	Optional
Covered parking:	Optional

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

11. TYPE 11 Building (Institutional Building, without assembly rooms)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

R/I

b. LOT STANDARDS

Lot Width:	200 feet
Lot Width, Corner Lot:	XX feet
Lot Area (acres):	2
Lot Coverage (max):	60%

c. BUILDING PLACEMENT STANDARDS

Front Setback:	50 feet	A
Corner Side Setback:	50 feet	B
Side Setback:	50 feet	C
Rear Setback:	50 feet	D
Permitted Yard Obstructions:	See Section	

d. VERTICAL STANDARDS

Maximum Height:	60 feet*
Maximum Stories:	2
Fences and walls:	See Section

**See allowance for additional height in § 153.056.D.1*

e. BUILDING USE STANDARDS

Upper Floor:	Residential/Institutional
Ground Floor:	Residential/Institutional/Parking
Additional Standards:	without assembly rooms

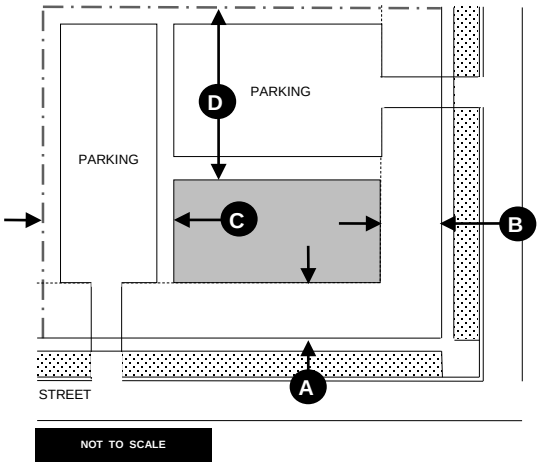
f. PARKING STANDARDS

Number of off-street parking spaces required:	4
Alley:	Required
Covered parking:	Optional

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

12. TYPE 12 Building (Institutional Building in Selected Residential Districts)



a. PERMITTED DEVELOPMENT DISTRICTS

R-9 R-12 R-15 R-20
R-12MF R-15MF R-20MF

b. LOT STANDARDS

	R-9	R-12 R-12MF	R-15 R-15MF R-20 R-20MF
Lot Width (feet):	60	70	80
Lot Area (square feet):	12,000	15,000	20,000

c. BUILDING PLACEMENT STANDARDS

	R-9	R-12 R-12MF	R-15 R-15MF R-20 R-20MF	
Front Setback (feet):	30	35	40	A
Corner Side Setback (feet):	30	35	40	B
Side Setback:				
Adjacent residential use:	20	20	20	C
Adjacent office, business industrial use	10	10	10	
Rear Setback:				
Adjacent residential use:	20	20	20	D
Adjacent office, business industrial use	10	10	10	
Building Coverage (max):	60%	60%	60%	
Permitted Yard Obstructions:	See Section			

d. VERTICAL STANDARDS

Maximum Height* (feet):	35	35	35
Fences and walls:	See Section		

**Maximum structure height may be increased to 40 feet provided the required side and rear yard setbacks are increased by one (1) foot for each foot or fraction thereof in height over 35 feet.*

e. BUILDING USE STANDARDS

Upper Floor:	Institutional
Ground Floor:	Institutional/Parking

f. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Covered parking:	Optional

g. OUTDOOR ILLUMINATION STANDARDS

Lighting of buildings, parking areas, accessory uses, and grounds shall be shielded so as to cast no glare upon adjacent properties and streets. Lighting of outdoor accessory uses, such as ballfields, shall not remain lighted after 11:00 p.m. or be turned on before 8:00 a.m.

h. LOCATION STANDARDS

Any institutional use with one or more assembly rooms, any of which are over 200 seating capacity, or any use which regularly operates every weekday throughout the year and has forty (40) or more persons (child or adult) regularly in attendance, must be located on a road other than a minor residential street, and its main entrance must be on that non-minor residential street.

i. ACCESSORY STRUCTURE / USE STANDARDS

Typical accessory uses to churches and synagogues are permitted by right subject to the dimensional standards established in the underlying zoning district. Typical accessory uses may include but are not limited to day care centers, day nurseries, pre-schools, family life centers, church offices excluding district or region administrative offices, gymnasium, book or tape library, ballfields, and basketball courts. Accessory uses within an enclosed structure may be in the principal building or in an accessory structure. Outdoor accessory uses shall not be located within the required setback or the outer 20 feet of a required side or rear yard.

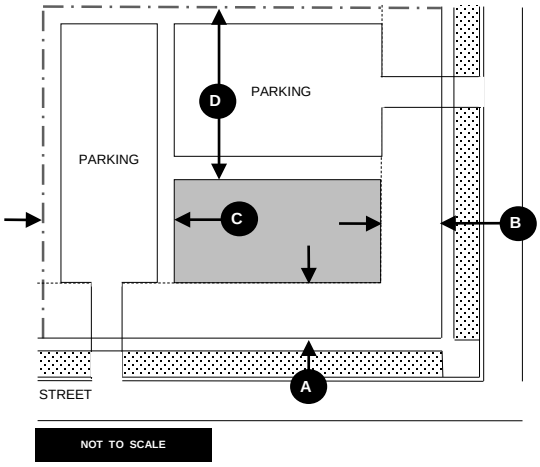
j. LANDSCAPING STANDARDS

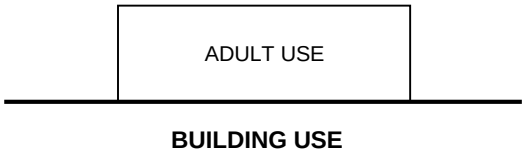
The tree and landscaping regulations in § 155.606 are applicable for all institutional uses.

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage
- The tree and landscaping regulations in § 155.606 are applicable for all institutional uses.

14. TYPE 14 Building (Adult Use)





a. PERMITTED DEVELOPMENT DISTRICTS

AU

b. LOT STANDARDS

Lot Width:	None
Lot Width, Corner Lot:	None
Lot Area:	None
Lot Coverage (max):	25%

c. BUILDING PLACEMENT STANDARDS

Front Setback:	40 feet	A
Corner Side Setback:	40 feet	B
Side Setback:	20 feet	C
Rear Setback:	20 feet	D

Permitted Yard Obstructions: See Section

d. VERTICAL STANDARDS

Maximum Height:	35 feet
Fences and walls:	See § 155.

e. BUILDING USE STANDARDS

Maximum Total Floor Area:	5,000 square feet

Use Limitations:

- There shall not be more than one adult business establishment on the same property or in the same building, structure, property or portion thereof
- Except for an adult motel, no use permitted in the AU District may have sleeping quarters

f. SEPARATION STANDARDS

No use permitted in the AU District shall be located within:

1. 1,500 feet of any other use permitted in the AU District
2. 1,500 feet of any residential zoned property, or any residential or institutional use permitted in Section 155.502.1
3. 1,000 feet of any establishment with an on-premise ABC license

g. PARKING STANDARDS

A site plan showing the location of parking spaces, drive entrances and exits, loading docks, and maneuvering space must be submitted to the Board of Commissioners to verify compliance

Number of off-street parking spaces required:	See § 155.607
Parking Setback*:	No parking shall be located within any required setback
Underground Parking:	Not permitted

Parking lot screening as required by § 155.607 shall be provided for all adult uses, except that screening will not be required along a public street.

**Applies to parking structures and surface parking. No maneuvering space for parking spaces is permitted in required setback, except that driveways providing access to the parking area may be located in the required setback*

h. ACCESSORY STRUCTURE / USE STANDARDS

No other principal or accessory use, except as listed below, may occupy the same building, structure, property, or portion thereof:

1. Off-street parking for the principal use.
2. Vending machines for cigarettes, candy, soft drinks or other food items, and similar items located within an enclosed building as an accessory to the uses in the principal building or buildings.

i. SIGN STANDARDS

An adult establishment shall be permitted one detached freestanding sign of up to fifty (50) square feet, and attached signage (in one or more signs) not to exceed fifty (50) square feet, for a total of one hundred (100) square feet total sign area allowed. A site plan showing the location of the freestanding sign and the number and location(s) of the attached sign(s) must be submitted to the Board of Commissioners to verify compliance.

j. LANDSCAPING STANDARDS

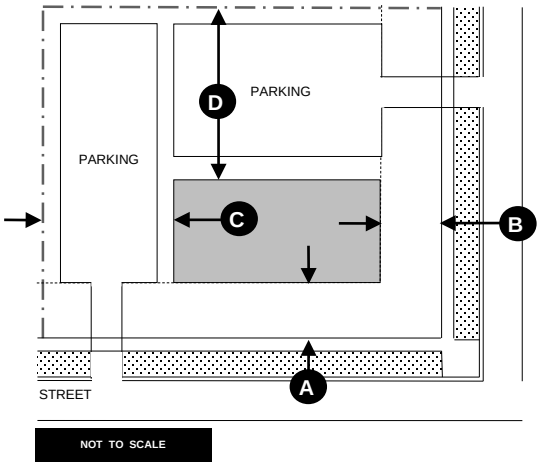
Any use in the AU District shall be screened on all non-street front district boundaries as required in § 155.606

All other tree and landscape regulations of § 155.606 shall apply.

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage
- **[formerly § 153.059]**

15. TYPE 15 Building (Commercial Building)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

B-1 **B-2**

b. LOT STANDARDS

Lot Width:	none
Lot Width, Corner Lot:	none
Lot Area (square feet):	none
Lot Coverage (max):	none

c. BUILDING PLACEMENT STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS	
Front Setback:	40 feet	40 feet	A
Corner Side Setback:	na	na	B
Side Setback:	*	10 feet	C
Rear Setback:	10 feet	20 feet	D

** Side yards not required. If side yards are provided, one must be at least 4 feet and the other at least 8 feet. If only one side yard is provided it shall be at least 8 feet.*

d. VERTICAL STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS
Maximum Height:	40 feet	40 feet
Fences and walls:	See Section	

e. BUILDING USE STANDARDS

Upper Floor:	Office
Ground Floor:	Retail/Parking/and other uses permitted in § 155.501
Floor Area* (max):	100,000 square feet

**Maximum total floor area of any single retail establishment or shopping center. Retail establishments smaller than 100,000 square feet may be considered only under the provisions of § 153.204.*

f. ACCESSORY BUILDING STANDARDS

Floor Area (max):	10% of the total floor area of the principal structure(s)
Height (max):	35 feet, provided accessory structure is less than 5% of the total floor area of the principal structure(s) or 5,000 square feet, whichever is less

g. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Underground parking:	Optional

h. SIGN STANDARDS

As required in § 155.608

i. LANDSCAPING STANDARDS

As required in § 155.606

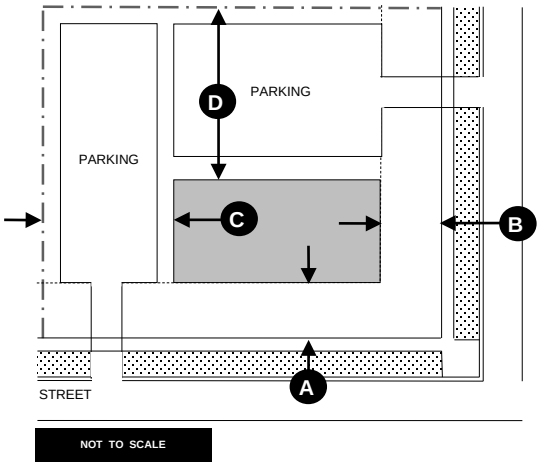
j. OUTDOOR ILLUMINATION STANDARDS

As required in § 155.60X

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

16. TYPE 16 Building (Commercial Building)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

B-3

b. LOT STANDARDS

Lot Width:	none
Lot Width, Corner Lot:	none
Lot Area:	1 acre
Lot Coverage (max):	none

c. BUILDING PLACEMENT STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS	
Front Setback:	40 feet	40 feet	A
Corner Side Setback:	na	na	B
Side Setback:	*	10 feet	C
Rear Setback:	10 feet	20 feet	D

** Side yards not required. If side yards are provided, one must be at least 4 feet and the other at least 8 feet. If only one side yard is provided it shall be at least 8 feet.*

d. VERTICAL STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS
Maximum Height:	50 feet	50 feet
Minimum Height:	35 feet	35 feet
Fences and walls:	See Section	

e. BUILDING USE STANDARDS

Upper Floor:	Office
Ground Floor:	Retail/Food Services/Parking/and other uses permitted in § 155.501
Floor Area* (max):	100,000 square feet
Floor Area** (min):	20,000 square feet

**Maximum total floor area of any single retail establishment or shopping center. Retail establishments smaller than 100,000 square feet may be considered only under the provisions of § 153.204.*
*** The minimum total floor area shall be 20,000 square feet, and any combination of non-retail uses in a single building or in a group of buildings may exceed 100,000 square feet in floor area.*

f. ACCESSORY BUILDING STANDARDS

Floor Area (max):	10% of the total floor area of the principal structure(s)
Height (max):	35 feet, provided accessory structure is less than 5% of the total floor area of the principal structure(s) or 5,000 square feet, whichever is less

g. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Underground parking:	Optional

h. SIGN STANDARDS

As required in § 155.608

i. LANDSCAPING STANDARDS

As required in § 155.606

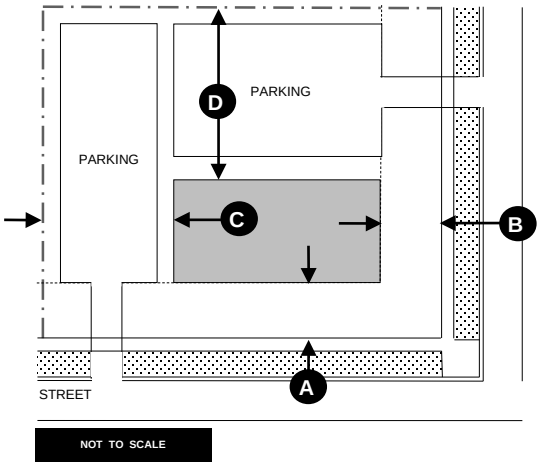
j. OUTDOOR ILLUMINATION STANDARDS

As required in § 155.60X

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

17. TYPE 17 Building (Commercial Building)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

B-D

b. LOT STANDARDS

Lot Width:	none
Lot Width, Corner Lot:	none
Lot Area (square feet):	none
Lot Coverage (max):	none

c. BUILDING PLACEMENT STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS	
Front Setback:	40 feet	40 feet	A
Corner Side Setback:	na	na	B
Side Setback:	10 feet	10 feet	C
Rear Setback:	10 feet	20 feet	D

d. VERTICAL STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS
Maximum Height:	40 feet	40 feet
Fences and walls:	See Section	

e. BUILDING USE STANDARDS

Upper Floor:	Office
Ground Floor:	Retail/Animal-Related/Business & Professional Services/Food Services/Parking/and other uses permitted in § 155.501
Floor Area* (max):	100,000 square feet

**Maximum total floor area of any single retail establishment or shopping center. Retail establishments smaller than 100,000 square feet may be considered only under the provisions of § 153.204.*

f. ACCESSORY BUILDING STANDARDS

Floor Area (max):	10% of the total floor area of the principal structure(s)
Height (max):	35 feet, provided accessory structure is less than 5% of the total floor area of the principal structure(s) or 5,000 square feet, whichever is less

g. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Underground parking:	Optional

h. SIGN STANDARDS

As required in § 155.608

i. LANDSCAPING STANDARDS

As required in § 155.606

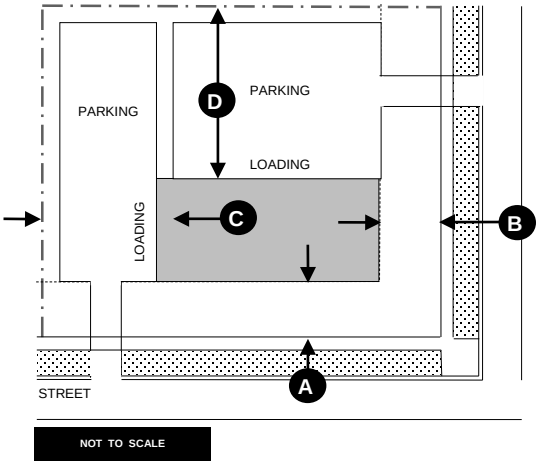
j. OUTDOOR ILLUMINATION STANDARDS

As required in § 155.60X

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

18. TYPE 18 Building (Industrial Building)



BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

I-1 **I-2**

b. LOT STANDARDS

Lot Width:	none
Lot Width, Corner Lot:	none
Lot Area (square feet):	none
Lot Coverage (max):	none

c. BUILDING PLACEMENT STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS	
Front Setback:	40 feet	40 feet	A
Corner Side Setback:	na	na	B
Side Setback:	20 feet	10 feet	C
Rear Setback:	20 feet	20 feet	D

d. VERTICAL STANDARDS

	ADJACENT RESIDENTIAL DISTRICTS	ADJACENT ALL OTHER DISTRICTS
Maximum Height*:	35 feet**	35 feet***
Fences and walls:	See Section	

**The Fire Chief or County Fire Marshall must confirm that there is adequate firefighting equipment available (locally or through mutual aid).*

***Maximum allowable height within 50 feet of a residential zoning district. Buildings and structures may exceed the 35 foot height limit beyond this 50-foot zone when side and rear yards are increased by one foot for every one foot (or fraction thereof) of building height over 35 feet.*

**** Buildings and structures may exceed the 35-foot height limit beyond this 50-foot zone when side and rear yards are increased by one foot for every one foot (or fraction thereof) of building height over 35 feet.*

e. BUILDING USE STANDARDS

Ground Floor:	Manufacturing/Retail/Parking/and other uses permitted in § 155.501
Floor Area* (max):	100,000 square feet

**Maximum total floor area of any single retail establishment or shopping center. Retail establishments smaller than 100,000 square feet may be considered only under the provisions of § 153.204.*

f. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Underground parking:	Optional

g. SIGN STANDARDS

As required in § 155.608

h LANDSCAPING STANDARDS

As required in § 155.606

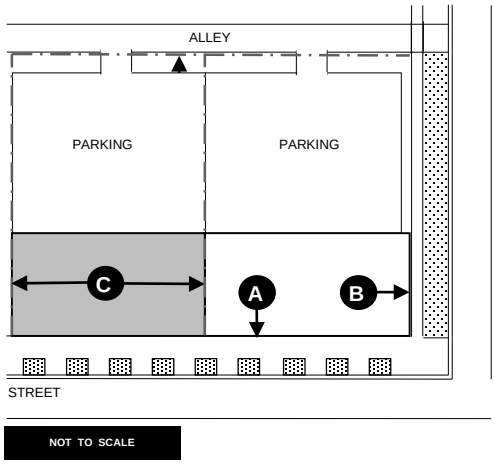
i. OUTDOOR ILLUMINATION STANDARDS

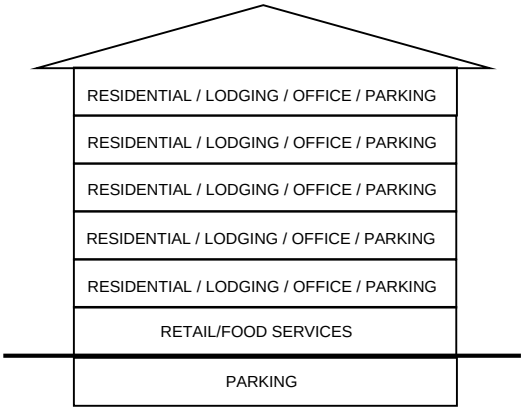
As required in Section 155.60X

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage

19. TYPE 19 Building (Mixed-Use Building)





BUILDING USE

a. PERMITTED DEVELOPMENT DISTRICTS

MUD **TS**

b. LOT STANDARDS

Lot Width:	100 feet
Lot Width, Corner Lot:	100 feet
Lot Depth:	165 feet
Lot Area (square feet):	16,500
Lot Coverage (max):	none

c. BUILDING PLACEMENT STANDARDS

	ADJACENT ALL OTHER DISTRICTS	ADJACENT TS / MUD DISTRICTS	
Build-To Line (Front):	0 feet	0 feet	A
Corner Side Setback:	0 feet	0 feet	B
Side Setback:	20 feet	0 feet*	C
Rear Setback:	20 feet	0 feet	D

** Side yards not required.*

d. VERTICAL STANDARDS

	ADJACENT ALL OTHER DISTRICTS	ADJACENT TS / MUD DISTRICTS
Maximum Height:	40 feet	75 feet
Maximum Stories:	6	
Fences and walls:	See § 155.605.??	

e. BUILDING USE STANDARDS

Upper Floor:	Residential / Lodging / Office / Parking
Ground Floor:	Retail / Food Services / Personal and Business Services
Below Grade:	Parking / Utilities

f. ACCESSORY BUILDING STANDARDS

Floor Area (max):	10% of the total floor area of the principal structure(s)
Height (max):	35 feet, provided accessory structure is less than 5% of the total floor area of the principal structure(s) or 5,000 square feet, whichever is less

g. PARKING STANDARDS

Number of off-street parking spaces required:	See § 155.607
Underground parking:	Optional
Structure parking:	Optional

NOTE: No parking shall be located at ground level along any street in the TS or MUD Districts

h. SIGN STANDARDS

As required in § 155.608

i. LANDSCAPING STANDARDS

As required in § 155.606

j. OUTDOOR ILLUMINATION STANDARDS

As required in § 155.60X

Notes:

- All dimensions are expressed as minimums, except where noted otherwise
- Lot width and side yard setbacks shall be increased to accommodate excessive side slope situations
- Building entrance shall face front lot line
- Service entries are prohibited on street facades
- Building elevations facing a street shall have windows on each floor elevation
- Buildings on corner lots shall extend architectural features and details on each street frontage
- Buildings on corner lots shall not encroach upon sight triangle

MUD

- 2. DEVELOPMENT REQUIREMENTS. Development permitted within the MUD District shall comply with the following standards:
- a. Single-family attached dwellings, two- family dwellings, and zero lot line dwellings shall comply with the development standards outlined in § 153.205(F) – dimensional requirements table for R-VS.
- b. Multiple-family development and non-residential uses shall comply with the following development standards:
- 1. MINIMUM LOT AREA: None
- 2. MINIMUM DEVELOPMENT AREA per Unit: None
- 3. MINIMUM LOT WIDTH: None
- 4. MINIMUM SETBACK: 14 feet
- 5. MINIMUM SETBACK ALONG AN INTERSTATE HIGHWAY: 50 feet
- 6. MINIMUM SIDE YARD: None
- 7. MINIMUM REAR YARD: None
- 8. MINIMUM HEIGHT: None
- 9. MAXIMUM HEIGHT: Forty-five feet (45'). The maximum height of any building may be increased provided its building separation from any properties outside the project site is increased in accordance with § 155.502.C.1.e, above.
- c. Multiple-family development in the MUD District is not subject to the provisions of § 155.503.2.AF of this Title.

155.606. Tree Protection and Landscaping Regulations

155.606.1. Purpose, Applicability, and Use of Terms

A. PURPOSE. The purpose and intent of this section is to establish standards to protect and enhance the Town's appearance by the installation of appropriate landscaping and buffering materials; to encourage the preservation of native plant communities and ecosystems; to maintain and increase the value of land by providing for restoration of disturbed areas and by incorporating adequate landscaping into development; to restrict the spread of invasive plant species that disrupt and destroy native ecosystems; to encourage skilled installation and continued maintenance of all plant materials; and, to establish procedures and standards for the administration and enforcement of these landscaping regulations at § 155.606.

B. APPLICABILITY. § 155.606 applies to all properties in business, office, industrial, multi-family, and mixed use districts, unless otherwise exempted, to any nonresidential use in a residential district, and to properties bordering designated portions of NC51.

C. USE OF TERMS. Many terms used throughout the Landscaping regulations section of this Chapter are defined in Chapter 1. Some definitions specific to this Section are provided here. Other words or phrases used in the Landscaping section of this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application. Words, terms, and phrases shall have the meanings ascribed to them in the following definitions or in § 155.103.C., except where the context clearly indicates a different meaning.

Casualty Loss of Nature: shall mean a loss of value or property resulting from an act of nature, such as fire, winds, ice storms, etc., that is beyond normal human control.

Construction Period: shall mean the time period on a development site from the granting of a construction permit until the issuance of a final certificate of compliance.

Developed Properties: shall mean land that has been converted to a specific purpose by addition of planned and structured improvements.

Impervious Cover: shall mean buildings, structures, compacted gravel, and other paved or compacted surface areas, which by their dense nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

Riparian Buffer: shall mean a biologically diverse community consisting of trees, woody shrubs, and groundcover that exists or is planted along the banks of rivers, creeks or intermittent and perennial streams.

Screening: shall mean a structure and/or plant material providing enclosure and a visual barrier between the area enclosed and the adjacent property.

155.606.2. General Planting and Screening Requirements

Planting or screening may be required to meet different standards depending on where on a property they are located. The types of required landscaping that may be applicable are as follows:

A. STREETSCAPE LANDSCAPING: Trees shall be required in or along a public right-of-way on all developed properties in accordance with § 155.606.3.

B. PERIMETER LANDSCAPING: Existing or new trees and shrubs on developed properties other than single-family dwellings shall be required alongside and rear property boundaries in accordance with § 155.606.4.

C. INTERIOR LANDSCAPING: Existing or new trees and shrubs on developed properties shall be required in and around on-site parking lots and other interior structures in accordance with § 155.606.5.

D. SCREENING: Existing or new trees and shrubs and/or structures such as walls or fences shall be required in accordance with § 155.606.6:

1. Along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area; and
2. Around loading areas, service areas or outdoor storage areas which are visible from a public right-of-way.
3. Along all side and rear yard boundaries of properties abutting a thoroughfare in all Traditional zoning districts except HUC, and within Conditional-Only districts R-VS, CrC, SRN, C-MF, B-1SCD, and AU.

E. TREE CANOPY REQUIREMENT. Landscaping in the form of trees shall either be retained or planted on site to meet minimum canopy coverage in accordance with § 155.606.7. These provisions may also assist in compliance with tree protection and planting standards in the Post Construction Storm Water Regulations in Chapter 8. **[formerly known as § 153.075 (E)]**

155.606.3. Streetscape Planting

Except for the Downtown Overlay District, the Highway Overlay District, and any other location with an adopted neighborhood or small area plan when it has its own streetscape requirements, the following shall be required for development of any property in Matthews:

A. A planting strip whose total length shall be equal to the total length of the property line adjacent to the public right-of-way, or in the public right-of-way if sufficient room exists between curb and sidewalk, exclusive of access drives and their sight triangles. The width of the strip shall be a minimum of eight feet (8') and shall generally start immediately adjacent to the street side property line.

B. Trees shall be planted, if not existing, within the planting strip with large maturing trees. Large maturing trees shall be spaced no greater than forty feet (40') apart with a minimum of one tree planted on all properties with frontage greater than thirty feet (30'). Each tree shall be a minimum of two inch (2") caliper and have a minimum height of eight feet from the ground surface. See § 155.606.14 for a selection of recommended large maturing trees.

1. If the use of large maturing trees is considered inappropriate for the site, then a written explanation of why they cannot be used shall be made to the Town.
2. Where overhead power lines or other obstructions prevent the use of large maturing trees, then small maturing trees shall be used. Small maturing trees shall be spaced no greater than thirty feet (30') apart. See § 155.606.14 for a selection of recommended small maturing trees.
3. No large maturing tree shall be planted within thirty five feet (35') of an overhead utility line as measured from the closest wire.
4. Trees shall be selected so that a mixture of species shall be planted or preserved. If a property has greater than three hundred feet (300') of frontage on any one street, a minimum of three (3) different species shall be planted. If less than three hundred feet (300') of frontage exists, than only a single species shall be required.
5. When an existing or proposed sidewalk is within one foot (1') of the property line, then trees must be located a minimum of four feet (4') from the sidewalk.

C. The planting strip shall not be paved or used for automobile parking and shall have vegetative or organic ground cover and/or beds of flower plants or bulbs mulched and kept weed and litter free by the property owner or may be planted in grass and mowed on a regular basis. In addition to the required trees and surface treatment within the planting strip, shrubs and additional trees may be included at the option of the landowner. Xeriscape plantings are strongly encouraged.

D. In the case of unusual site factors that would make the strict adherence to this section serve no useful purpose, the Planning Director may waive all or part of the requirements of this section. A waver may be requested by a written statement explaining the mitigating circumstances on or off the site. It must be supported by documented facts. Waivers may be considered as long as the spirit and intent of this § 155.606 are maintained.

E. Where streetscape trees are to be located in the public right-of-way, all planting standards in §155.606.12 must be followed. In addition, trees must be inspected by the Town's landscape manager before planting. See § 155.606.13 for landscape maintenance requirements. **[formerly known as § 153.075 (F)]**

155.606.4. Perimeter Planting

Plantings along those property boundaries not facing a public right-of-way are designed to provide a sense of boundary between nonresidential land uses. Perimeter landscaping is not mandatory in zoning districts which are intended to create and achieve a mixed-use urban environment and where pedestrian connectivity between land uses and parcels is encouraged. Whenever practical, such plantings shall include preserved vegetation on the site.

A. A combination of trees and shrubs shall be arranged along the non-street rear and side perimeters. This landscaping will consist of a minimum of one tree and ten shrubs for each fifty (50) lineal feet, not including the streetscape-planting strip. The planting may be arranged in a single row, staggered, or may be clustered or otherwise arranged anywhere within fifteen feet (15') of the property line to allow for

maximum flexibility and landscaping design.

B. A combination of large and small maturing trees shall be planted with large trees comprising at least fifty percent (50%) of the total. Large maturing trees shall be a minimum of two inch (2") caliper and have a minimum height of eight feet (8') from the ground surface. Small maturing trees shall be a minimum of one and one-half inch (1½") caliper and have a minimum height of six feet (6') from the ground surface.

C. Trees shall be selected so that a mixture of species shall be planted. A minimum of three different species shall be planted along every three hundred (300) lineal feet.

D. As long as the space allows, shrubs shall be selected so that a mixture of species shall be planted. A minimum of five (5) different species shall be planted along every three hundred (300) lineal feet. Likewise, unless design elements require it, no more than ten (10) individuals of any one (1) species shall be planted in a group, row, or staggered row.

E. The minimum depth of a perimeter landscape area shall be fifteen feet (15') from any property line. The minimum depth of a perimeter landscape area may be reduced to six feet (6') for a limited distance for parking space maneuverability or dumpster pad enclosure, or to zero feet (0') from a property line when a zero building setback is established, an access easement crosses or is parallel to the perimeter landscape area, or a private drive or other non-landscaped surface lies within the perimeter landscaping area, or strict adherence to this section serves no useful purpose or imposes an unnecessary hardship on the property owner. In those cases, the Planning Director may waive the fifteen foot (15') requirement as long as the spirit and intent of this section are maintained. .

F. The side or rear yard perimeter landscape area may be extended beyond fifteen feet (15') when unusual topography of a site, elevation of a site, the size of the parcel involved, the presence of a utility easement along the property edge, or other factors exist which make the strict adherence to this section serve no useful purpose. In those cases, the Planning Director may waive the location and/or depth of the perimeter landscape area as long as the spirit and intent of this section are maintained.

G. Whenever feasible, preserved vegetation shall be used. For preserved plants to be used to satisfy part or whole of this requirement, the size, species, condition, and location on the site should be noted on the required landscape plan. The spacing requirement for planted trees and shrubs may be waived when the intent of the perimeter landscape requirement can be satisfied by preserved plants.

H. No wall or fence may be placed within the established perimeter landscape zone when established at a fifteen foot (15') width. Where the established perimeter landscape area is less than fifteen feet (15'), a fence or wall may be used and can be located no closer than six feet (6') to the property line. The finished side of the fence shall face outward from the property. Any plant material required under this section shall be located between any fence and the property line. **[formerly known as § 153.075 (G)]**

I. When a public-use pedestrian pathway is proposed to be located along a non-street property line of a parcel, or shared by more than one parcel along non-street property lines, the pathway may be located on top of the lot line and/or within the 15' perimeter planting area. Such pathway, however, shall not require removal of any existing trees over eight inches (8") DBH, and grading or other land disturbing activity for such pathway shall not take place within more than twenty percent (20 %) of the protected tree's dripline, unless construction methods to protect the tree are approved by the Town Landscape Manager.

155.606.5. Interior Landscaping

Landscaping is required for parking lots and other impervious surface areas as follows:

A. PARKING LOT LANDSCAPING. Landscaping is required for parking lots to reduce the aesthetic and environmental impacts resulting from paving or the removal of natural vegetation from large areas; to reduce the noise, heat, glare and dust associated with parking lots, and to control the direction and velocity of surface water runoff. Within the requirements of this section, parking lots should be visually minimized from view from public right-of-ways as much as possible.

1. APPLICABILITY. Landscaping shall be required for all off-street parking facilities with ten (10) or more spaces.

2. LANDSCAPING REQUIRED.

a. Landscaping required by § 155.606.5 shall be located within the perimeter of the parking lot. Parking lot landscaping areas, generally, are squared or rounded-off in shape, including the planting islands, curbed areas, corner islands, parking spaces and all interior

driveways and aisles except those with no parking spaces located on either side.

b. PLANTING ISLANDS. Planting islands, either separate or protruding from the perimeter of the parking lot, shall be appropriately located in the parking facility to create parking sub-areas and to help establish distinct patterns of traffic flow. Planting islands shall be integrated with pedestrian circulation in the parking lot to provide a landscaped pedestrian path through the parking lot between the street and the building entrance.

c. REQUIRED PLANTING. At least one preserved or planted tree having a minimum caliper of two inches (2") and a minimum eight foot (8') height for large maturing trees and a minimum caliper of one and one-half inches (1½") and a minimum six foot (6') height for small maturing trees shall be provided for every ten (10) provided parking spaces, or fraction of ten (10) spaces.

d. MINIMUM LARGE MATURING TREES REQUIRED. If less than thirty (30) parking spaces are present on the development site, then small maturing trees may be used. If there are thirty (30) to sixty (60) parking spaces on a development site, then at least thirty five percent (35%) of the trees shall be large maturing. If there are greater than sixty (60) parking spaces on the site, at least fifty percent (50%) of the trees planted must be large maturing species. When there are overhead utilities or other circumstances that require a lesser percentage of large maturing trees, a written explanation must be provided for a waiver of the above percentage requirements.

e. PLANTING ISLAND DESIGN REQUIREMENTS. Any planted area in any island shall have all straight-line dimensions of at least twelve feet (12') and total area of at least two hundred fifty six (256) square feet for large maturing trees, or eight feet (8') straight-line dimensions and one hundred forty four (144) square feet area for small maturing trees. The depth of available soil for root growth shall be a minimum of thirty inches (30") before an impervious surface is encountered. Smaller protrusions from planting islands shall not have trees planted within them, however, shrubs or smaller types of vegetation can be used.

f. TREE LOCATION REQUIREMENT. No parking space shall be located more than forty feet (40') from a tree either in an island or outside of the parking lot. Trees need not be uniformly distributed throughout the parking lot when existing trees are being preserved to meet the parking lot landscaping requirements. It is more important that the maximum root zone be made available to the trees planted or preserved on site, and that the maximum shading of parking lot surface area be achieved.

g. LANDSCAPING PROTECTION REQUIRED. All parking lot landscaping shall be protected by bollards, curbs, or similar methods to prevent vehicles from overhanging planting islands or landscaped yards by more than two feet (2') or damaging adjacent fences or screens. Tree islands lacking a complete curbing and placed at or slightly below grade may be used to treat storm water runoff and fulfill the requirements of the Post Construction regulations of Chapter 8.

h. MINIMUM NUMBER OF TREE SPECIES REQUIRED. The minimum number of different species that shall be used to meet these requirements shall be as follows:

Total Number of Trees Required	Minimum Number of Tree Species Required in a Parking Lot
1-11	1
12-23	2
24+	3

i. If parking is within twelve feet (12') of a street property line, a row of shrubs shall be

planted parallel to the street but not within the sight triangle of intersecting streets or a street and driveway or alley. The shrubs shall be planted no greater than five feet (5') on-center, and should be of a species that matures between one (1') and three feet (3') in height.

j. Any development existing at the time of enactment of this Title which does not conform to the standards imposed in § 155.606.5.A.2. above but did meet required parking lot landscaping standards in effect at time of development, and subsequently desires to make further changes to the parking lot(s) on-site, shall not be required to come into compliance with the parking lot landscaping standards of § 155.606.5.A.2 unless more than fifty percent (50%) of the area of the existing parking lot(s) are disturbed. If more than fifty percent (50%) of the parking lot area(s) are disturbed, only those disturbed areas shall come into compliance with the above landscaping standards.

B. POST CONSTRUCTION REGULATIONS. In addition to the provisions for tree canopy and landscaping on developed parcels, requirements of Chapter 8, the Post Construction Ordinance shall also apply. Where the requirements for undisturbed open space can be met with existing or new tree canopy requirements of this section, they may be counted toward each. The preference, as intended in Chapter 8, is the preservation of vegetation in place.

C. SWIM BUFFERS. Preservation of vegetation along designated, riparian buffers shall comply with the requirements of § 155.703.

D. OTHER INTERIOR LANDSCAPING. Areas of a development site left in existing natural state, foundation plantings, and other interior landscaping elements may be included when land disturbing activity is proposed on a site. **[formerly known as § 153.075 (H)]**

155.606.6. Screening

A. SITE PERIMETER SCREENING. Screening is required along all side and rear yard property boundaries abutting an existing residential use or residentially zoned area. Screening on all side and rear yard boundaries when a property abuts a thoroughfare shall use the provisions here or in §155.606.6.B below. Screening shall be designed and installed to provide a visual buffer of at least seventy five percent (75%) opacity to a height of six feet (6'). When screening is to be accomplished with plant materials, this height and opacity must be reached within four growing seasons. Whenever practical, plantings to achieve screening shall include preserved vegetation, especially trees and evergreen shrubs, existing on the site.

1. Screening shall normally be provided through one of four options, as listed in the table below.

OPTION	PLANT MATERIALS *Type*	*Quantity*	PLANTING BED WIDTH
1	Large Trees	4	20 feet
	Small Trees	2	
	Shrubs	12	
2	Large Trees	4	15 feet
	Small Trees	2	
	Shrubs	16	
3	Large Trees	5	10 feet
	Small Trees	2	
	Shrubs	20	
	Wall or Fence at Minimum 10 feet from property line		
4	Large Trees	4	20 feet
	Large Shrubs*	10	

* planted in a triangular manner ten (10) feet apart at centers

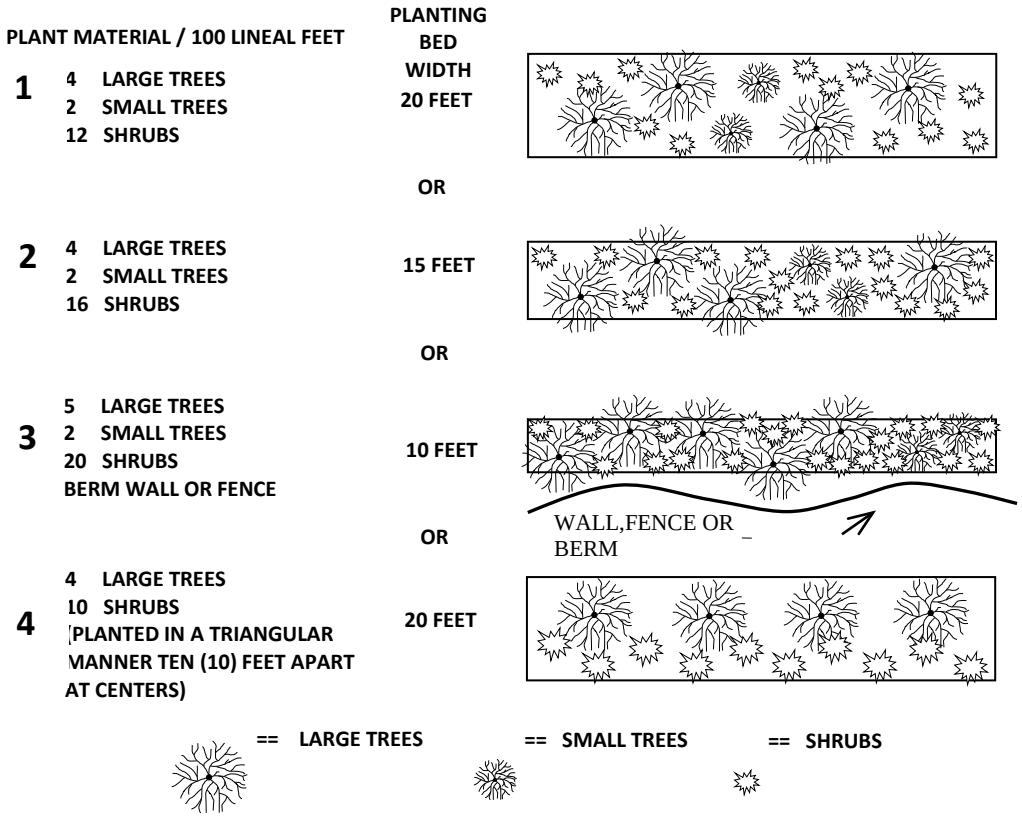


Figure §155.606.6. Site Perimeter Landscaping Requirement Options Illustrated.

2. To determine the total number and variety of plants required for each screening alternative, the length of each side of the property requiring a screen, minus the area covered by sight distance triangles, shall be divided by one hundred (100) and multiplied by the number of each kind of plant shown for the chosen required screen (rounded off to the nearest whole number).

3. Fences or walls within any nonresidential district or for any non-residential use in a residential district shall be placed behind the interior side of the required plant materials and shall not be over seven feet (7') in height.

4. In the event of unusual site disturbances, such that none of the four (4) options given in § 155.606.6.A.1 will create the intended level of screening, or where screening is not desired (generally for public safety) or is inappropriate, then an alternative screening plan may be presented to the Planning Director for review and approval. This alternative plan must include documentation describing how the proposed alternative will provide effective visual screening, or why there is no feasible way to adequately screen view of the subject site from the adjacent property due to, for example, pedestrian circulation, the proximity of a public plaza, or architectural features.

B. LOADING AREA, SERVICE AREA OR OUTDOOR STORAGE AREA SCREENING.

1. Screening around all loading and service areas and all outdoor storage areas which may be visible from a public right-of-way, shall be required in all nonresidential districts or for a nonresidential

use in a residential district. Screening on all side and rear yard boundaries when a property abuts a thoroughfare shall use the provisions her or in §155.606.6.A above. The screening may be located anywhere on the property, subject to other pertinent provisions of this section.

2. Any vegetation used to comply with the provisions of this section must be in a planting bed at least five feet (5') wide. This area may contain any type screening materials sufficient to visually block the view of the loading and storage use area.

3. If a wall or fence is used alone, then the area devoted to the screen need only be wide enough to accommodate the screen and allow for its maintenance. The composition of the screening material and its placement on the lot will be left up to the discretion of the property owner, so long as the purpose and requirements of this section are met.

4. Within nonresidential districts walls and fences used for screening purposes must be at least six feet (6') in height, measured from the ground level to the top of the structure, and measured along the entire length of the finished side of the structure.

C. SCREENING STANDARDS. The following list contains specific standards to be used in installing screening:

1. Fences and walls used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials or wood post and planks with no more than twenty five percent (25%) of the fence surface left open. The finished side of the fence shall face the adjoining property. The restrictions on fences and walls in Chapter 9, Floodplain Regulations also apply.

2. Where a fence or wall is used as part of a required screen area, any required plantings accompanying the fence or wall shall be located on the side of such fence or wall opposite the new development.

3. Shrubs used in any screening must be at least three feet (3') tall when planted and no further apart than five feet (5'). A minimum of fifty percent (50%) of the required shrubs shall be evergreen. They must be of a species and variety and adequately maintained so that an average height of five (5') to six feet (6') could be expected as normal growth within four (4) years of planting. Shrubs planted on a berm may be of a lesser height, provided that the combined height of the berms and plantings is at least six feet (6') after four (4) years.

4. No part of a berm shall be left as bare soil. No slope of a berm shall exceed one foot (1') of rise for every three feet (3') in plane. No part of a berm shall intrude into the existing or transitional right-of-way. At least seventy five percent (75%) of required plantings shall be planted on the top of the berm and opposite the new development. Plant species on a berm shall be selected to adapt well to slope and drainage conditions found on the berm.

5. Screening requirements may be waived when screening is already provided. There may be cases where the unusual topography or elevation of a site, or the size of the parcel involved, or the presence of required screening on adjacent property would make the strict adherence to § 155.606.6 serve no useful purpose. In those cases, the Planning Director may waive the requirements for screening so long as the spirit and intent of this section and the general provisions of this section pertaining to screening are adhered to. This waiver provision does not negate the necessity for establishing screening for uses adjacent to vacant property. **[formerly known as § 153.075(I)]**

6. When a public-use pedestrian pathway is proposed to be located along or near a property line of a parcel that is required to install and maintain screening, the pathway shall generally be located at least ten feet (10') to the interior side of the property line. Required amounts of planting material must be provided, although they may be located on both sides of the pedestrian path. This pathway shall not require removal of any existing tree over eight inches (8") DBH, and grading or other land disturbing activity for the pathway shall not take place within more than twenty percent (20%) of the protected tree's dripline, unless construction methods to protect the tree are approved by the Town Landscape Manager. When a pedestrian pathway crosses through a required screening, the crossing opening shall be at an angle between thirty and 70 degrees (30^0 to 70^0), or in such a way as to not create a direct vision opening from the residential property or public right-of-way.

155.606.7. Tree Canopy Requirements

A. CANOPY PRESERVATION REQUIREMENT.

1. PURPOSE. The amount of tree canopy covering a site is an indication of the site's ability to retard storm water run-off, mitigate air pollution, and contribute to site-cooling effects. The tree canopy requirements outlined here may also be applied to the minimum Undisturbed Open Space requirements of Chapter 8, the Post Construction Ordinance.

2. REQUIREMENTS. A minimum percentage of tree canopy is required to be maintained or created on any development site or on any site of any land disturbing activity. If a site over one (1) acre in size was formerly in a forested state and fifty percent (50%) or more of the land area was clear cut within three (3) years of the plan submittal date for any land disturbing activity, then the tree canopy preservation requirements must be applied as though the site was not clear cut. It will be the applicant's responsibility to provide proof that any clear cutting activity on the site took place greater than three years prior to the current submittal date.

a. The amount of existing canopy that must be preserved on the site during development is determined by two (2) factors: the zoning district classification; and the percentage of existing tree canopy present before any land disturbing activity, as indicated below:

TABLE OF MINIMUM TREE CANOPY REQUIREMENTS

Zoning District	Required Tree Canopy
R-15, R-20	20%
R-9, R-12, R-MH, R-15MF, R-12MF, CrC, R/I	15%
0, B-1, B-1SCD, B-H, B-3, BD, AU	12%
I-1, I-2	10%
R-VS, MUD, SRN, ENT	8%
HUC, C-MF, TS	4%

b. Whenever the existing tree canopy is greater than twenty percent (20%) of the total property area, then a minimum canopy must be preserved, as defined in the above table at § 155.606.7.A.2.a.

c. Whenever the existing tree canopy of the site prior to land disturbance is less than twenty percent (20%) of the total property area, then the percentage of canopy, as defined in § 155.606.7.A.2.a, must be achieved by a combination of preservation and new planting.

d. Tree save areas that include mature trees over minimum planting calipers are strongly encouraged. Placement of proposed buildings, vehicle use areas, and other site improvements should be designed to reduce disturbance of existing vegetation.

3. CALCULATION OF CANOPY AREAS.

a. The baseline canopy measurements on a proposed development site shall be provided by the property owner and submitted as part of the vegetation survey and landscape plan. The percent canopy cover may be calculated by aerial photographs and verified, if feasible, by ground measurement. The area of existing dedicated rights-of-way, storm water facilities and easements that do not incorporate trees, utility easements, and existing ponds, lakes, or perennial streams shall be subtracted from the total property area before the tree preservation requirements are calculated. If root disturbance or construction activities occur within the drip line of any tree designated as protected, only the area actually being protected will be included in the calculated tree protection area

b. Each large maturing tree, whether preserved or newly planted, is calculated to provide two thousand (2,000) square feet of tree canopy. Newly planted large maturing trees must be a minimum of two inch (2") caliper and eight feet (8') in height at time of planting.

c. Each small maturing tree, whether preserved or newly planted, is calculated to provide four hundred (400) square feet of tree canopy. Newly planted small maturing trees must be a minimum of one and one-half inch (1½") caliper and six feet (6') in height at time of planting.

d. Preserving a Specimen Tree is calculated to provide a tree canopy equal to six (6) times the actual square footage contained within its drip line.

e. All preserved trees designated to meet this canopy coverage requirement must be protected according § 155.606.9.D.

f. All tree planting requirements cited in § 155.606.3 through § 155.606.6, inclusive, may be credited toward the minimum tree canopy requirement.

g. METHOD OF CALCULATION FOR TREE CANOPY: The Tree Canopy shall be calculated by the following formulas:

$$(SA - U) \times 0.2 = RTC$$

Where:

SA: The total Site Area (square feet)

U: Any utility easements, road rights-of way or other area allowed to be excluded (in square feet)

RTC: Required Tree Canopy (square feet)

and,

(SA – U): Net land disturbance area (NLD) (square feet)

When Existing Tree Canopy as provided in the vegetation survey is calculated in excess of twenty percent (20%) of the NLD, then all of the RTC must be in preserved trees. When Existing Tree Canopy is calculated at less than twenty percent (20%) of the NLD, then all of the existing tree canopy must be preserved, and newly planted trees must be added to achieve the RTC.

4. Mitigation for Required Tree Canopy may be provided concurrent with mitigation for undisturbed open space in Chapter 8, the Post Construction Ordinance (PCO).

a. Where a development site must meet the provisions of the PCO and chooses to comply with the Undisturbed Open Space provisions through one (1) of the mitigation measures, then those mitigation measures will also be allowed to be used to meet the tree canopy requirements of § 155.606.7. Mitigation for tree canopy shall be provided on the same site or within three hundred feet (300') of the boundary of the development site.

b. A development site which does not fall under the requirements of the PCO but would like to apply the mitigation provisions found in that regulation to Required Tree Canopy of § 155.606.7 may request a zoning variance. The property owner shall submit a zoning variance application with the Landscape Plan submission including full documentation on what tree canopy requirements are desired to be met through mitigation, and an explanation of the hardship. **[formerly known as § 153.075 (J)]**

155.606.8. Vegetation Survey

A. In order to assure that the location of existing trees and vegetation on the development site is acknowledged prior to preparing any design plans for development, a vegetation survey is required on all sites other than single family residential. The vegetation survey must be submitted to the Planning Office in advance of, or with a Landscape Plan, and prior to any land disturbing activity or any applications for grading, building, or rezoning. The vegetation survey should be completed in conjunction with a Concept Plan to meet the PCO

requirements, when applicable.

B. Elements required as a part of the vegetation survey include: a map, drawn to scale, and a written component, identifying any potential Specimen Tree on site, and all existing trees and vegetation eligible to be preserved. Where clear cutting activity occurred within the previous three years, then all trees that were previously on the site need to be identified and quantified in some way. A general grade of the condition of each tree shall be provided.

C. A certified arborist, landscape architect, or forester shall evaluate the vegetation survey to determine what existing vegetation will be preserved, and how it can be incorporated into the development plans for the site. Root protection zones for all trees to be preserved must be indicated on the vegetation survey. **[formerly known as § 153.075 (K)]**

155.606.9. Tree Preservation Planning

A. CRITERIA FOR EVALUATING TREE PRESERVATION. Healthy and structurally sound trees, either singularly or in stands, located anywhere on the construction site shall be considered for preservation, and shall be evaluated for designation as protected trees.

B. Trees preserved to meet streetscape, screening, and buffer requirements can receive credits according to the following:

Preserved Trees (DBH in inches)	Credit toward planting requirements (Number of trees required)
2 – 5	1
6 - 17	2
18 +	4

C. TREE PRESERVATION SCHEDULE. When it has been decided which vegetation is to be preserved, then this written and graphic information shall be included with the Landscape Plan submission: map locations where trees, shrubs and ground covers will be preserved, their species (botanical and common names), size (DBH), general condition rating, individual tag number and their contribution to any site-required landscaping will be provided both on a map drawn to scale and in an accompanying text. When included on an approved Landscape Plan, all trees listed in the schedule shall become Protected Trees.

1. Each tree to be preserved shall be tagged on-site with an identifying tree number.
2. Trees with potential Specimen Tree status shall be marked as such in the field and noted on the Schedule.
3. If the construction site contains existing trees that are not scheduled for preservation, a written statement citing the reasons shall be included in the application materials. A map of the site must accompany the written statement.

D. In any required landscape buffer or screen, and in any location within the site that will not be disturbed, all deciduous and coniferous trees at least three inches (3”) caliper and all dogwoods, redbuds, and American hollies at least four feet (4’) high shall be considered protected. Elsewhere on the site, trees of these sizes and larger are encouraged to be preserved and incorporated into required landscaping, but will not be considered protected.

E. PROTECTED TREES. Protected trees include North Carolina Champion Trees, Matthews Specimen Trees, existing streetscape trees within the public right-of-way, and any other trees designated on an approved landscape plan to be preserved during any land disturbing activity. Preservation standards are outlined at § 155.606.11. **[formerly known as § 153.075 (L)]**

155.606.10. General Landscape Plan

A landscape plan is required for any land disturbing activity in any multi-family, mixed use, or nonresidential district, and for nonresidential uses in a residential district.

A. SUBMITTAL. Landscaping plans shall be submitted to the Planning Director for administrative approval, with review by the Town Landscape Manager.

B. REQUIREMENTS. Required elements to be included in this submittal, which may be combined on documents and maps for clarity, are:

1. A development summary that includes total acres in development, proposed use(s), total building square footage, required parking and provided parking spaces.
2. An accurate drawing of property boundaries.
3. Name of the project, owner, name and address of engineer, scale, date and north arrow.
4. Existing topography, watercourses and water bodies, floodplains and floodways, or other areas that would require extensive clearing and grading or alteration for development. This may be combined with the Vegetation Survey of the site.
5. Location of proposed buildings, driveways and parking areas.
6. Location of loading areas, service areas or outside storage areas and required screening.
7. A copy of the Vegetation Survey map and written document and the Tree Preservation Schedule.
8. Locations of all preserved trees and their root protection zones including all existing and finished grades at these locations.
9. Locations of required screening buffer strips, riparian buffers, canopy preservation locations, streetscape, perimeter plantings, interior plantings, and screen landscaping.
10. The Landscape Plan drawing shall depict with illustrations and written explanation of how all the root protection zone requirements as outlined in § 155.606.11.D will be applied to the site's Protected Trees.
11. Details of required landscaping showing species, dimensions, and spacing of planted materials and the use and protection of existing vegetation. Plans shall normally include a scaled drawing and a written component that includes planting specifications.
12. A completed irrigation plan or written statement citing the purpose for not complying with the irrigation requirement at § 155.606.13.F.
13. Proposed location of any free-standing sign to be employed on the site.
14. A completed Landscape Establishment Guarantee showing the calculations for the bond amount.
15. A statement on the anticipated completion date of the installation or land disturbing activity. Owner shall notify the Town Landscape Manager not less than forty eight (48) hours prior to the start of any land disturbing activity on the site.

C. LANDSCAPE PLAN APPROVAL.

1. No land disturbing activities shall commence on site until the submitted Landscape Plan is approved by the Planning Director.
2. The Town may inspect the development site prior to plan approval. The property owner or developer will be notified prior to such a site visit and may accompany the inspection. The results of the inspection shall be provided to the owner or developer in writing within seven (7) days of the inspection. Any problems encountered or suggestions generated during the inspection shall be noted.
   a. The Town may verify by inspection the Vegetation Survey and the Tree Preservation Schedule.
   b. Any trees found by the Town's representative to be of potential North Carolina Champion or Matthews Specimen Tree quality will be brought to the attention of the developer. A tree determined to be a Champion or Specimen Tree shall be classified as a Protected Tree and the developer shall be required to incorporate its protected status into the Landscape Plan for the site.
   c. CHANGES TO AN APPROVED PLAN. Minor changes or additions to existing development or approved plans may be submitted to the Planning Director as an abbreviated Landscape Plan.
      1. An abbreviated plan shall be allowed when the proposed change is physically limited to only a contained portion of the site. An abbreviated plan shall include, but not be limited to, items listed in § 155.606.10.B.2, 6, 8, and 9. The Planning

Director shall determine when an abbreviated plan may be submitted for a detailed plan and what items must be included.

2. Any substitutions in plant species and varieties cited in the original landscape plan to be planted must be approved by the Planning Director before installation. **[formerly known as § 153.075 (M)]**

155.606.11. Preservation Standards

A. SHRUB AND GROUND COVER VEGETATION. The ground surface under any preserved shrub and groundcover should be disturbed as little as possible, following the basic standards for tree preservation.

B. TREES. Existing trees specified on an approved landscape plan to remain on site during any land disturbing activity are Protected Trees. In addition, any land disturbing activity that may come within the drip line of any Protected Tree, or a tree having all or a portion of its trunk in or upon any public property, shall be identified on site and protected as explained below.

C. THE ROOT PROTECTION ZONE DESIGNATION:

1. For each inch of DBH a minimum of one foot (1') of protected space from the trunk is measured in all directions. This area is designated as the Root Protection Zone. Unless physical obstructions are encountered within this area, the entire zone will receive protection. For tree stands the Root Protection Zone shall extend five feet (5') beyond the perimeter drip line of the entire stand.

2. All grading, construction, and site layout plans shall show the vertical elevation of the trunk at the soil line, the existing topography, and proposed grade changes within and immediately surrounding the root protection zone.

D. PROTECTION REQUIREMENTS OF THE ROOT PROTECTION ZONE.

1. A durable fence of plastic or wood with a minimum height of four feet (4') shall protect the zone. No soil disturbance will occur in the zone. The fence will be maintained at all times during any land disturbing activity.

2. No storage of materials, piling of soil, parking of equipment, or dumping of debris shall occur in the zone.

3. The natural grade shall be maintained within the zone. Stripping topsoil from, or adding topsoil to, the zone is prohibited.

4. Excavation for buried utilities is prohibited. Boring may be permitted in individual situations.

5. No trenching for irrigation lines shall take place.

6. Removal of understory vegetation within the zone shall be restricted to hand-operated power equipment.

7. A minimum of one sign designating the Root Protection Zone shall be placed on the fence and should be visible for a minimum distance of thirty feet (30').

8. Minor pruning of branches to accommodate the construction of nearby buildings or planting of shrubs or ground covers within the zone may be allowed with the approval of the Town Landscape Manager.

9. The Town will evaluate any requests for encroachment into the zone. Review of the request shall consider the overall needs of the site development. Utility line encroachments will be considered if the encroachment is unavoidable and damage to existing root systems is kept to an accommodating level. In these cases, encroachment will only be allowed on one side of the tree and no closer than two thirds (2/3) of the distance from the edge of the zone to the trunk. A revised Landscape Plan drawing or a written document giving the dimensions and explaining the reasons for the encroachment shall be prepared and submitted by the developer, to be signed by the Town Landscape Manager and attached to the approved Landscape Plan,

10. The requirements of this section shall remain in effect throughout the construction period or the duration of the land disturbing activity. **[formerly known as § 153.075 (N)]**

155.606.12. Planting Standards

A. Except for Streetscape Trees, which can be variable, the minimum distance to the nearest property line or

public right-of-way for planting shall be six feet (6') for large maturing trees and three feet (3') for small maturing trees.

B. The minimum distance to a sidewalk, curb, or other impervious surface is four feet (4') for large maturing trees and three feet (3') for small maturing trees.

C. For large maturing trees a minimum planting area of two hundred fifty six (256) square feet with a minimum dimension of eight feet (8') and a tree center no closer than four feet (4') to the edge of the planting area is required. For small maturing trees a minimum planting area of one hundred forty four (144) square feet with a minimum dimension of eight feet (8') and a tree center no closer than three feet (3') to the edge of the planting area is required.

D. Trees shall normally not be guyed or staked, except in an extreme situation to salvage a damaged tree after planting. If guying is employed, it must be removed as soon as possible or within one (1) year at the latest. Mulch shall be applied (two (2") to three inch (3") layer around the tree pit) in accordance with accepted practices in the landscape industry.

E. Adequate drainage shall be provided for all planting areas and specific plant materials shall be chosen which can adapt to the anticipated drainage conditions. Whenever possible, natural surface drainage that flows into the root protection zone shall be considered for plant selection and location, and interrupted curbing or curbless planting islands may be used.

F. No trees identified as large maturing trees shall be located within thirty five feet (35') from the center-line of a power distribution line.

G. No planting identified as reaching a mature height of more than twenty feet (20') shall be placed within a transmission power line right-of-way.

H. Normally, trees should not be planted within a utility or access easement. When a tree is to be located within an easement, a written statement to the Planning Director should indicate why this is necessary. When the planting is within a dedicated easement for underground utilities, trees planted shall be of the small maturing size to minimize future root conflict. This statement shall become an attachment to the approved Landscape Plan.

I. At all points of egress from off-street parking areas to a road, and at corners of road intersections, unobstructed visibility for sight triangles shall be maintained as defined in § 155.601.13.

J. Tree holes shall normally be back-filled with the native soil that was excavated. Amending the soil with organic additives is permissible when extremely poor site conditions are encountered.

K. Planting trees within sidewalk space, particularly in concrete, requires special techniques and procedures in order to provide enough growing space beneath the concrete for the tree to prosper and maintain the integrity and stability of the walkway. The Landscape Manager will individually evaluate any landscape plan that includes trees in sidewalk pits.

L. All trees and shrubs to be planted must comply with the American Standard for Nursery Stock, published by the American Association of Nurserymen (current edition).

M. Trees to be planted shall generally be on the Town's approved tree list, provided as § 155.606.13. The Planning Director, with Town Landscape Manager input, shall approve the use of trees not on the list. **[formerly known as § 153.075 (O)]**

155.606.13. Landscape Maintenance Standards

A. GENERAL PROVISIONS. The property owner and/or lessee shall maintain all landscape materials and landscape areas in accordance with the approved Landscape Plan. Maintenance shall include watering, weeding, mowing, fertilizing, treating, mulching, pruning, removal and replacement of dead or diseased trees and shrubs. Maintenance shall be performed on a regular basis in order to maintain plant vigor and stability and to present a neat and well-kept appearance at all times.

B. DURATION OF MAINTENANCE**.** For preserved vegetation, maintenance shall begin at the time that the root protection zones are established (prior to rough grading) and shall continue indefinitely. For planted materials, maintenance shall begin at the time of planting and shall continue indefinitely.

C. MITIGATION FOR LOSS OF PROTECTED TREES AND SHRUBS.

1. If a Protected Tree is destroyed or dies within three (3) years after completion of construction, then replacement trees of total equal diameter shall be planted on the site. Tree destruction or

death during this three (3) year period shall be assumed to be the result of the land disturbing activity unless the tree destruction is easily verified as due to a casualty loss of nature (storm, lightning strike, and the like) or the property owner provides documentation from a certified arborist of an alternate explanation for the tree's death. It is the intent of these mitigation provisions that a replacement tree will be located where the Protected Tree had grown prior to death or destruction.

2. Any Protected Tree dying after the initial three (3) years shall be replaced with planted tree(s) of an approved species, with either a single tree of equal caliper to the lost tree or multiple new trees each with a minimum of two inch (2") caliper (for large maturing trees) or a minimum of one and one-half inch (1½") caliper (for small maturing trees). It is the intent of these mitigation provisions that a replacement tree will be located where the Protected Tree had grown prior to death or destruction. If two inch (2") caliper tree(s) are planted, a total caliper equivalent to the lost tree determines the total quantity of replacement trees needed.

3. Where possible, replacement trees should be of the same species as the lost tree(s). When the same species is not proposed, an explanation for the alternate selection, and what replacement species is proposed, shall be submitted to the Planning Director for approval prior to replacement.

4. Replacement plantings shall normally be made within one (1) month of the loss or within the first month of the next planting season. Any shrubs indicated on the Landscape Plan to be preserved, which later die, shall be replaced with the same species at a minimum size of three (3) gallon, three foot (3') height. Replacements for casualty loss fatalities must be made within one calendar year after the event.

D. MITIGATION FOR LOSS OF PLANTED TREES AND SHRUBS.

1. Any planted tree or shrub dying during the first three (3) years after planting shall be replaced with a plant kind and size that was specified in the original plans.

2. Any planted tree dying during the fourth (4th) year or later shall be replaced in the same location, with a tree, or trees, of the same type or value (using the International Society of Aborculture's Tree Evaluation Formula) of the loss, a minimum size of two inch (2") caliper for small maturing trees and four inch (4") caliper for large maturing varieties.

3. Any shrub which dies after three (3) years shall be replaced with the same species, minimum three (3) gallon and three feet (3') in height. Replacements for casualty loss fatalities of any trees or shrubs must be made within one calendar year after the event.

E. MISCELLANEOUS MAINTENANCE PROVISIONS.

1. TOPPING, TREE PRUNING, AND LIMBING. Trees and shrubs should generally be kept in their natural form and allowed to reach their mature height and spread.

a. Topping of any landscape tree in excess of twenty five percent (25%) of its canopy planted or preserved is prohibited.

b. TREE PRUNING. No more than twenty five percent (25%) of the canopy may be pruned. The natural canopy shape must be maintained, and all trees shall reach eighty five percent (85%) of their overall height at maturity. No pruning may commence until a request by the developer or owner of the property is approved by the Town Landscape Manager. Such signed document shall be attached to the approved Landscape Plan.

c. LIMBING-UP. Where necessary for public safety, visibility, or pedestrian or vehicular activity, limbing-up may take place on existing trees and shrubs, as long as at least seventy five percent (75%) of the tree canopy is maintained, and limbing-up does not exceed fifteen feet (15') above the adjacent ground elevation except where large vehicles are regularly required, in which case limbing-up shall not exceed the height of the required vehicles. No limbing-up activity shall commence until a request by the developer or owner of the property is approved by the Town Landscape Manager. Such signed document shall be attached to the approved Landscape Plan.

2. PURPOSEFUL REMOVAL OF PROTECTED TREES.

a. Purposeful removal of any tree approved in the original planting plan must be based on unsafe conditions from developing structural, insect, or disease problems. Only in the event of a written recommendation by a certified arborist or the Town' Landscape

Manager, and approval by the Planning Director, should removal take place.

b. Prior to any replanting a replacement Landscape Plan must be submitted indicating trees by species and size at the time of removal. In addition, the plan should list any replacements by species, variety, and planting size. Generally a replacement Landscape Plan shall be considered an abbreviated plan, unless more than twenty percent (20%) of the preserved or planted trees and shrubs on the original approved plan are scheduled for replacement.

c. Where an existing protected tree is of a species that since its installation has become recognized as having substantial difficulty maintaining a full and safe canopy in an urban environment, then a written request by a property owner or developer, with a written explanation of the tree conditions and status and a recommendation for replacement by a certified arborist, may be submitted to the Planning Director and Town Landscape Manager. A proposed tree replacement plan shall be submitted, showing replacement in substantially the same locations as trees proposed to be removed. Replacement trees shall be of a large maturing variety unless site conditions (overhead power lines, etc.) prohibit their placement. Replacement trees shall be equal to the caliper size of removed trees, up to four inches in DBH, and additional replacement trees shall be placed elsewhere on-site to replace the total DBH being removed.

3. REMEDIES FOR DISTURBANCE, DESTRUCTION, OR REMOVAL OF VEGETATION AND REQUIRED LANDSCAPING.

a. Any disturbance, destruction, or removal of any required landscaping or approved vegetation shall constitute a violation of § 155.606.

b. Any person who violates any of the tree protection or landscaping provisions of § 155.606 or any approved landscape/vegetation plan previously approved by the Town prior to enactment of this Title shall be subject to any one or combination of penalties prescribed at § 155.214.

F. IRRIGATION REQUIREMENT. Unless otherwise approved, an irrigation system shall be provided to all landscaped, non-turf areas containing living plant materials.

1. All irrigation systems shall be installed by a licensed master plumber, licensed sprinkler contractor or owner/builder and shall be maintained in proper operating condition.

2. Low-volume irrigation systems such as drip or bubble systems are encouraged for use in order to conserve water.

3. Sprinkler type irrigation systems are not encouraged within the Town limits; however, when installed, they shall be designed to avoid spray that will fall on sidewalks, neighboring properties, and adjacent buildings.

4. Any sprinkler system installed shall be programmed to supplement normal rainfall, and shall be operated to conserve water.

5. An operable rain sensor is required on all automatically controlled systems.

6. The installation of an irrigation system is not required on new plantings of all native plant materials or Xeriscape plant species designated as such by the North Carolina State University, or on preserved vegetation when root protection zones have been identified and continuously maintained during all land disturbing activities.

7. Before any irrigation system or portion of an irrigation system is installed within a public right-of-way or on any other public land, an encroachment permit must first be obtained from the Public Works Director or from NCDOT as applicable.

8. Irrigation systems that water only landscape turf are not encouraged, but are not prohibited.

G. MAINTENANCE VIOLATIONS. The property owner and/or occupant or lessee shall be held jointly liable for any infractions of the requirements set forth in § 155.606.13. Where purposeful removal, topping, severe pruning, limbing, or other disfiguration occurs to one (1) or more trees or shrubs on a site without prior approval of a replacement Landscape Plan, the developer, property owner and/or occupant or lessee shall jointly be held in violation and each one shall be subject to the penalty provisions of § 155.214.

H. LANDSCAPE ESTABLISHMENT GUARANTEE. Prior to the issuance of a Certificate of Occupancy, proper

maintenance of the planted and preserved trees and shrubs during the landscape establishment period shall be guaranteed by a Landscape Establishment Guarantee from the property owner to the Town. The bond amount shall be equal to the value of the new trees, plus the lesser of twenty thousand dollars ($20,000) for the preserved trees, or the actual value of preserved trees as calculated in accordance with The Guide for Plant Appraisal published by the Council of Tree and Landscape Appraisers (current edition). The bonding period shall be for a three (3) year period commencing from the date of successful inspection of the installation and preservation as being in compliance with the approved Landscape Plan for the site.

I. SEASONAL DEFERRAL OPTION. During the months of April through August, or during a declared community-wide drought, a separate bond may be provided to the Town to allow a Certificate of Occupancy to be issued when all other construction requirements have been inspected and declared complete except for completion of landscaping. Such bond amount shall be equal to twenty thousand dollars ($20,000) per each acre or fraction of acre of the total development site, plus the bid package price the property owner/developer received for completion of the landscaping elements of the development project. The Town Landscape Manager shall review the bid package price to determine it is appropriate to the amount of plant and landscape materials remaining to be installed, and the labor required to complete the unfinished landscaping elements. This bond shall be issued in the name of the property owner to the Town, and shall be in effect for up to six (6) months or no longer than thirty (30) days into the next planting season, whichever is less. No Certificate of Occupancy shall be issued for the site until the Town Landscape Manager confirms in writing to Mecklenburg County LUESA that the required bond has been accepted by the Town. Once the required landscaping is installed and approved by the Town Landscape Manager, the owner/developer can request the release of the bond for work completed. If such landscaping has not been installed within the given bond period, the Town reserves the right to cash such bond for the purpose of completing the required landscape installation. A seasonal deferral option shall be in addition to the required Landscape Establishment Guarantee.

155.606.14. Approved Tree and Shrub List

A list of approved trees and shrubs for planting is provided to increase the likelihood of survival and to reduce maintenance requirements. All trees utilized should be generally adapted to the normal climatic and environmental conditions expected for the Matthews area. The listed trees satisfy these general criteria. This list is not intended to be a comprehensive survey, but it will serve as a guide to plant selection. Plants on the approved plant list shall normally be used in a landscape plan.

A. Plants materials that are not on this list may be used if it can be shown that the selected species satisfies one or more of the following criteria:

1. A species indigenous to the area that can be shown to be adapted to the proposed site conditions.
2. A cultivated species that is well suited for use in this area.
3. A non-indigenous species, meeting a specialized use that will not be adversely affected by normal climatic environmental conditions.
4. Any plant species that has been previously approved for use in a similar site situation.

B. The use of any plant not on the list shall be so noted on the Landscape Plan with a brief explanation of purpose.

C. PROHIBITED PLANT MATERIAL. Any tree or plant material that is determined by the Town Landscape Manager as invasive, disease-prone, subject to infestation or fragile shall be prohibited from being approved on a Landscape Plan.

1. STREET TREES IN RIGHT-OF-WAY. Any tree species existing within the public right-of-way which is subsequently determined by the Town Landscape Manager to be a prohibited plant material may be removed by the Town and replaced with an appropriate alternate species. Replacement trees shall be a minimum of four inches (4”) caliper and twelve feet (12’) in height at time of planting whenever they replace trees of same or larger dimensions. Existing street trees being replaced under this provision which are less than four inches (4”) caliper or twelve feet (12’) in height shall be replaced with appropriate alternate species trees of at least two inches (2”) in caliper and eight feet (8’) in height. All replaced street trees shall be installed to industry standards.
2. STREET TREES WITHIN FIVE FEET OF RIGHT-OF-WAY LINE. Any tree species existing within five feet (5’) of the right-of-way or on private property and subsequently determined by the Town Landscape Manager to be a prohibited plant material may be assessed by the Town Landscape

Manager for its health and survivability expectations. Upon finding of a need to replace such tree or trees, the Landscape Manager shall give written notice to the property owner detailing the tree(s) that need to be replaced along with a variety of desire species well suited for the location. The property owner shall have two (2) years from date of the written notice to remove the prohibited trees and replace them with approved alternate species. Minimum planting size of replacement trees shall be two inches (2”) caliper and twelve feet (12’) in height. If the property undergoes a change of use prior to the two (2) year period, then the tree replacement action shall be required prior to the new use obtaining a Certificate of Occupancy.

1. LARGE MATURING DECIDUOUS TREES

Recommended for use specifically in the Special Highway Overlay District	Recommended for all other landscaping applications	Common Name	Botanical Name	Mature Height (feet)
◆	◆	Ash, Green*	*Fraxinus pennsylvanica*	50-60
◆	◆	Ash, White	*Fraxinus Americana*	50-80
	◆	Baldcypress	*Taxodium distichum*	50-70
◆	◆	Beech, American	*Fagus grandifolia*	40-60
◆	◆	Birch, River	*Betual nigra*	40-60
◆	◆	Black Gum*	*Nyssa sylvatica*	30-50
◆		Sweet Gum	*Nyssa sylvatica*	20-50
◆		Black Walnut	*Juglans nigra*	20-50
	◆	Cherry, Japanese	*Prunus subhirtella*	20-50
	◆	**Chinese Elm &B Hybrids**	***Ulmus parvifolia***	**30-60**
	◆	**Chinese Pistache**	***Pistachia chinesis***	**25-35**
	◆	Hackberry, Weeping	*Celtis occidentalis*	40-60
	◆	Hackberry, Common	*Celtis laevigata*	60-70
	◆	Hickory	*Carya spp.*	50-80
	◆	Sugar Ginkgo	*Ginkgo biloba*	50-80
	◆	Katsura Tree	*Cercidiphyllum japonicum*	40-60
◆	◆	Maple, Red*	*Acer rubrum*	40-60
◆	◆	Maple, Sugar*	*Acer saccaharum*	60-75
◆	◆	Oak, Chestnut	*Quercus prinus*	60-70
◆	◆	Oak, Laurel	*Quercus hemisphaerica (laurifolia)*	40-60
◆	◆	Oak, Northern Red	*Quercus rubra*	50-60
◆	◆	Oak, Pin	*Quercus palustris*	60-70
◆	◆	Oak, Sawtooth	*Quercu. Acutissima*	40-60
◆	◆	Oak, Shumard	*Quercus shumardii*	40-60
◆	◆	Oak, Southern Red	*Quercus falcate*	70-80
◆	◆	Oak, Water	*Quercus nigra*	50-80
◆	◆	Oak, White	*Quercus alba*	50-80
◆	◆	Oak, Willow	*Quercus phellos*	70-90
	◆	Pagoda Tree, Japanese*	*Sophora japonica*	50-60
◆		Pecan	*Carya illinoinensis*	40-60
◆		Persimmon	*Diospyrus virginiana*	40-60
◆		Sour Wood	*Oxydendron arboreum*	40-60
◆		Southern Catalpa	*Catalpa bignoniodes*	75-100
◆	◆	Sycamore	*Platanus occidentalis*	75-100
◆	◆	Tulip Poplar	*Liriodendron Tulipifera*	70-90
	◆	White Willow	*Salix alba*	75-90
	◆	Zelkova, Japanese*	*Zelkova serrata*	50-80

* Many varieties available

2. SMALL MATURING DECIDUOUS TREES

Recommended for use specifically in the Special Highway Overlay District	Recommended for all other landscaping applications	Common Name	Botanical Name	Mature Height (feet)
◆	◆	Alder, Tag	*Ainus serrulata*	20-30
	◆	Althea*	*Hibiscus syriacus*	8-12
◆		Birch, River	*Betula nigra*	20-30
	◆	Chanticleer Pear**	*Pyrus calleryana*	20-30
	◆	Chaste Tree	*Vitex negundo*	15-20
◆	◆	Cherry, Japanese*	*Prunus serrulata*	15-25
◆	◆	Cherry, Yoshino	*Prunus X yedoensis*	20-25
◆	◆	Cherry, Laurel	*Prunus Caroliniana*	15-25
	◆	Crabapple, Flowering*	*Malus sp*.	7-25
	◆	Crepe Myrtle*	*Lagerstroemia sp*.	15-25
◆	◆	Dogwood, Flowering*	*Cornus florida*	15-30
	◆	Dogwood, Kousa	*Cornus kousa*	10-15
◆		Dogwood, Redosier	*Cornus stolonifera*	15-30
◆		Elm, Winged	*Ulmus alata*	20-30
	◆	Goldenrain Tree*	*Koelreuteria paniculata*	20-30
◆	◆	Hawthorn*	*Crategus*	15-30
◆		Holly, American	*Hex opaca*	20-30
	◆	Hornbeam	*Carpinus betulus*	20-30
	◆	Magnolia, Saucer	*Magnolia soulangiana*	20-30
	◆	Magnolia, Sweetbay*	*M. Virginia*	10-20
	◆	Magnolia, Star*	*M. Stellata*	15-20
	◆	Maple, Amur	*Acer ginnala*	15-20
	◆	Maple, Hedge	*A. Campestre*	15-25
	◆	Maple, Japanese*	*A. Palmatum*	15-25
	◆	Myrtle, Wax	*Myrica cerifera*	10-15
◆		Paw Paw	*Asimina triloba*	20-30
◆	◆	Redbud, Eastern*	*Cercis Canadensis*	20-30
◆		Sassafras	*Sassafras albidum*	20-30
◆	◆	Serviceberry	*Amelanchier sp.*	10-20
◆		Silverbell, Carolina	*Halesia carolina*	20-30

* Many varieties available

**Recommended as substitute for Bradford or Aristocrat Pears. Many native plant materials are not mentioned in this list. On certain sites, they offer a great deal of benefit and suitability to the landscape. In this regard, the Town will entertain specific recommendations.

3. EVERGREEN TREES

Recommended for use specifically in the Special Highway Overlay District	Recommended for all other landscaping applications	Common Name	Botanical Name	Mature Height (feet)
◆	◆	Eastern Red Cedar	*Tsuga caroliniana*	20-30
◆		Hemlock, Carolina	*Juniperus virginiana*	20-30
	◆	Holly, American*	*Ilex opaca**	20-40
	◆	Holly, Chinese (Tree Form)	*Ilex cornuta**	8-15
	◆	Holly, Foster	*Ilex x attenuate*	20-30
	◆	Holly, Hume	*Ilex x attenuate*	25-35
	◆	Holly, Nellie R Stevens	*Ilex x Nellie R Stevens*	15-25
	◆	Holly, Yaupon*	*Ilex vomitoria*	15-20
	◆	Holly, Savannah*	*Ilex x attenuate*	25-30
◆	◆	Magnolia, Southern*	*Magnolia grandiflora*	60-80
◆	◆	Pine, Loblolly	*Pinus taeda*	60-90
◆	◆	Pine, Shortleaf	*Pinus echinata*	80-100
◆		Pine, Virginia	*Pinus virginiana*	40-60
	◆	Spruce, Norway	*Picea abies*	40-60

* Many varieties available

4. LOW MAINTENANCE SHRUBS

Recommended for use specifically in the Special Highway Overlay District	Recommended for all other landscaping applications	Common Name	Botanical Name	Mature Height (feet)
	◆	Abelias++	Abelia grandiflora	6
	◆	Buford Holly++	*Ilex cornuta*	8
◆	◆	Blackberry (various)++	*Rubus spp.*	6
	◆	Camelia Sasanquas++	*Camelia sasaqua*	6
◆	◆	Carolina Rose+++	*Rosa carolina*	6
◆	◆	Elaeagnus (various)++	*Elaeagnus spp.*	8
	◆	Ligustrum++	*Ligustrum japonicum*	6
	◆	Loropetalum++	*Loropetalum chinesis*	6
	◆	Otto Luykun Laurel++	*Prunus laurocerasus*	5
◆	◆	Privet++	*Ligustrum spp.*	8
	◆	Upright Juniper++	*Juniperus chinensis*	6
◆	◆	Viburnum (various)++	*Viburnum spp.*	8

++ Evergreen
+++ Semi-Evergrren

5. GROUNDCOVER & VINES

Recommended for use specifically in the Special Highway Overlay District	Recommended for all other landscaping applications	Common Name	Botanical Name	Winter Leaves
◆		Coral Honeysuckle	Lonicera sempervirens	Evergreen/deciduous
◆		Virginia Creeper	Parthenocissus cinquefolia	Deciduous
◆		Grape (various)	Vitix spp.	Deciduous
◆		Green Brier (various)	Smilax spp.	Deciduous
◆		Clematis (various)	Clematis spp.	Deciduous
◆		Winter Jasmine	Jasminum nudiflorum	Deciduous
◆		Carolina Jessamine	Gelsemium sempervirens	Evergreen
◆		Passionflower	Passiflora incarnate	Deciduous

(These varieties to be retained in required screens.)

(Ord. 1598, passed 10-8-07; Am. Ord. 2141, passed 4-11-16)

155.607. Off-Street Parking and Loading Requirements

155.607.1 General Off-Street Parking and Loading Requirements

A. PURPOSE. This Section establishes the minimum standards for the amount, location, and development of off-street motor vehicle and bicycle parking spaces, and off-street loading areas. These standards are provided to assure proper and uniform development of off-street parking and loading areas throughout the town, to relieve traffic congestion in the streets, to encourage the use of bicycles for transportation, and to minimize any detrimental effects of off-street parking and loading areas on adjacent properties and on the environment. ('72 Code, § 2001) (Ord. 477, passed 2-8-88; Ord. No. 1532; passed 1-8-07) [formerly known as §153.115]

B. SCOPE. The off-street parking and loading provisions of this Title shall apply as follows:

1. For all buildings and structures erected and all uses of land established after the Effective Date of this Title, accessory parking and loading facilities shall be provided as required. However, where a permit has been issued prior to the Effective Date of this Title, construction is begun within one (1) year of such Effective Date and diligently pursued to completion, parking and loading facilities as required by the code provisions in effect at the time of the initial permit issuance may be followed.

2. When the intensity of use of any conforming building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity, ballfields, or other units of measurement as specified for required parking or loading facilities, then associated parking and loading facilities shall be provided only to accommodate for such increase in intensity of use when the aggregate increase in units of measurement shall be less than fifteen percent (15%) and existing parking and loading facilities are not materially altered.

3. When the intensity of use of any conforming building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity, ballfields, or other units of measurement as specified for required parking or loading facilities and such increase in aggregate units of measurement is increased by fifteen percent (15%) or more, then the parking and loading facilities as required by this Title shall be provided for the entire building, structure or use.

4. Whenever the existing use of a building or structure shall be changed to a new use which would require additional parking or loading facilities, then associated parking and loading facilities shall be provided as required by this Title for such new use.

C. GENERAL OFF-STREET PARKING AND LOADING STANDARDS.

1. EXISTING PARKING AND LOADING FACILITIES. Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the Effective Date of this Title or were provided voluntarily after the Effective Date shall not be reduced below, or if already less than, shall not further be reduced below, the requirements of this Title for a similar new building or change of use.

2. VOLUNTARY PARKING AND LOADING FACILITIES. Except where maximum parking standards are given for certain uses or zoning district designations, nothing in this Title shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any use of land or buildings provided that all regulations governing the location, design, improvement and operation of such facilities are met.

3. DAMAGE OR DESTRUCTION. For any conforming or legally nonconforming building for use which is in existence on the Effective Date of this Title, which subsequently is damaged or destroyed by fire, collapse, explosion or other cause, and which is reconstructed, re-established or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation, except that when such damage or destruction exceeds more than forty percent (40%) of the value of the building or use, sufficient off-street parking or loading facilities shall be provided as required by this Title. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Title for equivalent new uses or construction.

4. LANDSCAPING. All vehicular use areas providing parking space for five (5) or more vehicles shall be landscaped in accordance with the provisions of §155.606. Ground cover, shrubs, and trees shall be located and maintained so they do not interfere with vehicular or pedestrian circulation or obstruct visibility within the property or at entrances and exits. [formerly known as §153.126]

5. ILLUMINATION. Exterior lighting within or adjacent to vehicular use areas shall comply with the provisions of §155.609.

6. SIGNS. Incidental signs directing visitors to parking or loading areas, assigning parking spaces, identifying handicap parking spaces, and similar instructions may be placed within off-street vehicular use areas.

7. DISTANCE OF OFF-STREET PARKING SPACES FROM ASSOCIATED USE. Off-street parking spaces shall be located so that no space is farther than four hundred feet (400') from the building(s) or use(s) to which they are assigned. This requirement does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums and other places of assembly, industrial, wholesaling, manufacturing establishments, and hospitals.[formerly known as §153.119]

8. SURFACE TREATMENT FOR VEHICULAR USE AREAS. All parking spaces, aisles, driveways, loading spaces, and vehicular maneuvering areas in nonresidential districts shall be paved, unless meeting one of the following exceptions: location within a property designed for occasional excess parking; vehicular use area where the primary use is not intended for parking; vehicular use area designed with alternative materials as part of the site's storm water management system; or nonresidential uses in a residential district. For each of these exceptions, an alternate surface material may be used providing it is approved by the Town Engineer and the Town Planning Office. [formerly known as §153.118]

9. DESIGN FOR MANEUVERING OF VEHICLES. Parking and loading facilities must be designed and constructed so that all maneuvering in and out of parking and loading spaces can take place entirely within the property lines of the lot and not encroach into any required landscape areas. The use of public streets, sidewalks, alleys, or other public rights-of-way or public use realm for parking or for maneuvering in and out of off-street parking spaces is prohibited, except where such maneuvering is necessary in conjunction with driveways for single-family dwellings. The use of private streets or driveways for maneuvering shall only be approved when all property owners of lots adjacent to, or having cross access rights to the private street provide written agreement to such parking and maneuvering design.[formerly known as §153.125 (part)]

10. ACCESS TO PARKING AND LOADING FACILITIES. Access to parking areas and loading facilities shall be limited to driveway or alley entrances and exits specified in the approved parking plan which have received a driveway permit from the Town and/or NCDOT, as appropriate, when connecting to a public right-of-way. [formerly known as §153.125 (part)]

11. MARKED SPACES. Hard surface parking and loading areas shall be striped or permanently marked on the pavement to define each designated space. Where an alternative ground surface treatment is utilized for parking areas, individual spaces or rows of spaces may be identified in an understandable manner, such as by chalk marks, ropes, chains, or wheel stops.

12. BARRIER SPECIFICATIONS. Curbs, walls, fences, individual wheel stops, and similar devices shall be located inside and along the perimeters of parking and loading facilities where needed to prevent parked vehicles from extending beyond the designated parking space area, and/or to prevent encroaching into pedestrian pathways, landscaping areas, storm water drainage facilities, internal driving aisles or adjacent rights-of-way, or similar improvements. Barriers shall also be provided along all perimeters of parking structures when necessary to protect paving surface edges or adjacent land from damaging effects of surface drainage. Curb inlets for rain gardens and other storm water facilities are allowed. [formerly known as §153.124]

13. RESTRICTIONS ON USE OF REQUIRED OFF-STREET PARKING AND LOADING SPACES. The storage, display, and/or sale of merchandise or materials, any engine or mechanical repair of a vehicle, any vehicular washing, the assembly of any product, the display or sale of merchandise from a vehicle without a zoning permit, or the repair of any equipment, is prohibited in any required off-street parking or loading space. The temporary storage of construction material and equipment while work is occurring on the premises may be located on off-street parking or loading spaces not required for any functioning use on the property.

14. PARKING WITHIN INDIVIDUAL PARCELS.

    a. Parking in the required building setback is not permitted for any multi-family use in the R-12MF, R-15MF, SRN, or C-MF district, or for any multi-family or office use in the O (Traditional or Parallel Traditional) districts.

    b. Parking for single-family dwellings in single-family districts is allowed within the required front setback as provided in §155.607.2.B. In single-family residential districts, parking in the required

building setback, or within the outer twenty feet (20') of any side or rear yard is not permitted for parks and playgrounds operated on a noncommercial basis for purposes of public recreation. Parking in the required setback, or side or rear yard is not permitted for institutional uses in single-family residential districts.

c. On corner lots, parking shall not be permitted in the streetside side yard closer to the public right-of-way than ten feet (10'). [formerly § 153.092]

d. In the HUC district, no parking or vehicle use area shall be allowed between the front property line (right-of-way) and the front of any building, although driveways providing access to a parking area may be installed across this space perpendicular to the street and front of building. [formerly §153.061(I)(4)] (Ord. No. 945, passed 11-10-97)

e. In the Highway NC51 Overlay district, parking shall not be located between NC51 and any building, or closer to NC51 right-of-way than sixty feet (60') when no building exists within sixty feet (60') of NC51 right-of-way, unless meeting the provisions of §155.504.2.

f. In the single-family residential districts, R-12MF and R15MF multi-family districts, and the SRN district, parking of commercial vehicles is not allowed, except under the following provisions:

i. One mid-range commercial vehicle may be parked overnight (9 PM to 7 AM) on the same lot as an occupied dwelling unit. It shall only be parked on a clearly delineated parking pad or driveway, and shall not be within the required front setback.

ii. Vehicles intended and regularly used to transport people to and from institutional uses may be parked overnight (9 PM to 7 AM) on the same lot as the institutional use. They shall only be parked on a clearly delineated parking pad.

iii. A rental or moving van or truck may only park in these zoning districts for the purposes of loading or unloading personal belongings for the lot at which it is parked. Such vehicles parked in residential areas shall not exceed three (3) consecutive nights.

iv. Emergency response vehicles, road and utility repair and maintenance vehicles, delivery trucks, and similar vehicles used for emergency situations, repair of public infrastructure, or for the delivery of goods and services are exempt from this parking limitation while they are needed on the site.

v. Commercial and construction vehicles and equipment at an active development site or active construction staging area are exempt from this parking limitation. [formerly known as §153.128]

15. OPEN AND ENCLOSED PARKING AND LOADING FACILITIES. Parking spaces and loading facilities may be open to the sky, covered with a roof, or enclosed in a building.

16. Parking shall be calculated separately for each different use area in a building or site, including all accessory uses.

17. Disabled Parking Facilities. Any parking area for use by the general public shall provide parking spaces designated and located to accommodate the disabled. Parking spaces reserved for the disabled shall be located, designed, identified, and otherwise provided in accordance with the most restrictive requirements of the Americans with Disabilities Act of 1990 (ADA) Guidelines, 28 C.F.R. Part 36, Appendix A, and the North Carolina Building Code as the same are from time to time amended. [formerly known as §153.122]

155.607.2 Additional Off-Street Parking Requirements

A. PARKING AND CIRCULATION PLAN REQUIRED.

1. Plans for all development, other than single-family residential, must be submitted to the Town Planning Office for review for compliance with the provisions of this §155.607 and as a part of any zoning plan, site plan, overlay compliance plan, landscape and lighting plan, and similar as required by that particular location.

2. Parking and circulation plans shall provide locations for all modes of transportation and shall identify the number and dimensions of off-street parking spaces and arrangements of parking aisles, location of driveway entrances, provisions for motor vehicle, bicycle and pedestrian circulation, the location and dimension of bicycle parking, locations of sidewalks and curbs on or adjacent to the property, utilities, barriers, locations of shelters, locations of signs, typical cross-sections of pavement, storm drainage

facilities, and other information or plans as the circumstances may warrant.

B. PARKING ON SINGLE-FAMILY RESIDENTIAL LOTS.

1. Single-family dwellings in residential districts without garages or carports, driveways may be considered as providing required off-street parking spaces. When driveways are used to provide required parking, they shall have a minimum of twenty feet (20') of length between the front property line and the nearest building, structure or other on-site obstacle per vehicle, in order to allow a passenger vehicle to park perpendicular to the street without extending over the right-of-way or sidewalk. When the streetside sidewalk is partially or completely located within an easement on the property, then the minimum length for a driveway parking space shall be measured from the edge of the sidewalk closest to the dwelling. The location and dimension of each required off-street parking space in single-family districts shall be shown on site plans submitted for building permit, when required, and shall be verified as meeting this standard prior to receiving a Certificate of Occupancy. ('72 Code, § 2010) (Ord. 477, passed 2-8-88) (Ord. No. 1532, passed 1-8-07) [formerly known as §153.123]

155.607.3 Design of Off-Street Parking Facilities.

A. GENERAL DESIGN STANDARDS.

1. SURFACE MATERIAL. Every off-street parking space and off-street loading space, including all access and aisle drive areas and maneuvering space associated with the parking area, shall have an all-weather dust-free surface and shall be so graded and drained as to disperse and dispose of surface water accumulation by means of a positive storm water drainage system. Except as may be provided otherwise, gravel and other stabilization material without a permanent wearing surface is not a permitted surface material for vehicular use areas.

2. LOCATION RELATIVE TO STREET. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interrupt pedestrian routes, or negatively impact surrounding neighborhoods. Parking facilities should be located to the side or behind buildings or in the interior of a block whenever possible.

3. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, delivery and other public service vehicles without posing a danger to pedestrians or diminishing the function of the parking area.

4. Off-street parking areas for commercial, industrial, mixed use, or multi-family residential uses may be designed to accommodate containment facilities for both garbage and recycling containers.

5. Off-street parking areas shall be designed so that the parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks, area designated for pedestrian or bicycle use, or strike against any wall, vegetation, utility, or other structure.

6. REDUCTION OF THE SCALE OF SURFACE PARKING AREAS. Large surface parking lots should be visually and functionally segmented into several smaller lots. Parking area designs shall create separate and distinct outdoor rooms for no more than sixty (60) cars per room, with each room delineated from other parking rooms by landscaping. The size of any overall (single or multi-room) surface parking lot shall be limited to three acres, unless divided by a street or building.

7. PEDESTRIAN CIRCULATION. Off-street parking areas that contain more than thirty six (36) parking spaces or two (2) or more outdoor parking rooms, shall provide a separated pedestrian circulation network. Such pedestrian network may be oriented parallel or perpendicular to parking rows and shall provide a safe pedestrian connection between the parking rows and the building or use entrance(s) and shall be free of obstruction from parked motor vehicles. [formerly known as §153.116]

B. Off-Street Parking Space Dimensions. Required minimum dimensions for parking spaces are given in the tables below. The table for standard passenger vehicles shall be used except for situations specifically authorized to incorporate alternative sized vehicles. See §155.607.6 for these exceptions. The actual pavement dedicated to an individual parking space may vary based on the angle of the row of spaces in relation to the associated driving and maneuvering aisle. In measuring the length of a parking space the area which can be safely utilized at one end of the space by a vehicle beyond a curb or wheelstop may be included in the dimension given below. For parallel spaces, any generally horizontal hard surface of the gutter area may be included in the required minimum width. These dimensions are for parking spaces primarily used by private passenger vehicles. Where commercial vehicles, vehicles with attached trailers, recreational vehicles, and similar larger vehicles are expected to be parked, additional area shall be provided in parking spaces on a case-by-case basis adequate to accommodate their extended

length and width. See also §155.607.6.

Angle of Parking Spaces - Standard Passenger Vehicles

	0º (Parallel)	30º	45º	60º	90º
Length	24’	24’	22’	20’	20’
Width	8’	8.5’	8.5’	9’	9’
Curb Width	24’	18’	13’	10.5’	9’

Angle of Parking Spaces - Compact Vehicles

	0º (Parallel)	30º	45º	60º	90º
Length	21’	21’	20’	17’	17’
Width	7.5’	8’	8’	8’	8’
Curb Width	21’	16’	11.5’	9’	8’

C. ACCESS AND ON-SITE CIRCULATION.

1. PARKING AISLES. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Parking area aisle widths shall conform to the following table, which varies the aisle width requirement according to the angle of parking spaces to the aisle.

	Angle of Parking				
	0º	**30º**	**45º**	**60º**	**90º**
Aisle Width					
One-Way Traffic	**14**	**14**	**18**	**20**	**24**
Two-Way Traffic	**19**	**20**	**22**	**24**	**24**

2. DRIVEWAYS. Off-street parking areas shall be designed so as to require egress from the zoning lot to the street by forward motion of the vehicle. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street in a manner which will least interfere with traffic movements on the public streets:

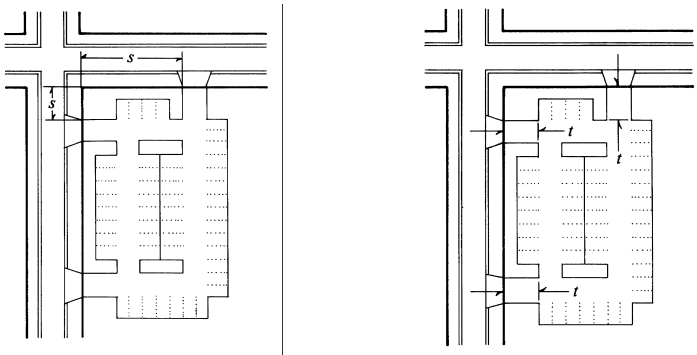
a. Width. All driveways installed, altered, changed, replaced, or extended after the Effective Date of the Title shall be a maximum of twelve feet (12’) in width for one-way traffic and twenty four feet (24’) in width for two-way traffic. In no case shall a driveway width exceed twenty four feet (24’), except as required by the North Carolina Department of Transportation (NCDOT).

b. INTERSECTION SEPARATIONS.

i. Driveways located along an arterial (Class IV or higher) right-of-way shall not be located less than fifty feet (50’) from an intersecting right-of-way.

ii. Driveways located along a collector (Class V) right-of-way shall not be located less than fifty feet (50’) from an intersecting right-of-way.

iii. Driveways located along a local street or alley right-of-way shall not be located less than twenty feet (20’) from an intersecting right-of-way.



Driveway Intersection Setback (s)

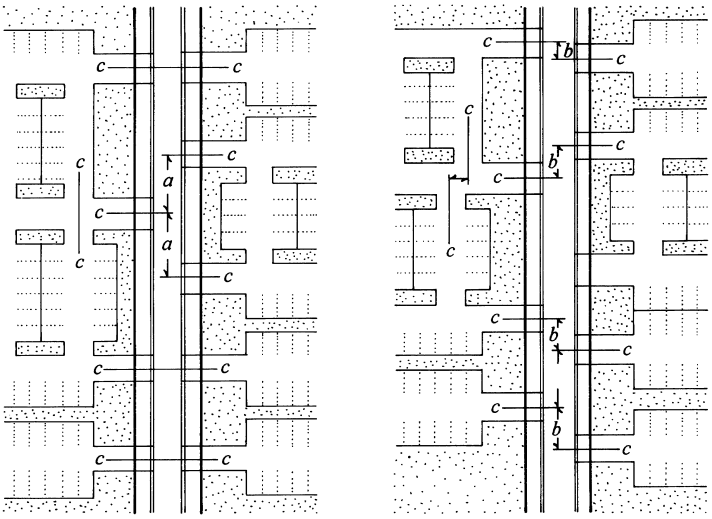
Parking Facility Driveway/Street Transition (t)

Where t ≥ 30 feet

c. STREET TRANSITION. All parking facility driveways which lead to or from a public right-of-way of a Class V or higher street shall provide a protected transition distance of not less than thirty feet (30') in length from the public right-of-way to the nearest parking space or aisle, intersecting driveway, on-site pedestrian or bicycle facility, or dumpster/garbage and recycling containment area along said entrance driveway to ensure traffic safety and circulation efficiency. Where NCDOT or the Mecklenburg County Land Development Standards Manual imposes a greater distance, the higher standard will control.

3. CONNECTIVITY. Parking lots may need to be designed for connections to future off-site development. Shared driveways and access easements between adjoining lots shall be encouraged to reduce the number of parking lot driveways along public streets.

4. CIRCULATION AND ACCESS. Parking lot driveway centerlines on opposite sides of an arterial (Class IV or higher) or collector street (Class V) shall be either aligned or off-set by no less than one hundred-fifty feet (150') between the centerlines of each opposing driveway. When the street has a center median which prohibits vehicular left-turning movements, this alignment and off-set standard does not apply. Parking aisles throughout the parking lot shall align as closely as practical in order to create four-way intersections.



Acceptable

Unacceptable

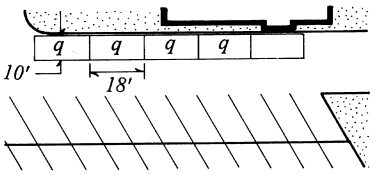
Parking Lot and Parking Aisle Alignment

Where c = driveway centerline,
a ≥ 150 feet and,
b ≤ 150 feet

155.607.4 Queuing Standards.

A. QUEUING SPACES REQUIREMENTS. Queuing spaces shall be provided as an accessory to drive-up service facilities and for institutional uses that utilize drop-off/pick-up areas.

1. QUEUING STUDY. The Planning Director is authorized to require the submittal of a queuing study when deemed necessary to competently measure the vehicle queuing demands of a proposed use.



Queuing Space (q)
for drive-up window facility

2. DESIGN AND LAYOUT. Required queuing spaces are subject to the following design standards.

   a. DIMENSIONS. Queuing spaces shall measure ten feet (10') in width and eighteen feet (18') in length.

   b. LOCATION. Queuing spaces shall be located so as to not interfere with parking or pedestrian and vehicular circulation and safety on the zoning lot, or circulation on adjacent public streets.

3. MINIMUM REQUIRED NUMBER OF QUEUING SPACES. Unless otherwise required by the Planning Director, queuing spaces for various commercial uses shall be provided in accordance with the Table of Queuing Space Requirements:

TABLE OF QUEUING SPACE REQUIREMENTS

Use / Activity Type	Minimum Number of Queuing Spaces	Measured From
Bank Teller lane	4	Teller or window
Automated Teller Machine	1	Teller
Restaurant, Drive through	8	Pick-up window to Drive-through lane entrance (including order-taking station); where double order-taking stations merge to single pick-up window, spaces in both lanes are added together
Car Wash	2	Stall entrance
Drive-up service window (pharmacy, etc.)	2	Pick-up window
Drive-up loading services (groceries, etc.)	2	Designated loading area outside of any travel lane, driveway, or parking aisle
Other	To be determined by Planning Director based on traffic/queuing study	

   c. DESIGN. Queuing space shall not occupy the same area as parking spaces or aisles. Queuing spaces may be separated from other on-site circulation traffic by a raised median. Queuing spaces also may use different paving surfaces and materials, and may be marked on the pavement surface.

4. SPECIAL QUEUING REQUIREMENTS FOR PASSENGER DROP-OFF/PICK-UP AREAS FOR SCHOOLS, DAY CARE CENTERS, PLACES OF WORSHIP, AND OTHER PLACES OF ASSEMBLY AND SIMILAR USES. All public and private schools, day care centers, institutional uses, places of worship, and other places of assembly shall provide off-street passenger drop-off and pick-up facilities.

   a. TRAFFIC CIRCULATION PLAN REQUIRED. Any use or building that includes facilities for passenger drop-off/pick-up shall submit a traffic circulation plan to the Town Planning office with the parking plan and/or site plan. If a queuing study is determined to be necessary, it shall be submitted with the Traffic Circulation Plan. The Traffic Circulation Plan, at minimum, shall *(i)* describe proposed measures for ensuring safe and efficient traffic circulation on and adjacent the premises and on public streets in the immediate vicinity of the premises; *(ii)* include information about the number of enrollees or users, the hours of operation, the peak loading/unloading times, the projected number of vehicles that will be using the passenger loading/unloading facilities; *(iii)* outline plans for directing traffic on the premises and on adjacent streets; and, *(iv)* other

information as may be deemed necessary by the Planning Director.

b. MINIMUM REQUIREMENTS.

i. SCHOOLS. Drop-off and pick-up areas for public and private schools shall be designed to accommodate, at a minimum, five (5) automobile queuing spaces and five (5) bus queuing spaces for every fifty (50) students, when buses are employed for student transportation. When a queuing study is conducted, the minimum queuing facilities indicated by the study shall be provided. Bus and passenger vehicle drop-off and pick-up areas shall be separated.

ii. INSTITUTIONS, PLACES OF WORSHIP/ASSEMBLY. Drop-off and pick-up areas for public and private schools shall be designed to accommodate *(i)* ten (10) automobile and two (2) bus queuing spaces, or *(ii)* one (1) automobile and one quarter (0.25) bus space for every fifty (50) seating spaces in the largest assembly room, whichever results in the greater number of drop-off and pick-up spaces. Bus and passenger automobile drop-off and pick-up areas may be separated.

iii. DAY CARE CENTERS. Drop-off and pick-up areas for day care centers shall be designed to accommodate six (6) automobile queuing spaces.

iv. ALL OTHER USES. Where used, drop-off and pick-up areas for all other uses shall be designed to accommodate three (3) automobile queuing spaces, unless determined otherwise by the Planning Director.

c. DESIGN. Queuing spaces used for passenger pick-up and drop-off purposes shall be designed *(i)* to allow vehicles to maneuver in and out of the drop-off spaces without backing onto the drop-off lane, parking circulation aisles, alleys, or public streets; *(ii)* for one-way traffic flow and does not require passengers to cross circulating traffic in order to enter the use or building; and, *(iii)* to be separated from the circulating traffic by a raised median or sidewalk, landscaping, special paving surface or other feature or design approved as a part of the site plan by the Board of Commissioners or with the landscaping and lighting or overlay compliance plan(s) if no other site plan approval is required. Queuing spaces used for passenger pick-up and drop-off purposes and their pedestrian access may be covered to protect pedestrians from the elements, i.e. *porte cochere.* Any structure used for protecting the passenger pick-up and drop-off area shall comply with the lot development requirements for the district.

155.607.5 Parking Structures.

In addition to the foregoing, parking structures shall comply with the following requirements.

A. UNDERGROUND PARKING STRUCTURES. Underground parking structures are permitted within any required setback, side yard, or rear yard on any lot in a nonresidential Traditional or Parallel Traditional district, provided that the underground structure maintains the same setback and yard requirements as surface parking. No portion of the underground structure shall extend above the finished grade at the wall of the structure more than five feet (5') at any point nor more than four feet (4') for seventy five (75%) of its length along any lot line. A balustrade, parapet, or railing may extend above the permitted structure height provided it is not greater than thirty two inches (32") in height, is set back from the property line at least three feet (3'), and has openings equal to at least thirty percent (30%) of its surface along each side. Such structures must conform to any sight triangle requirements in effect at the time the underground structure is built. ('72 Code, § 2014) (Ord. 477, passed 2-8-88) Penalty, see § 153.999 [formerly known as §153.127]

B. PARKING STRUCTURES. All parking structures, unless otherwise provided, shall conform to design, placement, and use standards of the district in which it is, or is proposed to be, located, and to one of the following development options. §155.607.5.B sets forth development standards to address parking structures as a principal or accessory use within allowed districts. Design options, which range from landscaping requirements to architectural treatments, are proposed to lessen the impact of parking structures upon the street environment.

1. GENERAL DESIGN REQUIREMENTS.

a. APPEARANCE AND MATERIALS.

i. Exterior walls of parking structures that are visible from public rights-of-way must be architecturally designed to integrate and be compatible with other

buildings on the site. Blank walls are not allowed.

ii. Vertical and horizontal design elements, such as off-sets, reveals, or projecting ribs at least one foot wide, must be incorporated into the exterior façade of all sides of the parking structure not immediately adjacent to another building in order to create a repeating pattern. Vertical design elements for this visual relief shall be at or no greater than twenty four feet (24').

iii. The exterior façade of the parking structure must maintain a horizontal line on every level or floor. The sloping nature of the interior structure, necessary in the design of parking structures, shall not be repeated on the exterior façade.

iv. Stairwells and elevator shafts shall be constructed internal to the parking structure. The areas beneath stairwells shall be fully enclosed or have restricted access.

v. Interior illumination shall be shielded so as to not be visible from the exterior.

b. ENCLOSURE REQUIREMENTS. Each level of the parking structure, including the ground level, shall maintain a solid and continuous wall of at least forty-two inches (42") in height, as measured from the driving surface of each level.

c. PEDESTRIAN ENTRANCES. Pedestrian entrances to stairways, elevator lobbies, vestibules, or passageways that lead directly to parking aisles within the parking structure shall be clearly distinguished from vehicle entrance and exit points using architectural details, signage, awnings/canopies, and illumination techniques.

d. Parking structures that have frontage along a public or private street shall comply with all of the setback and appearance criteria for the district in which it is located.

e. Parking structures shall be constructed with flat parking decks for ease in re-use of all or portions of the structure in the future.

f. All residential parking within a mixed-use development or building shall have controlled access.

g. Public restrooms are not permitted in parking structures.

2. SPECIFIC DESIGN REQUIREMENTS FOR TYPE A PARKING STRUCTURES. Type A parking structures may be allowed in a nonresidential Traditional or Parallel Traditional district, except not in the HUC district, and are not recommended for pedestrian-focused environments. Type A parking structures may be constructed to the following minimum standards:

a. Parking structures shall have a minimum setback of forty feet (40') from the public right-of-way and must comply with any more restrictive setback/build-to line or other yard requirements for the district in which it is located.

b. A minimum nine foot (9') clearance shall be maintained on the first level and any additional level that provides disabled parking spaces and a minimum seven foot (7') clearance throughout the remainder of the parking structure to ensure the safe movement of vans and emergency vehicles.

c. A minimum twenty five foot (25') landscaping area shall be provided between the face of the parking structure and the sidewalk. The planting area shall be landscaped as follows:

i. Large maturing trees shall be planted at a rate of one (1) tree per forty (40) linear feet of street frontage and shall have a minimum caliper of two inches (2") measured six inches (6") above ground at time of planting.

ii. Evergreen shrubs meeting the requirements of §155.606 shall be planted along the face of the parking structure with a maximum spacing of five feet (5') on center.

iii. No overhead utility wires or cables shall be allowed between the parking structure and the public street right-of-way, and lighting placement shall be coordinated with the landscaping plan to assure full intended illumination and to not restrict full natural growth and spread of tree canopy.

3. SPECIFIC DESIGN REQUIREMENTS FOR TYPE B PARKING STRUCTURES (UPPER FLOOR SETBACK). Type B parking structures may be found on side streets within two (2) blocks of a main commercial or mixed-use pedestrian-focused urban center, but shall not be located within the HUC district. Type B parking structures may form a transitional space between intense nonresidential uses and residential settings, where they can provide shared parking areas for surrounding uses. They may be constructed to the following standards, provided that the parking structure is architecturally treated in a manner that avoids a monolithic appearance. This should be accomplished by treating the facade of the parking structure as a streetwall and articulating it through a variety of building materials and finishing that gives the parking structure a pedestrian scale.

   a. Parking structures shall comply with all setback or build-to lines and other yard requirements for the district in which it is located.

   b. A minimum nine foot (9') clearance shall be maintained on the first level and any additional level that provides disabled parking spaces and a minimum seven foot (7') clearance throughout the remainder of the parking structure to ensure the safe movement of vehicles and emergency vehicles.

   c. The streetwall of the parking structure shall be treated in such a manner as to partially screen street level parking as well as to provide visual interest to the pedestrian. This can be accomplished through the use of articulated precast concrete panels, or ornamental grillwork, or other means such as utilizing a variety of building materials such as brick or stone.

   d. If more than two floors of parking are provided above street level, the third floor above street level and higher floors shall be recessed at least twenty feet (20') from the setback of the first and second floors.

   e. A minimum twelve foot (12') wide landscaping area shall be provided between the sidewalk and the face of the parking structure. The landscaping area shall be landscaped with large maturing trees at a rate of one tree per forty (40) linear feet of street. No overhead utility wires or cables shall be allowed between the parking structure and the public street right-of-way, and lighting placement shall be coordinated with the landscaping to assure full intended illumination and to not restrict full natural growth and spread of tree canopy.

4. SPECIFIC DESIGN REQUIREMENTS FOR TYPE C PARKING STRUCTURES (NON-PARKING USE ON GROUND LEVEL). Type C parking structures may be found on main streets in and near the core of urban-scale commercial and mixed-use developments. Type C parking structures are intended to retain the vibrancy of the street frontage by including pedestrian-oriented shops at the ground level while creating convenient but visually limited shared parking areas for surrounding uses. Type C parking structures may be constructed to the following standards, provided that at least sixty percent (60%) of the street frontage of the first floor is used for retail sales, restaurant, service, or office use:

   a. Parking structures shall meet the setback or build-to line established for the district in which it is located. The portion of the structure at ground level used for parking and vehicular activity shall not incorporate more than forty percent (40%) of the building's streetfront wall.

   b. A minimum eleven foot (11') clearance shall be maintained on the ground level and any additional level that provides disabled parking spaces and a minimum seven foot (7') clearance throughout the remainder of the parking structure to ensure the safe movement of vehicles and emergency vehicles.

   c. A minimum nine foot (9') clearance shall be maintained on any level that provides disabled parking spaces.

   d. The streetwall of the parking structure shall be treated in such a manner as to partially screen parking as well as to provide visual interest to the pedestrian. This can be accomplished through the use of articulated precast concrete panels, or ornamental grillwork, or other means such as utilizing a variety of building materials such as brick or

stone.

5. SPECIFIC DESIGN REQUIREMENTS FOR TYPE D PARKING STRUCTURES (LINER BUILDING). Type D parking structures are intended to create convenient parking areas for high parking demand uses in pedestrian-focused nonresidential and mixed-use urban environments, while providing visual blockage to another structure or use without necessary pedestrian atmosphere from the street. Type D parking structures may be constructed to the following standards, provided that at least eighty percent (80%) of the street frontage of the ground floor is used for retail sales, restaurant, service, or office use.

   a. The portion of the structure providing vehicle parking spaces shall not front the street on the ground floor, however the area necessary for vehicular entry, exit, and maneuvering into aisles or to different parking levels may be located at the streetfront edge of the structure, comprising up to twenty percent (20%) of the street level façade. The space between the parking use area and the property line (street frontage) shall be occupied by any combination of retail sales, restaurant, service, office, and residential uses as may be permitted in the district in which the parking structure is located.

   b. A minimum eleven foot (11') clearance shall be maintained on the ground level. A minimum nine foot (9') clearance shall be maintained on any additional level that provides disabled parking spaces and a minimum seven foot (7') clearance throughout the remainder of the parking structure to ensure the safe movement of vehicles and emergency vehicles.

155.607.6 Parking Standards for Other Vehicles.

A. BICYCLE PARKING STANDARDS.

1. SECURED. Bike lockers and racks shall be securely anchored to the ground and on a hard surface.

2. DIMENSIONS. Bicycle parking spaces shall be at least six feet (6') long and two feet (2') wide. In covered situations, the overhead clearance shall be at least seven feet (7') six inches (6"). An aisle for maneuvering bicycles shall be provided and maintained beside or between each row of bicycle parking. The aisle shall be at least five feet (5') wide. Each required bicycle parking space must be accessible without moving another bicycle. Areas set aside for bicycle parking must be clearly marked and reserved for bicycle parking only. Bicycle parking spaces and access to them shall not interfere with pedestrian circulation.

3. Where provided, bicycle lockers should be situated so there are no obstructions within five feet (5') of the entry door(s) of the locker.

4. SIGNS. If required bicycle parking is not clearly visible from the entrance to the building, parking structure, transit station, or lot, a sign shall be posted at the primary entrances indicating the location of the bicycle parking.

5. COVERED SPACES. If twenty (20) or more bicycle spaces are required, then at least fifty percent (50%) of the required bicycle spaces shall be covered. Coverage may be provided under roof overhangs, canopies or awnings, in bicycle lockers, or within or under other structures.

6. LOCATION. Bicycle parking should be located along a major building approach line and clearly visible from the approach. The bicycle parking area should be no more than a 30-second walk (120 feet) from the entrance it serves and should preferably be within fifty feet (50'). The bicycle parking area should be as close as or closer than the nearest non-disabled parking space. The bicycle parking area should be clearly visible from the entrance it serves. A bicycle parking area should be provided near each actively used entrance. In general, multiple buildings should not be served with a combined, distant bicycle parking area. It is preferred to place smaller bicycle parking areas in locations that are more convenient.

7. ILLUMINATION. Bicycle parking areas shall be illuminated and comply with the outdoor illumination requirements in §155.609.

B. COMPACT CAR PARKING. Compact vehicles can utilize less pavement area for parking and maneuvering. Up to twenty percent (20%) of required standard passenger vehicle parking may be designed for or converted to compact vehicle spaces for multi-family, mixed, and nonresidential uses. These compact vehicle spaces shall be permanently identified by signs or pavement markings for compact car use only, and are allowed only for off-street spaces. The

Town reserves the right to create on-street compact car parking spaces on Town-maintained streets where they are determined to be beneficial to the surrounding neighborhood. Dimensions for compact car spaces and aisle widths are given in §155.607.3.B. and C. When standard passenger vehicle and compact vehicle spaces use the same aisle for maneuvering in and out of the individual spaces, then the aisle width requirements for standard vehicles shall be followed.

C. MOTORCYCLE PARKING. Motorcycle parking may be provided in lieu of one (1) automobile parking space or two percent (2%) of all required automobile parking spaces, whichever is greater, for building sites containing a minimum of thirty six (36) parking spaces. Each motorcycle parking space shall be a minimum of three feet (3') wide by nine feet (9') deep and be clearly identified by signs and pavement markings as reserved for motorcycles.

D. RECREATIONAL VEHICLE PARKING.

1. Recreational vehicle parking may be provided at nonresidential and mixed use properties. Each recreational vehicle parking space shall be a minimum of fourteen feet (14') wide by forty feet (40') deep and be clearly identified by signs and pavement markings as reserved for recreational vehicles. These spaces shall have sufficient adjacent pavement to allow unobstructed maneuvering space.
2. In Traditional or Parallel Traditional single-family residential districts, R-MH, R-VS, CrC, SRN, R-12MF and R-15MF Traditional and Parallel Traditional districts, recreational vehicles and overnight camping trailer parking is allowed when the vehicle is stored unoccupied on a lot behind a line established by the front of the dwelling structure. When spaces are created in a communal parking area, each recreational vehicle parking space shall be a minimum of fourteen feet (14') wide by forty feet (40') deep and be clearly identified by signs and pavement markings as reserved for recreational vehicles. These spaces shall have sufficient adjacent pavement to allow unobstructed maneuvering space.

E. VALET PARKING. Valet parking is governed by Town regulations separate from this Title. Parking of vehicles in a valet parking situation shall only be allowed in nonrestricted public parking spaces or in private off-street spaces on nonresidential properties that have more than their required minimum parking spaces, or are not in operation during the hours the lot is used for valet parking use.

155.607.7 Required Parking.

A. COMPUTATION OF REQUIRED PARKING SPACES.

1. FRACTIONS. When calculations of the number of required parking spaces results in a fraction, the number of minimum spaces shall be rounded up to the next whole number.
2. PARKING BASED ON SEATING. When the standards use seating as a unit of measurement, all calculations shall be based on design capacity of the areas used for seating. When no or minimal seating is intended to be placed in the room or area to be used in calculating seating for parking requirements, and no capacity determination is available, then ten (10) square feet of floor area per person shall be used, and minimum parking shall be based on one (1) parking space per three (3) persons in such space
3. PARKING BASED ON FLOOR AREA. When standards use the amount of square footage in buildings as a unit of measurement, all calculations shall be based on gross floor area (GFA).
4. PARKING BASED ON STUDENTS, STAFF, AND/OR OCCUPANTS. When standards use the number of persons, as a unit of measurement, all calculations shall be based on the maximum enrollment (for students), largest number of persons working on any single shift (staff), or capacity as determined by the Mecklenburg County Fire Marshall's office, whichever is applicable and results in the greatest number of required spaces.
5. HUC EXCEPTIONS. Certain properties within the HUC downtown core district may use alternative and reduced parking requirements, as given in §155.607.7.C.6 below.

B. TABLE OF REQUIRED PARKING. Minimum parking must be provided and maintained as specified in the following schedule as off-street, on-site parking unless allowed to be provided in an alternate layout in §155.607.7.C below. These requirements will apply to all new buildings and uses and to additions to existing buildings and uses in all districts.

Where only one set of requirements are given for a specific land use type, those requirements shall apply to that use in any zoning district, unless exceptions at §155.607.7.C are utilized. When two (2) rows are provided for the same land use types, then the requirements in unshaded rows apply to the Traditional and Parallel Traditional district except HUC, and the R-VS, CrC, B-1SCD, and AU zoning districts. Requirements in the shaded rows, where

included, apply to the HUC, SRN, C-MF, MUD, TS, and ENT zoning districts.

Table of Required Parking Spaces.

1. RESIDENTIAL USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Residential Units	tbd	Two (2) spaces per dwelling unit unless otherwise listed below
Dwelling, single-family	n/a	Two (2) spaces per dwelling unit
Dwelling, manufactured home	n/a	Two (2) spaces per dwelling unit
Dwelling, accessory unit	n/a	One (1) additional space
Dwelling, duplex or two-family	n/a	Two (2) spaces per dwelling unit
Dwelling, multi-family	2, or one space per 20 dwelling units	Size of Unit / Spaces Required 549 square feet or less: 1.25 550-699 square feet: 1.50 700-899 square feet: 1.75 900-1,249 square feet: 2.00 1.250 square feet or more: 2.25
Dwelling, multi-family[1] [1] For MUD standards, see also § 155.503.5.F.4.	One space per 6 dwelling units	Size of Unit / Spaces Required 549 square feet or less: 0.75 550-699 square feet: 1.00 700-899 square feet: 1.25 900-1,249 square feet: 1.50 1.250 square feet or more: 2.00
Bed and breakfast guest homes	n/a	Two (2) spaces per dwelling unit, plus 1 per guest room
Live/work units	1 per nonresidential use	Two (2) spaces per dwelling unit, plus one (1) space for each two(2) non-resident employees, plus one space for each 500 square feet of the portion of the building used for non-residential purposes.
Room renting and boardinghouses	5% of auto parking	One (1) space per each room or boarder, in addition to the normal requirements for the dwelling unit
Group Home, Family Care Home, Adult Care Home, Sheltered Household	1 per five persons	One (1) per employee, plus one (1) per 3 child/adult residents
Dormitories, fraternities, sororities	1 space per 4 residents	One (1) space for each three (3) residents

2. INSTITUTIONAL AND MUNICIPAL USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Institutional and Municipal Uses	tbd	One (1) space per 300 sq ft GFA unless otherwise listed below
General Standard for Institutional and Municipal Uses	tbd	One (1) space per 400 sq ft GFA unless

		otherwise listed below
Churches and Places of Worship, and related uses	1 space per 20 seats or 2% of auto parking	One space per four (4) fixed seats in largest assembly room or area; or for each twenty-two (22) inches of fixed bench/pew seating in largest assembly room or area; or for each forty (40) square feet of floor area available for the accommodation of movable seats in the largest assembly room; or one (1) space per each one hundred fifty (150) square feet of gross floor area, whichever is needed by the facility.
Continuing care retirement communities		1.1 parking spaces per each independent living unit plus one space for each two (2) employees on shift of greatest employment.
Cultural community center	4 or 10% of auto parking	One (1) space per 400 square feet of building's GFA
Day care homes (small group), day care centers, and pre-schools	2	One (1) space per each two adult attendants and one space per each ten children (or remainder over the multiple of ten)
Elementary schools and middle schools	3 spaces per classroom	*Three (3) spaces per each room used for administrative offices or class instruction, or a space for each six (6) seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater
Elementary schools and middle schools	6 spaces per classroom	*Two (2) spaces per each room used for administrative offices or class instruction
Senior high schools, trade and vocational schools, and colleges and universities	5 spaces per classroom	*Five (5) spaces per each room used for administrative offices or class instruction, or one space for each five seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater
Senior high schools, trade and vocational schools, and colleges and universities	7 spaces per classroom	*Four (4) spaces per each room used for administrative offices or class instruction, or one space for each six seats in auditoriums and other places of assembly or facilities available to the public, whichever is greater
Fire station, Police station	2 or 2% of auto parking	One (1) space per each person on duty on a normal shift
Hospitals	5% of auto parking	One (1) space per bed intended for patients (except bassinets or beds in student nurses' quarters), plus one (1) space per each medical staff member, plus one (1) space per each two other employees on shift of greatest employment
Post offices	10% of auto parking	One (1) space per each 400 square feet of gross floor area, plus one (1) space per each two employees on the shift having the greatest employment
Post offices	10% of auto parking	One (1) space per each 600 square feet of gross floor area
Public libraries	20% of auto parking	One (1) space per each 150 square feet of

		gross floor area for public use, plus one (1) space per each two employees on shift having the greatest employment
Public libraries	20% of auto parking	One (1) space per each 400 square feet of gross floor area for public use
Skilled care homes, Assisted living facility	5% of auto parking	One (1) space for four (4) patient beds, plus one space per each two employees on the shift of greatest employment

* Bicycle parking standards may be modified for these educational institutions when connecting streets within five thousand feet (5,000') of any driveway access point into the facility do not include a paved or hard surface path (i.e., sidewalk, multi use path, greenway, bike lane) which is not shared with motorized vehicle traffic, or is not part of a posted neighborhood Signed Route for bicycles to share local streets with motor vehicle traffic. When none of these bike-friendly facilities are continuous in one or more directions from the educational facility for 5,000', then the on-site bike parking requirement shall be one (1) bicycle parking space per classroom. At such time as one or more approaches to the educational facility includes 5,000' of continuous bicycle improvements as outlined above, then the institution shall have one (1) year to increase the on-site bicycle parking spaces to the amount as listed in this table, for those classrooms permitted and built after April 11, 2016.

3. OFFICE AND SERVICE USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Office Uses and Personal/Professional/ Financial/Recreational Service Uses	tbd	One (1) space per 300 sq ft GFA unless otherwise listed below
General Standard for Office Uses and Personal/Professional/ Financial/Recreational Service Uses	tbd	One (1) space per 400 sq ft GFA unless otherwise listed below
General Office	4, or 10% of auto parking whichever is greater	One (1) space per each 300 square feet of gross floor area
General Office	10% of auto parking	One (1) space per each 400 square feet of gross floor area
Medical and dental offices and clinics	5% of auto parking	One (1) space per each 200 square feet of gross floor area
Medical and dental offices and clinics	5% of auto parking	One (1) space per each 300 square feet of gross floor area
Buildings for social, fraternal, social service, civic, and similar organizations	10 % of auto parking	One space for each four fixed seats in the largest assembly room or area, or for each forty (40) square feet of floor area available for accommodation of movable seats in the largest assembly room, or one space per 150 square feet of gross floor area, whichever is needed by the facility
Buildings for social, fraternal, social service, civic, and similar organizations	10% of auto parking	One space for each six fixed seats in the largest assembly room or area, or one space per 300 square feet of gross floor area, whichever is needed by the facility
Banks, credit unions, and similar uses	4 or 5% of auto parking	One (1) space per 200 square feet of gross floor area
Banks, credit unions, and similar uses	5% of auto parking	One (1) space per 400 square feet of gross floor area
Laboratories and other facilities for research	10 or 5% of auto parking	1.1 spaces for each employee on the shift of

		greatest employment
Call centers	4, or 10% of auto parking	2.5 spaces for each three employees on the shift of greatest employment

4. GENERAL COMMERCIAL USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Nonresidential Uses	tbd	One (1) space per 250 sq ft GFA unless otherwise listed below
General Standard for Nonresidential Uses	tbd	One (1) space per 400 sq ft GFA unless otherwise listed below
Commercial or Catering kitchens w/o in-building service	10% of auto parking	One (1) space per 400 sq ft GFA, plus one (1) space per each two (2) non-kitchen employees (i.e., catering servers, food truck vendors, ect.)
Commercial or Catering kitchens w/o in-building service	15% of auto parking	One (1) space per 600 sq ft GFA, plus one (1) space per each three (3) non-kitchen employees (i.e., catering servers, food truck vendors, ect.)
Restaurants, diners, and night clubs	10% of auto parking	One (1) space per each three (3) seating accommodations, plus one (1) space per each two (2) employees on shift having the greatest employment
Restaurants, diners, and night clubs	15% of auto parking	One (1) space per each five (5) seating accommodations, plus one (1) space per each three (3) employees on shift having the greatest employment
Retail stores (see exceptions as follow)	4, or 10% of auto parking	One (1) space per 200 square feet of floor area used or designed for sales on ground floor, plus one (1) space per 300 square feet of floor area used or designed for sales on all other floors, plus one (1) space per each two (2) employees
Retail stores (see exceptions as follow)	15% of auto parking	One (1) space per 400 square feet of floor area used or designed for sales on ground floor, plus one (1) space per 400 square feet of floor area used or designed for sales on all other floors, plus one (1) space per each three (3) employees
Single retail store between 120,000 and 140,000 sq ft GFA	10% of auto parking	One (1) space per 230 square feet of floor area used or designed for sales.
Single retail store with floor area greater than 140,000 square feet	10% of auto parking	One space per 300 square feet of floor area used or designed for sales.
Ballroom, banquet or meeting hall, or similar, when part of another use or a stand-alone principal use, routinely available for catered events or meetings	2, or 5% of auto parking	One (1) space per 250 square feet of gross floor area
Ballroom, banquet or meeting hall, or similar, when part of another use or a stand-alone principal use, routinely available for catered events or meetings	10% of auto parking	One (1) space per 400 square feet of gross floor area

Gas stations with convenience store	2, or 1% of auto parking	One (1) space per each 200 sq ft sales floor space, plus one space per each employee during the period of greatest employment
Funeral homes	n/a	One space per each sixty (60) square feet of floor area available for seating accommodations
Motels and hotels, bed and breakfast inns, and similar lodging uses	10 or 5% of auto parking	One (1) space per guest room, plus one (1) space per each two (2) employees on shift of greatest employment
Motels and hotels, bed and breakfast inns, and similar lodging uses	10% of auto parking	1.5 spaces per two guest rooms, plus one (1) space per each three (3) employees on shift of greatest employment
Museums and art galleries	10 or 5% of auto parking	One (1) space per each four (4) seats in rooms for public assembly or for each 150 square feet of gross floor area for use by the public, whichever is greater, plus one (1) space for each two (2) employees on shift of greatest employment
Museums and art galleries	10% of auto parking	One (1) space per each six (6) seats in rooms for public assembly or for each 300 square feet of gross floor area for use by the public, whichever is greater
Roadside stands, new and used car sales, house and truck trailer sales, outdoor equipment and machinery sales, and commercial nurseries	2, or 5% of auto parking	Four (4) spaces per each sales-person, plus one (1) space per each two (2) other employees, during period of greatest employment
Railroad passenger stations, and bus terminals	10 or 10% of auto parking whichever is greater	One (1) space per each four (4) seating accommodations for waiting passengers, plus one (1) space per each two (2) employees on shift of greatest employment
Drive-in facilities	4 or 5% of auto parking	One (1) space per each motor vehicle served, plus one (1) space per each two (2) employees during period of greatest employment
Internet sweepstakes facilities and similar personal entertainment uses with one patron/one station location arrangement	4 or 5% of auto parking	One (1) space per each patron station/computer/gaming equipment station
Animal Day Care Kennels and Commercial Kennels	2 spaces or 10% of auto parking	One (1) space per 500 sq ft GFA

5. RECREATION & ENTERTAINMENT USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Recreation and Entertainment Uses	tbd	One (1) space per three (3) seats, or one (1) per 150 sq ft GFA indoor, or one (1) per 5,000 sq ft outdoor active use space, unless otherwise listed below
General Standard for Recreation and Entertainment Uses	tbd	One (1) space per five (5) seats, or one (1) per 300 sq ft GFA indoor, or one (1) per 6,000 sq ft outdoor active use space, unless otherwise listed below
Auditoriums, stadiums, assembly halls, theaters, and	1 space per 20 seats or	One (1) space per four (4) fixed seats

similar uses where patrons are primarily spectators to activity taking place within the facility	5% of auto parking	in largest assembly room or area; for each forty (40) square feet of floor area available for the accommodation of movable seats in the largest assembly room; 0.25 spaces for each twenty-two inches (22") of bench-type (bleacher) seating; and/or for each 150 sq ft outdoor area designed as outdoor spectator area, whichever is/are needed by the facility
Auditoriums, stadiums, assembly halls, theaters, and similar uses where patrons are primarily spectators to activity taking place within the facility	1 space per 10 seats or 15% of auto parking	One (1) space per six (6) fixed seats in largest assembly room or area; for each sixty (60) square feet of floor area available for the accommodation of movable seats in the largest assembly room; 0.20 spaces for each twenty-two inches (22") of bench-type (bleacher) seating; and/or for each 300 sq ft outdoor area designed as outdoor spectator area, whichever is/are needed by the facility
Arcade, game room	10% of auto parking	One (1) space per each two hundred fifty (250) square feet of gross floor area devoted to use
Arcade, game room	10% of auto parking	One (1) space per each four hundred (400) square feet of gross floor area devoted to use
Athletic fields, ball fields, and similar outdoor physical recreation facilities intended for use by teams of participants	25% of auto parking	Twenty (20) spaces for each defined sports field, diamond or court, plus one (1) space for each four (4) spectator seats when they are provided
Athletic fields, ball fields, and similar outdoor physical recreation facilities intended for use by teams of participants	25% of auto parking	15 spaces for each defined sports field, diamond or court, plus one (1) space for each six (6) spectator seats when they are provided
Community recreation centers, fitness/health centers, YMCAs, and similar uses where multiple physically involved activities can take place concurrently, primarily indoor but may include outdoor activity sites within the overall facility	25% of auto parking	One (1) space per 150 square feet of gross floor area
Community recreation centers, fitness/health centers, YMCAs, and similar uses where multiple physically involved activities can take place concurrently, primarily indoor but may include outdoor activity sites within the overall facility	25% of auto parking	One (1) space per 3000 square feet of gross floor area
Indoor, outdoor commercial recreation not otherwise listed	20% of auto parking	One (1) space for each 150 square feet of gross floor, building, or ground area devoted to that use, or one (1) space per each four (4) seats of facilities available for patron use, whichever is needed by the facility
Indoor, outdoor commercial recreation not otherwise listed	20% of auto parking	One (1) space for each 300 square feet of gross floor, building, or ground area devoted to that use, or one (1) space per each six (6) seats of facilities available for patron use, whichever is needed by the facility
Skateboard facility, ice or roller rink	25% of auto parking	One (1) space per 200 square feet of building or land area devoted to the use, plus one (1) space per each two (2) employees on the largest shift
Skateboard facility, ice or roller rink	25% of auto parking	One (1) space per 300 square feet of building or land area devoted to the use, plus one (1)

		space per each three (3) employees on the largest shift
Swimming pool: single neighborhood, below Junior Olympic size, no outside memberships	25% of auto parking	One (1) space per 75 square feet water surface area
Swimming pool: single neighborhood, below Junior Olympic size, no outside memberships	25% of auto parking	One (1) space per 125 square feet water surface area
Swimming pool as stand-alone facility, indoor or outdoor; or, outdoor as part of a recreational facility, public or private	25% of auto parking	One (1) space per 100 square feet of water surface area
Swimming pool as stand-alone facility, indoor or outdoor; or, outdoor as part of a recreational facility, public or private	25% of auto parking	One (1) space per 150 square feet of water surface area
Tennis and racket clubs, and racket sports courts not part of a community recreation center, fitness center, or YMCA	25% of auto parking	Four (4) spaces for each court
Tennis and racket clubs, and racket sports courts not part of a community recreation center, fitness center, or YMCA	25% of auto parking	Two (2) spaces for each court
Riding stables	n/a	1.5 spaces per each stall
Bowling alleys	10% of auto parking	Four (4) spaces per lane, plus one (1) per each two employees
Bowling alleys	10% of auto parking	Two (2) spaces per lane, plus one (1) per each three employees
Drive-in outdoor entertainment/recreation use, where within their vehicles	4 or 10% of auto parking	One (1) space per designated patrons remain patron vehicle use, plus one (1) space per each two (2) employees on largest shift
Park, predominantly passive use		One (1) space per 10,000 square feet of land area, if on-site parking is provided (example: greenways need not incorporate off-street parking)

6. INDUSTRIAL AND MANUFACTURING USES	REQUIRED BICYCLE PARKING SPACES	REQUIRED MOTOR VEHICLE PARKING SPACES
General Standard for Industrial, Warehousing, and Manufacturing Uses		One (1) space per 1.5 employees on largest shift unless otherwise listed below
Industrial, manufacturing, and wholesaling establishments	4 or 10% of auto parking	One (1) space per each 1.5 employees on the shift of greatest employment
Pilot plants and Prototype products production	5% of auto parking	For each employee on the shift of greatest employment, 1.1 spaces

('72 Code, § 2002) (Ord. 477, passed 2-8-88; Am. Ord. 644, passed 11-5-90; Am. Ord. 667, passed 6-3-91; Am. Ord. 781, passed 7-12-93; Ord. 1237, passed 1-14-02; Ord. 1243, passed 8-12-02); (Ord. 1338-A, passed 3-8-04), (Ord. 1419, passed 2-24-05) (Ord No. 1532, passed 1-8-07) (Ord. No. 1550, passed 3-12-07; Am. Ord. 2141, passed 4-11-16) Penalty, see § 153.999

[formerly known as §153.117]

C. ASSIGNMENTS, ADDITIONS, AND REDUCTIONS OF REQUIRED PARKING.

1. OFF-STREET PARKING SPACES ASSIGNED TO ONE USE. Required parking spaces for any number of separate buildings or uses may be combined in one lot, but the required spaces assigned to one (1) use may not be assigned to another use at the same time. The required parking spaces for places of assembly may be assigned to parking spaces that are otherwise assigned to other uses if the parking spaces are normally used at different times. For institutional uses wishing to share parking spaces with adjacent or nearby properties or to utilize public (on- or off-street) parking as a part of their required number of spaces, the following formulas may be used:

   a. For on-street space, count sixty percent (60%) of all marked spaces within eight hundred feet (800') of the use.

   b. For off-street public parking, count seventy five percent (75%) of all spaces in lots within eight hundred feet (800') of the use.

   c. For off-street private parking, count one hundred (100%) of all spaces in lots within eight hundred feet (800') of the use, and obtain written permission from the private parking lot owners for use by the institutional use when the private owners are not open for business. A copy of this agreement must be filed with the Zoning Administrator. ('72 Code, § 2007) (Ord. 477, passed 2-8-88; Am. Ord. 644, passed 11-5-90) Penalty, see § 153.999 [formerly known as §153.120]

2. REDUCTION AND ADDITION OF OFF-STREET PARKING SPACES.

   a. Off-street parking spaces may not be reduced below the minimum required for the use or facility to which they are assigned. Off-street parking spaces for buildings and uses which existed on the Effective Date of this Title and which were inadequate to meet the minimum parking spaces required by this chapter shall not be reduced below the minimum required as long as those buildings and uses continue to be in existence.

   b. Additions may be made to existing buildings and uses that do not meet the minimum requirements for off-street parking spaces if the addition does not represent an increase in additional parking required of more than three (3) off-street parking spaces. ('72 Code, § 2008) (Ord. 477, passed 2-8-88) (Ord. No. 1532; passed 1-8-07) Penalty, see § 153.999 [formerly known as §153.121]

3. REDUCTION FOR CARPOOL SPACES. Where these regulations require at least one hundred (100) off-street parking spaces to serve institutional, office or industrial uses on a parcel, a reduction in required parking is permitted provided a minimum of fifteen percent (15%) of required parking spaces are dedicated for and restricted to use by carpools. The remaining number of parking spaces can be reduced by two (2) for each carpool space provided. The owner may restrict use of any or all carpool spaces to employees.

4. OTHER USES. For uses not listed in the Table of Parking Requirements at §155.607.7.B, parking spaces shall be provided as required for a similar listed use, or shall follow the use grouping general standard, as determined by the Zoning Administrator.

5. SHARED PARKING. Where two (2) or more nonresidential, non-institutional uses are located on the same previously developed parcel or within a previously built multi-use development, and they can provide adequate guarantees that their cumulative parking needs will be less than the total number of parking spaces required for the sum of each individual current and proposed use within the parcel or multi-use development, such as when their respective peak hours of operation do not overlap, then an Alternate Parking Plan may be requested to be approved by the Zoning Administrator. An Alternative Parking Plan shall include, at a minimum, the following:

   a. An accurate scaled site plan drawing showing all buildings, parking spaces, driveway aisles, vehicle and pedestrian access points, and public entrance doorways of each establishment.

   b. A parking calculation of the required parking for each existing or proposed use within the site, using the parking space standards as listed in the Table of Required Parking at §155.607.7.B above. When one or more uses are not identified in this Table, then an explanation of the suggested minimum spaces needed shall be provided, with documentation on how those numbers were determined to be appropriate for such use.

   c. Any parking spaces proposed to be allocated to a use across a property line, such as between an outparcel and a shopping center, shall be within four hundred feet (400') of the main pedestrian access doorway of the receiving use. These parking spaces shall be indicated on the scaled

drawing. No parking areas included in or impacted by any shared parking provisions for an institutional use shall be included for any shared parking under an Alternative Parking Plan.

d. Where calculations for required parking are based on the Table of Required Parking Spaces at §155.607.7.B, a maximum reduction in required parking spaces per business shall be fifteen percent (15%). No more than two (2) uses within the development parcel or multi-use development shall be granted this fifteen percent (15%) reduction.

e. A statement summarizing the reasons for the request for an Alternative Parking Plan. One (1) or more of the following shall be included, and all that apply shall be indicated:

i. The site is an existing built-out facility (as of December 31, 2012) that has undergone some changes in use resulting in the opportunity to reoccupy vacated commercial space and the existing parking lot without expanding impervious land coverage.

ii. The site is a nonresidential development not involved in or impacted by institutional use shared parking provisions of §155.607.7.C.1, or any private shared parking arrangements with off-site establishments.

iii. One (1) or more existing or proposed uses on the site has unique parking needs substantially different than those required for the use in the Table of Required Parking at §155.607.7.B, and traffic engineering standards support this alternative parking demand.

iv. One (1) or existing or proposed uses within the site has peak parking demand time significantly different than other uses within the site which clearly support a reduction in total parking space demand for the overall site.

v. The site contains unusual natural features that are being preserved and which would be threatened or eliminated if additional parking spaces were required to be constructed, such as but not limited to steep slopes, stream or environmentally sensitive areas, tree groves, open space or landscape elements in excess of required minimum standards.

vi. The site is partially built out (as of December 31, 2012) and future expansion plans are not detailed and available at this time, but the undeveloped/underdeveloped portion of the site is reserved for another user through an approved conditional zoning plan.

vii. One (1) or all of the land uses for which shared parking is proposed is/are not identified in the Table of Required Parking at §155.607.7.B, and the Zoning Administrator has determined the proposed parking calculations are appropriate for such use(s).

viii. Another reason not specified here. When this category is offered, an explanation of the specific criteria to justify a parking reduction shall be included.

f. A signed commitment indicating agreement to an Alternative Parking Plan from all property owners within the site. This may be in the form of a recorded cross access parking agreement created for the multi-user site when initially developed, or may be a new agreement between all affected property owners.

i. A previously recorded agreement shall state which parking spaces within the site, including across internal property lines when a multi-lot development site, are not restricted to a single user and may be available for shared parking. A copy of the recorded agreement shall be provided to the Zoning Administrator and shall be retained in the Planning office files of zoning conditions for the site.

ii. A new shared parking agreement shall guarantee the identified parking spaces to be maintained and available for shared use as long as the business uses requiring them are in existence. The agreement shall be binding on all property owners and businesses and establishments within the overall site, and shall be recorded by the property owner(s) in the Mecklenburg County Register of Deeds, and a copy filed with the Zoning Administrator, which shall be retained in the Planning office files of zoning conditions for the site. The shared parking agreement shall not be amended or rescinded, unless all the uses requiring the Alternative Parking Plan are no longer on-site and all property owners agree to the rescission, and after confirmation by the Zoning Administrator that the agreement is no longer necessary.

6. HUC DISTRICT EXCEPTIONS.

a. For all nonresidential uses in the HUC district fronting Trade Street, John Street, or Matthews Station Street where the building is located at the right-of-way/front property line, or less than the maximum build-to line, no off-street parking is required.

b. For retail, financial institution, office, and restaurant uses in the HUC district and not meeting the minimum setback standards of 6.a. above, the number of parking spaces required in §155.607.7.B Table of Required Parking for that specified use shall be replaced with the standard of one (1) parking space for each four hundred (400) square feet of gross floor area, or reduced by one-third (1/3), whichever is the greater reduction.

7. REDUCTION FOR, OR THE USE OF, OCCASIONAL OVERFLOW PARKING SPACES.

a. Certain uses may have sporadic need for extra parking, while their general or daily activity would not generate that higher level demand. Such uses may request approval, through the site plan review and approval process outlined in § 155.401.5.B, for occasional overflow parking. Typical users may include sporting or recreation facilities that do not regularly, but occasionally, hold large events, or retail establishments that meet the required minimum space requirements for their type use and zoning district, but wish to have extra parking available for once or twice a year major sales events. Uses with regularly scheduled events or activities on a weekly or monthly basis shall not be eligible for this occasional overflow parking provision.

b. Because the extra demand for parking may occur when weather or recent maintenance work had softened the ground surface, any overflow parking area shall be designed with an adequate subsurface to support vehicles and limit damage to the ground surface. Occasional overflow parking shall be designated on the facility's site plan and the subsurface design shall be approved by Mecklenburg LUESA and the Town Engineer. No occasional overflow parking or maneuvering area shall be located within tree root protection zones designated on the approved landscape plan for the property, and the overflow parking plan shall indicate how tree root protection zones shall be protected from vehicular activity.

c. Uses which desire to reduce a portion of their required parking spaces due to the limited times they need their full required amount, such as a stadium which only is fully occupied on a less than once a month basis, may request a permanent parking reduction by designing additional open space which can also serve as occasional overflow parking. In these cases, the use shall conduct a parking needs study that shall determine the typical peak parking load for various events, showing actual counts (if available) for recent past events, or estimated demand figures based on similar facilities and events. The study shall provide counts of the maximum actual or anticipated attendance and maximum actual or anticipated parking space need for various events and activities at the facility, and indicate the frequency (actual or anticipated) of each type activity. The study shall show conclusions as to the amount of permanent paved parking the facility should have, and the amount of occasional overflow parking spaces that can be accommodated to provide the facility's required parking, per the table at §155.607.7.B. This parking needs study shall be submitted with design construction details and site plan drawings for the overall parking layout for the facility. Staff and Town Board of Commissioners may request additional data to assist in making a final determination. Site plan review and decision shall follow the procedures given at §155.401.5.B. Approval of reduction in any required parking spaces through occasional overflow parking shall be at the discretion of the Town Board of Commissioners, based on the information provided for site plan review and approval.

155.607.8 Additional Off-Street Loading Requirements

A. LOCATION REQUIREMENTS. Loading and unloading spaces shall be located at a minimum of sixty feet (60') from property zoned and developed for single-family use. Distances shall be measured from the closest edge of the loading berth to the property line of the residential property. (Ord. No. 1532, passed 1-8-07) [formerly known as §153.129]

B. DESIGN AND MAINTENANCE.

1. CONSTRUCTION AND SURFACING. The construction design of all off-street loading berths, and any area necessary for their access, shall be capable of bearing the weight of anticipated delivery vehicles. A concrete surface shall be required for each loading berth which serves a dock, ramp or elevator.

2. CIRCULATION AND ACCESS. Off-street loading areas shall be designed such that any area needed to

maneuver a vehicle into or out of a loading space shall be located entirely on the same lot as the use it serves. Adequate space to accommodate the turning radii of trucks and trailers, exclusive of any parking spaces, pedestrian walkways, storage, dumpster areas, and landscaping shall be provided. [formerly known as §153.129]

C. USE OF OFF-STREET LOADING FACILITIES. Space allocated to any off-street loading berth and its surrounding vehicular maneuvering space shall not also be used to satisfy the space requirements for any off-street parking facilities or any dumpster or garbage/recycling storage facilities.

D. COMPUTATION. When determination of the number of off-street loading berths required by this schedule results in a requirement of a fractional berth, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one loading berth.

E. CENTRAL LOADING. Off-street loading berths for separate uses, different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate loading berths for each constituent use would be required, provided that the total number of loading berths so located together shall not be less than the sum of the separate requirements for each use.

F. YARDS. No off-street loading berth in any zoning district may be located within a required front or corner side yard. Off-street loading berths may be located in required side or rear yards when outside of and not in conflict with any required landscaping areas, except no loading berth may be located within sixty feet (60') of adjacent single-family residential property as explained in §155.607.3.A above.

G. SCHEDULE OF OFF-STREET LOADING REQUIREMENTS.

1. For special exceptions other than prescribed for hereinafter, loading berth adequate in number and size to serve such uses shall be provided as determined by the Planning Director.

2. Uses for which off-street loading berth are required, but which are located in buildings of less floor area than the minimum prescribed for such required berth, shall be provided with adequate off-street receiving facilities, accessible by motor vehicle off any abutting street, driveway, or service drive on the same zoning lot.

3. EXEMPTIONS. No off-street loading is required for free-standing buildings that have less than five thousand (5,000) square feet in gross floor area.

4. SCHEDULE FOR INDIVIDUAL OFF-STREET LOADING SPACES. The loading requirements for individual establishments or buildings (single- or multi-tenant) using their own dedicated loading facilities in any nonresidential or mixed use development shall be based on the floor area of the building(s) as follows, when loading spaces are located on individual parcels off-street:

LAND USE	GROSS FLOOR AREA (SQ. FT.)	OFF-STREET LOADING SPACES REQUIRED	SIZE OF SPACE
Office, restaurant, hotel or motel	10,000 - 99,000	1	10 ft x 25 ft
	100,000 - 149,000	1	10 ft x 25 ft
	150,000 and over	2	10 ft x 25 ft
Retail establishment, shopping center or any industrial use	10,000 - 19,999	1	10 ft x 50 ft
	20,000 - 49,999	2	10 ft x 50 ft
	50,000 - 79,999	3	10 ft x 50 ft
	80,000 – 100,000	4	10 ft x 50 ft

For predominately retail or industrial uses, each additional one hundred thousand (100,000) square feet, or portion of this amount greater than fifty thousand (50,000) square feet, which is in excess of the first one hundred thousand (100,000) square feet shall require one additional loading berth. As an example, 150,001 through 249,999 square feet shall require 2 additional spaces. (Ord No. 1532, passed 1-8-07) [formerly known as §153.130]

5. SCHEDULE FOR SHARED OFF-STREET LOADING SPACES. Where loading spaces are designed to be shared by multiple parcels within a development in any B-1SCD, MUD, TS, or ENT district, and a participating user will not have its own loading facilities (i.e., a grocery store in a shopping center has its own dedicated

loading dock), a shared use and cross access agreement shall be signed by all property owners and recorded at the Mecklenburg County Register of Deeds. Shared loading spaces shall not be located further than six hundred feet (600') from the service door for any participating user. The following schedule may be used for shared loading spaces:

SHARED USES	GROSS FLOOR AREA (SQ. FT.)	OFF-STREET LOADING SPACES REQUIRED	SIZE OF SPACE
Office, restaurant, hotel or motel, retail, and/or any industrial use	Less than 59,999	2	10 ft x 50
	60,000 - 99,999	3	10 ft x 50 ft
	100,000 – 150,000	4	10 ft x 50 ft
	150,000 and over	5	10 ft x 50 ft

6. When a nonresidential or mixed use development can use either of the above schedules, the developer or property owner(s) may choose which option to use.

155.607.9 [Reserved] Parking Fee-In-Lieu for Conversion of Surface Shared Lots to Future Structured Parking

In the TS and ENT Conditional-Only zoning districts where future land use projections would assume the need for structured parking which is not justified in the short-term, a provision may be made for financial preparation for such conversion of surface parking to multi-level structured parking.

155.608. Signs.

155.608.1 Purpose.

The purpose of this § 155.608 is to:

A. Establish standards for the erection, alteration and maintenance of signs that are appropriate to various zoning districts;

B. Allow for adequate and effective signs for communicating identification and other messages while preventing signs from dominating the visual appearance of the area in which they are located;

C. Protect and enhance the view of properties from public rights-of-way;

D. Avoid distracting, confusing or misleading a driver or obstructing necessary vision for traffic safety;

E. Insure that permitted signs do not become a hazard or nuisance;

F. Advance the economic stability, preservation and enhancement of property values; and

G. Ensure and advance the positive visual impact and image of the town.

H. Provide flexibility for individual needs of business identification and for general communication opportunities. ('72 Code, § 24-2100) (Ord. 477, passed 2-8-88; Ord. 789, passed 10-25-93)**[formerly § 153.140]**

155.608.2. Scope.

The regulations of this section shall govern and control the erection, enlargement, expansion, alteration, operation, maintenance, relocation and removal of all signs within the Town and any sign not expressly permitted by these regulations shall be prohibited.

155.608.3. Indemnification.

Any person erecting or displaying a freestanding sign shall indemnify and hold harmless the Town and its officers, agents and employees from any claim arising out of the presence of the sign on Town property, rights-of-way, or private property.

155.608.4. Prohibited Signs.

The following signs shall not be permitted in any zoning district:

A. Signs which constitute a hazard to public health or safety. See § 155.608.5.I.

B. ROOF SIGNS.

C. FLASHING SIGNS, which shall include signs in which all or any portion flashes; use lights of intermittent illumination; or use lights of changing degrees of intensity. That portion of a sign which only shows date, time, and/or temperature is allowed. Changeable copy signs shall not be considered flashing or moving signs, and therefore prohibited, only when their copy does not change more than one (1) time every four (4) hours.

D. VEHICULAR SIGNS.

E. MOVING SIGNS, including, but not limited to inflatable, moving, rotating or undulating signs designed to be regularly set in motion by movement of the atmosphere, or are animated or appear to move by electrical or mechanical means, or light beams except as otherwise permitted in this Title.

F. Signs displaying obscene, indecent or immoral matter.

G. Signs which, by reason of size, location, content, color, or manner of illumination, obstruct the vision of motorists or interfere with the visibility or effectiveness of any traffic sign or control device on public streets.

H. Signs which make use of words such as "Stop", "Look", "One-Way", "Danger", "Yield", or any similar word or phrase, or any geometric shape and color that typically corresponds to a traffic control message, or any other symbol or light which may interfere with or confuse pedestrian or vehicular traffic.

I. Signs displayed within or extended over public right-of-way, including signs attached to sign posts or

utility poles, except those allowed by other provisions of this Title and are erected or authorized by the appropriate state or local government agency.

J. Signs which obstruct ingress or egress from any fire escape, door, window, or other exit or entrance.

K. V-shaped or triangular permanent signs, although double-faced signs are permitted when the signs are mounted back-to-back parallel to each other, or at less than a seventy degree (70^0) angle, and both sign faces are essentially identical or mirror images.

L. Signs painted directly on trees, rocks and fences and other structures or objects, except walls, and except boulders placed at public school locations for ongoing decoration and messages by the student body.

M. Signs situated on an artificially created berm**.**

N. AIRBORNE SIGNS.

O. PENNANTS.

P. PYLON SIGNS.

Q. ADVERTISING SIGNS.

R. BILLBOARD SIGNS.

155.608.5. General Provisions.

A. SIGN AREA. The area of a sign shall be the smallest square, rectangle, or circle which physically or visually encloses the separate elements, and entire perimeter, of a sign, but excluding the supporting structure which by itself does not contribute to the message of the sign proper or of the display. Where a sign is designed to be double-sided, the area computed shall include only the largest single display surface which is visible from any one (1) side or position. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship to elements, where there is reasonable doubt as to the relationship of elements, or where there is an obvious change in background surface material, color, or design, each element shall be considered to be a single sign.

B. SIGN HEIGHT. The height of a freestanding sign shall be the distance measured from the average grade of the finished ground surface at the base of the sign to the highest point of the sign. Freestanding signs shall not be located on an artificially created berm. For other signs, the distance shall be measured between average finished grade adjoining the wall where a sign such as a wall, projecting, suspended, awning, canopy, or building identification sign is located and the highest point of said sign.

C. DISTANCE MEASUREMENT. The location of a sign shall be measured as the distance between the point of reference specified and the closest point on the sign.

D. SIGN ILLUMINATION. An illuminated sign is any sign from which artificial light emanates: i) by means of exposed lighting on the surface of the sign, such as neon tubing (internal illumination); ii) through transparent or translucent material from a source within the sign (internal illumination); iii) by a hidden light source directing light onto the background surface which creates a halo effect of opaque lettering or other message elements (external illumination); or iv) a sign which reflects artificial light from a source intentionally directed upon it (external illumination). Signs and other sources of illumination adjacent to public streets are subject to the provisions of the North Carolina General Statutes 136-32.2. **[formerly in § 153.144 and 155.608.4]**

1. Illuminated signs permitted in single-family residential districts or within one hundred feet (100') of a single-family residential district shall not be illuminated between the hours of 11:00 PM and 8:00 AM, unless the use to which the sign pertains is open.

2. No illuminated sign shall be positioned or maintained so as to permit light beams and illumination from it to be directed or beamed off-site, causing glare or reflection that may constitute a nuisance or traffic hazard as regulated at § 155.609.

E. SIGNS CLOSE TO SIDEWALKS. Freestanding signs over five feet (5') in height or greater than twenty four (24) square feet in size shall be located at least ten feet (10') from any sidewalk or multimodal pathway. See also § 155.608.14 for signs in the Downtown Overlay.

F. ELECTRICAL ELEMENTS. All wiring, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the adopted Electrical Code and shall be contained in rigid conduit or enclosed in poles or raceways. No wiring may be exposed on the surface of any element of the sign.

G. STRUCTURAL ELEMENTS. The construction and structural components of all signs shall be in accordance with the standards and regulations of the applicable adopted Building Code.

H. SIGHT TRIANGLE. Signs, and any concealed support elements supporting a sign, shall not be located within any sight triangle as defined in this Title.

I. SIGN MAINTENANCE REQUIRED. The owner of a sign or the premises on which such sign is located shall be liable for maintenance of such sign, including its source(s) of illumination, in neat and orderly condition and in good working order at all times, and for preventing deterioration of the physical appearance or safety of such sign as follows:

1. All signs, together with their supports, braces, anchors, and messages, shall be kept in good repair.

2. Signs that are structurally unsafe and thereby endanger the public safety must be removed unless they are repaired and made to otherwise comply with the requirements of this subchapter. Such removal or repair shall be at the expense of the property owner. **[formerly § 153.142]**

J. OVERHANG. Unless specifically allowed elsewhere in this Title, no portion of a sign may overhang or extend over any part of a public right-of-way or public use realm.

K. OBSOLETE SIGNS. Signs identifying businesses no longer in existence, products no longer being sold, services no longer being rendered, or signs and sign structures which have been abandoned shall be removed by the property owner from the premises within ninety (90) days from the termination of such activities.

1. Where the sign face is obsolete but the sign structure is conforming, the sign face may be either covered or removed in order to retain the sign structure for future reuse at the same location.

2. Where the sign face is obsolete and the sign structure is nonconforming, the sign face alone may be either covered or removed for a period not to exceed one (1) year, at which time such sign structure must be reused or removed. ('72 Code, § 24-2102) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93) Penalty, see § 153.999 **[formerly § 153.142]**

L. WINDOW SIGNS. Signs may be painted, stenciled, etched or otherwise adhered to the interior or exterior surface of windows. In order to retain the primary purpose of glass to allow light and visibility to pass through it, a maximum of twenty five percent (25%) of the glass area may be covered by signage if it is opaque or translucent, or a maximum of fifty percent (50%) if the sign is composed of open symbols without background.

155.608.6. Special Criteria for Signs Other Than Primary Identification and Advertising.

Certain types of signs may be suitable in most areas of the Town jurisdiction, when meeting the provisions of §§ 155.608.4 and 155.608.5, applicable provisions of adopted building codes and Matthews Town ordinances separate from this Title, and the following criteria. These signs will generally not be counted toward the maximum number or size of signage allowed by the individual use or as any permitted joint identification sign, unless specifically listed.

A. Flags displaying symbols, crests, and/or names of the United States of America, the State of North Carolina, Mecklenburg County, the Town of Matthews, and other governmental units which include part or all of the Town of Matthews, or of religious, civic, or nonprofit organizations, provided the number of such flags does not exceed four (4) per lot. Flags shall not be considered moving signs. All flags shall be flown in accordance with Flag Code protocol established by the Congress of the United States. The maximum flagpole height allowed is ten feet (10’) over the underlying zoning district's maximum permitted building height or fifty feet (50’), whichever is less.

All other flags may be allowed on a pole a minimum of fifteen feet (15’), and not to exceed twenty five feet (25’) in height, or on a pole extended from the first or ground story of the structure. Up to two (2) such flags may be displayed on a lot or for a use. Flags that are clearly decorative in nature, such as illustrations of the season, and without identifying or advertising copy, will not be considered signage for maximum

number of signs or sign area. All other flags shall not count as a freestanding sign for purposes of maximum number of freestanding signs, but the area of the flag's surface shall be deducted from the total permitted sign area for freestanding signs on the property.

B. Decorations customarily and commonly associated with a national, local or religious holiday, or recognized local special event, provided that such decorations shall not be displayed for more than sixty (60) days.

C. Incidental signs, located within any required setback or yard or within ten feet (10') of any property line, which direct or regulate the movement of pedestrians or vehicles into or within the premises provided that:

1. No more than one such sign is displayed per driveway;
2. The sign does not exceed four (4) square feet in area or three feet (3') in height from finished grade; and
3. No more than fifty percent (50%) of the area of the sign is used to identify the business or service provided on the lot.

D. Incidental signs, when located to the interior of a building site and outside of any required setback or yard and greater than ten feet (10') from any property line, which contain information for persons on-site only, are not easily visible off-site, and are not used to primarily identify establishments or advertise products or services, may be up to twelve (12) square feet in sign area or exceed six feet (6') in height. This includes directory signs which identify only the names and locations of occupants or uses within buildings or complexes, although directory signs in vehicular use areas may not exceed eight feet (8') in height.

E. One (1) menu board sign per drive-through window lane not to exceed forty eight (48) square feet in area or eight feet (8') in height is allowed. When more than one (1) menu board sign is used by the establishment, then each menu board shall not exceed forty (40) square feet in area. Menu boards shall not be readable from off-premise.

F. Real Estate and Construction Signs.

1. Real estate or construction signs advertising property for sale, lease, rent, or development, on private property provided such signs are located only on the property being advertised. One (1) real estate sign advertising individual single-family lots or dwellings or individual units within attached or multi-family housing shall not exceed six (6) square feet. For tracts of land or nonresidential properties, one (1) real estate sign not to exceed one (1) square foot for each twenty (20) lineal feet of the advertised property which abuts a street, with a minimum of six (6) and maximum of eighteen (18) square feet is allowed. One (1) construction sign on a lot up to one-half (1/2) acre in size is allowed and shall not exceed six (6) square feet. One (1) construction sign on a parcel over one-half (1/2) acre shall not exceed one (1) square foot for each twenty (20) lineal feet of the project site which abuts a street, with a minimum of thirty two (32) and maximum of one hundred (100) square feet. On a four (4) lane or greater highway, one (1) real estate or construction sign of the given dimensions will be allowed every five hundred feet (500'). One (1) real estate or construction sign will be allowed per street frontage when a property fronts more than one street. Such signs shall be set back fifty feet (50') from an intersection of two (2) rights-of-way when on a corner lot. **[formerly § 153.145]**
2. Real estate and construction signs shall be removed within seven (7) days after the sale is closed, rent or lease transaction is finalized, or construction project/phase is completed.
3. When an individual property does not have road frontage, then a real estate sign meeting the size and time provisions of subsections 1 and 2 above may be located within the associated access easement for the parcel, subject to the underlying property owner's approval.
4. Temporary off-premise real estate signs providing information on, and directions to, property that is for sale or rent when meeting the following provisions:
   a. No more than two (2) signs per advertised property shall be placed no further than one (1) mile from the advertised property
   b. No sign shall exceed three (3) square feet in area or four feet (4') in height.
   c. No sign shall be located closer than eleven feet (11') from the edge of pavement or back of curb of any public street and shall not be placed within fifty feet (50') of an intersection or within twenty feet (20') of a private drive. Signs shall only be placed in

the ground and not on trees, poles, permanent signs, or other equipment or items within the right-of-way.

d. No sign shall be placed before 8:00 PM the evening before a holiday or a Saturday or remain after 5:00 AM the morning following a Sunday or a holiday.

e. For purposes of this off-premise real estate sign provision, "advertised property" shall mean one individual parcel for sale or lease, or one development/group of properties owned or being sold by the same person or company.

G. Temporary signs involving political issues and campaigns not exceeding six (6) square feet in single-family residential districts and not exceeding sixteen (16) square feet in other zoning districts, identifying issues on a ballot or candidates for public office are allowed when located on private property. Such signs may be located within required setbacks and yards, but shall not be placed within any required sight triangle or in the right-of-way of any street. These signs shall not be placed on property more than sixty (60) days prior to the campaign completion date or election date, and must be removed within five (5) days following the final date of voting.

H. Temporary signs announcing special events or activities of limited duration, such as team registration periods, of religious, charitable, civic, fraternal, and similar organizations, on private property. Such signs may be located within required setbacks and yards, but shall not be within a required sight triangle on a corner lot or in the right-of-way of any street. These signs shall not be placed on property more than thirty (30) days prior to the special event date or close of short-term activity, and must be removed within seven (7) calendar days of such ending date. These temporary signs shall not exceed sixteen (16) square feet in size, or six feet (6') in height.

I. Temporary signs for the seasonal sale of farm products are allowed on private property for the duration of the harvest season of those products to be sold, subject to the following provisions:

1. One (1) sign limited in area to twenty (20) square feet is permitted only on the premises where the products are produced and sold.

2. Directional signs limited in area to two (2) square feet each may be erected on- or off-premises, on private property, provided the total number of such directional signs relating to any one premises is limited to three (3).

3. Signs shall be removed within seven (7) days of the termination of the sale of activities.

J. Off-premise signs for public assembly uses and farmers' markets may be allowed on private property not part of the associated use. Maximum sign size will be thirty six (36) square feet, and the sign may not exceed six feet (6') in total height. These sign are permitted when the assembly facility meets the following standards:

1. The use must have consistent daily and/or weekly events which have fifty (50) or more persons in attendance, and must be open to the general public, such as public or nonprofit users but not a membership only venue or for-profit business.

2. The public assembly facility must be located such that the building or main assembly area, if indoor, or a combination of indoor and outdoor, is greater than four hundred feet (400') from the closest non-minor residential street access point and is partially or completely blocked visually by buildings, significant topographic changes, or natural vegetation.

3. If an outdoor facility, it must be partially or completely blocked visually by buildings, significant topographic changes, or vegetation from its primary pedestrian access point.

4. An off-premise sign for a qualified assembly use shall not be within a sight triangle or within fifty feet (50') of an intersection of two (2) thoroughfares, and must have written documentation of the property owner's permission for the placement of the sign.

K. Signs that are erected for intermittent uses that occur on a regularly scheduled weekly basis, such as a church using space each weekend in a school, shall not be placed on the property more than twenty four (24) hours prior to the scheduled event and shall be removed within twelve (12) hours of the closing of the event and shall comply with land uses in that specific zoning category. Temporary signs allowed for such intermittent uses shall not exceed three (3) signs on-premises only, each one not to exceed sixteen (16) square feet in size and six feet (6') in height.

L. Signs established by government agencies, including but not limited to wayfinding signs and building/site historical markers, providing public instruction, warning, historical details, directions, or similar messages on public or private property. Such signs shall be located so as not to obstruct cross-visibility at intersections or driveways. When off-premise signs for municipal uses are located on private property, a sign easement documenting the property owner's permission shall be required. The maximum sign area for an off-premise wayfinding monument sign shall be forty (40) square feet and shall not exceed seven feet (7') in total height. Wayfinding signs not to exceed forty (40) square feet in sign area may be part of a gateway or gazebo structure without respect to any height limit for sign or its support structure. Off-premise wayfinding signs elevated on streetside posts shall meet NCDOT standards for ground clearance, and shall not exceed twenty four (24) square feet in sign size, exclusive of ornamental trim. Government established signs included in this category other than wayfinding signs shall not exceed eight (8) square feet. Freestanding kiosks or wall displays in the downtown or in the ENT district intended to provide current information to the public about the immediate vicinity, including but not limited to directory maps, upcoming events, and related information regarding area streets, businesses and public amenities, authorized by the Town at specific locations shall not exceed twenty-four (24) square feet in sign area. (Ord 1877, passed 5-14-12; Am. Ord. 2038, passed 5-11-15)

M. For a nonprofit farmers' market in the HUC district, off-premise signage giving identification and direction to the site may be incorporated into a mural which has no other advertising. Only the portion of a mural which includes identification or direction will be considered sign area for purposes of this subparagraph, and shall not exceed forty (40) square feet. (Ord. No. 1490-A, passed 4-10-06; Ord. No. 1877, passed 5-14-12)

N. Sponsorship signs as defined in § 155.101 are allowed without limitation to number and may be erected on the premises of properly established recreational or institutional facilities. Such signs must meet the following standards.

1. Be located behind the minimum setback requirements for the district.
2. Be placed in such a fashion so that the sign face is inwardly oriented relative to the perimeter of the recreational or institutional facility.
3. Be limited to a maximum area of twelve (12) square feet.
4. Not be illuminated.

O. Temporary signs identifying a contractor or nonresident individual hired to undertake structural, mechanical, property maintenance, real property renovation or expansion, or some similar physical improvement on residentially used private property where such construction is actively being conducted. Such signs are limited to only one (1) per property, not exceeding four (4) square feet in area, and may be located within required front setbacks and yards, but not within a required sight triangle on a corner lot. These signs must be registered with the Town Planning office as provided in § 155.608.8. These signs shall only be on a residentially-used property for the duration of the project, not to exceed thirty (30) calendar days. Signs shall not be placed on site until the work has begun, which may include delivery of materials, and may not remain more than two (2) days after work is completed. (Ord. No. 1648, passed 10-27-08)

P. Street addressing numbers, including ranges of numbers or suites for multi-address complexes. Such identification shall meet the requirements of the Matthews Ordinance 130.08 Posting of Street Addresses.

Q. Signs required to be posted by law on public or private property. Signs to regulate traffic in public rights-of-way, indicating bus stops, taxi stands, and similar transportation facilities on public rights-of-way or private property, or identifying vehicular or bicycle parking on public or private property.

R. Works of art that do not include a commercial message, graphic or logo, or religious symbols and identification emblems of religious orders.

S. Except in the Downtown Overlay District which has separate regulations (see § 155.608.14.A.5), feather signs no greater than thirty (30) square feet in size and twelve feet (12') in height, not to exceed five (5) signs per property, on private property only, and at least ten feet (10') away from any public right-of-way, driveway, sidewalk or multi-use path, and not obstructing visibility of drivers, pedestrians, or other businesses. Such a sign shall not convey a message that identifies or advertises a product, service, or establishment that would otherwise qualify it as a temporary advertising sign at § 155.608.8 except for size limitations. Feather signs shall not be placed on a property longer than five (5) consecutive days, and there shall be a minimum of five (5) days between placements of feather signs on the same property. Feather signs shall not be used more than sixty (60) days total during a calendar year on a property. Feather signs

are not allowed within the Downtown Overlay, as indicated at § 155.608.14.A, or within the undisturbed highway buffer along NC51 in the Highway NC51 Overlay district as indicated at § 155.504.B.13.

T. Signs no greater than two (2) square feet in area giving warning, e.g. beware of dog, no trespassing, and no dumping, and not to exceed four (4) per lot, except that the Zoning Administrator may permit additional such signs under proven special circumstances.

U. Except in the Downtown Overlay District which has separate regulations (see § 155.608.14.H), portable signs in the configuration of a two-sided A-frame, which is generally molded plastic or similar durable material with flat space on each side for display of a continuing change of information. A-frame signs shall be no larger than eight (8) square feet in area (per sign face) and four feet (4') in overall height, and may be displayed outside a nonresidential use only while such use is open for customers or clients. Because an A-frame portable sign's primary intent is to offer quickly changing details related to the business enterprise, like daily meal specials, which often require individuals to stop to take in the full message, these signs need to be located near the pedestrian entrance, and must not prohibit pedestrian flow or safety around them. A-frame portable signs may be located only on the same parcel as the associated use, not within any paved vehicular use or parking area, not within any sight triangle, and at least ten feet (10') away from any public right-of-way line or sidewalk generally parallel to the street. So that it does not in essence become an additional identification sign, the information included on an A-frame sign must be more than identification of the establishment. One (1) A-frame sign per establishment is allowed. ('72 Code, § 24-2105) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Ord. No. 1532, passed 1-8-07) **[formerly § 153.145]**

V. Residential Development Message Board signs may be located within or at a main entrance to a residential subdivision, development, or complex, whether single-family detached, attached, multi-family or a combination, when such subdivision, development, or complex utilizes an established name for the designated residential component. The geographic area shall be the residential project as identified on an approved preliminary subdivision plan (not just a phase of a larger subdivision), or on an approved zoning plan or site plan for a residential development not involving subdivision of individual dwelling parcels. No more than one Residential Development Message Board sign may be located at each main vehicular entrance to a subdivision, development, or complex to provide information to the residents within that area. No Residential Development Message Board shall be larger than twelve (12) square feet or more than five feet (5') in overall height. Such signs shall not be located within any sight triangle. These signs shall either be out of the right-of-way, or must receive approval of a Town encroachment agreement when proposed to be located on a Town-maintained street. They may be placed near clustered mail box units, a community recreational amenity (pool, walking trail entrance, etc.) near a main street entry, or similar location where many residents would likely see it on a recurring basis. (Am. Ord. 2038, passed 5-11-15)

155.608.7 Special Sign Regulations.

A. A building or group of buildings unified as a shopping center, office complex, mixed use development, or any multi-tenant nonresidential property, with two (2) or more businesses may have one (1) joint business and/or identification sign, freestanding, per street front, not to exceed the sign area as given in §§ 155.608.12.C, 155.608.13.C, and 155.608.15. Such sign must be located behind the street right-of-way and not within any sight triangles of intersecting streets or intersecting drives with streets. Up to one-half (1/2) of the maximum allowed sign area, per sign, may include the center or complex identification, with the remainder of the allowable sign area available for identification of individual tenants. Individual businesses within a multi-tenant property shall not be allowed individual freestanding signs. A multi-tenant property may request approval of a master sign plan, as outlined in § 155.608.9.

B. Where a permitted sign is required to be behind the required setback or behind the right-of-way, and the wall of the related building is at or in front of the setback line or right-of-way line respectively, the sign may project eighteen inches (18") from the building wall, provided that if such sign projects over a vehicular or pedestrian area or into the street right-of-way, the bottom of the sign must be a minimum of seven feet six inches (7'6") above the finished grade at that point and an encroachment agreement must be obtained from the State or Town, as appropriate.

C. Uses established on through lots, or lots fronting on two intersecting streets but which do not control the corner property (at least twenty feet (20') along the right-of-way line on each street away from their intersection), will be permitted to have two (2) freestanding signs, providing such signs are located on and oriented toward two (2) different streets. Lots having frontage on three (3) or more streets may have three (3) freestanding signs, providing such signs are no closer to each other than one hundred feet (100') in a straight line distance.

D. GATEWAY IDENTIFICATION SIGNS FOR MIXED-USE OR MULTI-USE DEVELOPMENTS. Developments over ten (10) acres in size that are designed at time of initial site plan approval to include a combination of buildings and /or parcels for multiple uses, such as general or professional offices, service or personal businesses, distribution warehouses, industries and manufacturing facilities, recreational services, and residential uses, but not exclusively retail. The property may be under single or multiple ownership when initially designed, and parcels may be sold into separate ownership or condominium units upon their completion. Mixed use and multiple use developments place special attention on common design elements, shared access, parking and circulation, common utility needs, and compatibility of tenants, and often have a unified management system. Signs at exterior development boundaries are allowed with the following standards:

1. One (1) freestanding identification sign is allowed for any property fronting one (1) public street. (Figure 1)
2. One (1) freestanding identification sign per street front is allowed for any property fronting two (2) or more public streets, when such development does not encompass property on opposite sides of such public street. (Figure 2)
3. One (1) freestanding identification sign per public street corner at an intersection shall be allowed when such development includes property on both block faces of an intersecting street. (Figure 3)
4. Signs are limited to fifty (50) square feet each and to six feet (6') in height
5. Signs may be illuminated and in compliance with § 155.609.
6. Signs must be located behind the right-of-way line, and not within any sight triangle.

('72 Code, § 24-2104) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93) **[formerly § 153.144]**

E. WAYFINDING SIGNS. In order to improve pedestrian and motorist ability to locate landmarks, public facilities and public parking, and to create a unique yet unified look for the Town, and to increase public safety by combining various pieces of information at single locations, the Town will determine where wayfinding signs may be placed. The Town may specify the size, style, material, colors, letter height, and similar criteria for each sign. The Town will be responsible for installation and maintenance of wayfinding signs.

155.608.8 Temporary and Portable Signs.

A. TEMPORARY ADVERTISING SIGNS ON PRIVATE PROPERTY. Temporary signs conveying a message to identify or advertise a product, service, or establishment, other than those regulated at § 155.608.6.G, H, I, K, S, and U may be located on private property for up to sixty (60) days total during any calendar year, provided that there be a minimum fourteen (14) days between display of different temporary signs. Signs may be attached or freestanding and must be located on the same site as the business, product, service, activity, or land use identified and/or advertised by the sign. The sign area for these temporary signs shall not exceed sixteen (16) square feet, and if freestanding shall not exceed six feet (6') in height, or may be attached to the principal building within the ground or first story façade. Temporary signs do not require a sign permit, but must be registered with the Town Planning office, as explained at § 155.608.8.C. below. Temporary signs displayed beyond dates provided to the Town shall be in violation and will be subject to civil citation and fines without a warning notice. (Am. Ord. 2025A, passed 6-9-14)

B. TEMPORARY SIGNS ON PUBLIC PROPERTY (RIGHTS-OF-WAY). Temporary banners may be permitted in public rights-of-way over streets, subject to other state and local laws and policies. Temporary banners, post signs, vehicular signs, posters, portable signs, and similar displays may be permitted on public property, subject also to other state and local laws, for up to seventy two (72) hours. Such signs allowed here shall be limited only to those relating to special events as listed in § 155.608.6.H, and do not have to be contiguous to the property on which such special event is located. Such signs shall be registered with the Town Planning office, as explained in § 155.608.8.C below, and shall have written approval from the Town Public Works Director and Chief of Police as to location, size, and method of lighting. Any unregistered temporary sign on public right-of-way shall be in violation and subject to immediate confiscation and/or citation and fine without a warning notice.

C. TEMPORARY SIGN REGISTRATION PROCESS. Prior to display of any temporary sign requiring registration, a registration form shall be completed and submitted to the Town Planning office, stating start and stop display dates, address, location within the site, sign type, number of signs when appropriate, and size and height of temporary sign(s). Signs subject to registration include those described here in § 155.608.8, and those at § 155.608.6.O for contractor signs at residences. ('72 Code, § 24-2106) (Ord. 477, passed 2-8-88;

Am. Ord. 789, passed 10-25-93; Am. Ord. 796, passed 1-10-94; Ord. No. 1049, passed 5-10-99; Ord. No. 1532, passed 1-8-07, Ord. 2025A, passed 6-9-14) **[formerly § 153.146]**

155.608.9 Master Sign Plan.

A. MASTER SIGN PLAN. For individual properties with more than one existing or proposed principal nonresidential structure or use, individual properties with more than one (1) existing or proposed nonresidential tenant or two (2) or more nonresidential properties designed and/or developed jointly, including properties under a single zoning petition, a master sign plan shall be submitted by the owner(s) prior to any sign permit being issued on any of the property. A master sign plan shall, at a minimum, include the following:

1. A site plan of the land parcel(s), drawn to scale, showing the location of all existing and proposed buildings, parking lots, loading zones, driveways, internal vehicular access drives, and required landscaped areas;
2. Computation of existing total sign area, showing dimensions and locations of each freestanding sign, and dimensions of each attached sign;
3. A list of any existing signs not requiring a permit;
4. Anticipated sign area, in square feet, of proposed attached signage, and general location where such future signs may be located;
5. Anticipated sign area, in square feet and overall maximum dimensions, of proposed detached signage, and general location where such future signs may be located;
6. A statement regarding if a bonus of fifteen percent (15%) in total sign area is being requested, as allowed in § 155.608.9.C.

B. WINDOW SIGNS IN A MASTER SIGN PLAN. A master sign plan which includes existing or potential window signs shall indicate the area of window(s) to be covered by window signs per building or business establishment.

C. BONUS SIGNAGE FOR A MASTER SIGN PLAN.

1. A property or group of properties may be eligible for a bonus of fifteen percent (15%) extra sign area total when the following additional standards are met:
   a. The master sign plan provides no more than one (1) freestanding sign per street front for the development, incorporating any unified identification of the entire tract and individual tenant identification.
   b. The owner(s) impose design restrictions which may include such items as: color scheme; lettering or graphic style; lighting; material; location of each sign on the building(s); and sign proportions.
   c. The master sign plan includes a schedule for bringing all existing nonconforming signs into compliance within one year. If any existing signs conform to the requirements of this § 155.608 but not to the owner's additional restrictions, a schedule for bringing such signs into compliance shall also be included.
2. The bonus signage may be in one or more signs, and may be on freestanding or attached signs. However, no sign shall exceed the maximum height limit for the particular type of sign.

D. PROCEDURE FOR MASTER SIGN PLAN APPROVAL. A master sign plan may be prepared as a part of a zoning application, or may be separately submitted at any time to the Board of Commissioners for review. When made a part of a zoning application, the master sign plan shall be processed simultaneously with the zoning request. When a master sign plan is submitted independently from a zoning application, the Board of Commissioners shall review it at a regular public meeting within sixty (60) days of submission.

E. AMENDMENT OF A MASTER SIGN PLAN. A master sign plan may be amended by filing a new master sign plan which conforms with all requirements of the ordinance then in effect. An amended plan will be processed the same as an initial master sign plan.

F. BINDING EFFECT. After approval of a master sign plan, no sign shall be erected or revised, except in conformance with such plan, and any such plan may be enforced in the same way as any provision of this Title. In the case of any conflict between the provisions of such a plan and any provisions of this Title, this Title shall control. ('72 Code, § 24-2109) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93) **[formerly § 153.149]**

155.608.10 Signs in all Residential Districts, Including Single-Family, Multi-Family, and Mixes of All or Predominately-All Residential Uses.

A. ILLUMINATION LIMITATION. Only externally lighted signs are permitted in the R-20, R-15, R-12, R-9, R-MH, R-15MF, R-12MF, R-VS, and CrC Districts. Internally or externally lighted signs are permitted in the SRN and C-MF Districts. See § 155.608.5.D for categories of internal and external illumination.

B. LOCATION PERMITTED. All signs for uses allowed within the various residential districts must be located behind the street right-of-way and out of any sight triangles.

C. SIGN HEIGHT. No freestanding sign may be over ten feet (10') in height, except where a lesser maximum height is given in other portions of this Title. See § 155.608.5.E. (Ord. 1127, passed 7-10-00)

D. TABLE OF SIGN REGULATIONS FOR USES IN THE RESIDENTIAL DISTRICTS.

USE	TYPE PERMITTED	NUMBER PERMITTED[1]	MAXIMUM SIGN AREA (SQUARE FEET)
Arboretum	Identification	1 per major entrance	6
Bed and breakfast guest home	Identification	1	3
Church or place of worship, elementary or secondary schools, and similar uses; convents, monasteries, dormitories, colleges and universities, and similar uses	Identification	1 per street front, freestanding OR 1 per building, attached	40 for first sign; 25 for others 6
	Bulletin board	1	18
Day care home	Identification	1	3
Day care center	Identification	1	6
Electric and gas substations, repeater huts, sewage treatment plants, control houses, pressure regulator stations, buildings house pumps and lift stations, and similar structures	Identification	1	6
Fire or police station	Identification	1 per street front freestanding and 1 per building attached	40 monument 40 attached
Farm, urban farm	Identification	1	1½
Golf courses, country clubs, swimming clubs, tennis clubs, community recreation centers, and similar outdoor recreation facilities	Identification	1	6
Group homes	Identification	1	1½
Home based business	Identification	1, attached	1½
Manufactured home park	Identification	1 per major entrance	6
Miscellaneous nonresidential uses, not otherwise defined In this table and allowed within the specific zoning district	Identification	1 freestanding and 1 attached	24 24
Mobile radio towers, radio relay towers, microwave towers, elevated water storage tanks, antennas, and similar structures	Identification	1	6
Multi-family dwellings (development up to 10 du/ac)	Identification	1 per street corner per major entrance	9
Multi-family dwellings (development greater than 10 du/ac)	Identification	1 per street corner per major entrance	24
Parks and playgrounds	Identification	1 per major entrance	40
Room renting	Identification	1	1-1/2
Single and two-family dwellings, incl manufactured homes	Identification	1	1-1/2
Subdivision/development sales office (temporary)	Identification	1	3
Subdivision entrance	Identification	1 per street corner	9

			per major entrance	
Campaigns/civic or special events[2] as regulated at §155.608.6.G & H		Temporary	1 per lot OR 1 per business, as applicable	12 12
Business use[2] on private property as regulated at § 155.608.8.A		Temporary	1 per lot OR 1 per business, as applicable	16 16
Government/Wayfinding and intermittent uses occurring on a regular scheduled weekly basis		na	See § 155.608.6 L and K	
Residential Subdivision Development or Complex	Residential Development Message Board as regulated at 155.608.6.V		N.A.	12 sq ft

(1) Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

(2) Behind street right-of-way and no illumination. ('72 Code, § 24-2110) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Am. Ord. 2059, passed 12-8-14) **[formerly § 153.150]**

155.608.11 Signs in the Residential/Institutional District.

A. Identification and bulletin board signs are permitted on premises of permitted uses conducted in buildings or with buildings associated. Such signs will be regulated as provided in § 155.608.11.D, the Table of Sign Regulations for Uses in the Residential/Institutional District.

B. Identification and bulletin board signs are permitted on premises of permitted uses not conducted in or associated with buildings. Such signs are regulated as provided in § 155.608.11.D, the Table of Sign Regulations for Uses in the Residential/Institutional District.

C. SIGN HEIGHT. No freestanding sign may be over ten feet (10') in height, except attached signs where allowed. See also § 155.608.5.E.

D. TABLE OF SIGN REGULATIONS FOR USES IN THE RESIDENTIAL/INSTITUTIONAL DISTRICT.

(Ord. 1127, passed 7-10-00)

TYPE PERMITTED	NUMBER PERMITTED	MAXIMUM SIGN AREA (SQUARE FEET)[3]	ILLUMINATION PERMITTED	LOCATION PERMITTED
Identification (attached) for single use site	1 per building	20	Externally lighted only	Mounted on building
Identification (freestanding) for single use site	1[1][2] per 500 lineal feet of street frontage OR 1 per public street vehicular access	40	Luminous	Behind street R-O-W
Bulletin board for entire property[3]	1	18	Luminous	Behind street R-O-W
Temporary for campaigns/civic or special events as regulated at §155.608.6.G & H	1 per lot OR 1 per business, as applicable	12 12	none	Behind street R-O-W
Temporary for business use on private property as regulated at § 155.608.8.A	1 per lot OR 1 per business, as applicable	16 16	none	Behind street R-O-W

Government/Wayfinding and intermittent uses occurring on a regular scheduled weekly basis	See § 155.608.6.L and K

Separate Designated Uses Within Single Site or Complex

TYPE PERMITTED	NUMBER PERMITTED	MAXIMUM SIGN AREA (SQUARE FEET)[3]	ILLUMINATION PERMITTED	LOCATION PERMITTED
Identification (attached) when separate designated uses exceed 50,000 sq ft	1 per separate designated principal use (i.e. sanctuary, gymnasium, classroom, or office wing, hospital, medical clinic, etc.)	20 40 when separate designated principal use is greater than 10,000 sq ft	Externally lighted only Luminous	Mounted on building at primary doorway to separate designated principal use
Identification (freestanding) for site or complex as a whole, when such site includes separate designated uses which exceed 50,000 sq ft [3]	1[1][2] per 500 lineal feet of street frontage OR 1 per public street vehicular access	40	Luminous	Behind street R-O-W
Identification (freestanding internal, for site or complex when such site includes separate designated uses which exceed 50,000 sq ft [3]	1 per separate designated principal use (i.e., sanctuary, gymnasium, classroom or office wing, hospital, medical clinic, etc.)	12	Externally lighted	Within 30' of primary building doorway to separate designated principal use, and 50' in from all exterior property lines
Directory or bulletin board, attached or freestanding for each separate designated principal use	1 per separate designated principal use	12	Luminous	Mounted on building, OR freestanding and within 30' of primary building doorway to separate designated principal use, and 50' in from all exterior property lines
Temporary for campaigns/civic or special events as regulated at § 155.608.6.G & H	1 per lot OR 1 per business, as applicable	12 12	none	Behind street R-O-W
Temporary for business use on private property as regulated at § 155.608.8.A	1 per lot OR 1 per business, as applicable	16 16	none	Behind street R-O-W
Government/Wayfinding and intermittent uses occurring on a regular scheduled weekly basis			See § 155.608.6.L and K	

(1) Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

(2) Freestanding signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also § 155.608.9 regarding a master sign plan.

(3) The maximum height limit of freestanding signs is ten feet (10'), unless further limited elsewhere in this Title. ('72 Code, § 24-2111) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Am. Ord. 2059, passed 12-8-14) **[formerly § 153.151]**

155.608.12 Signs in the Office District.

A. ILLUMINATION LIMITATIONS. Only "externally illuminated" signs as defined in § 155.608.4.D are permitted for all single- and multi-family uses in the Office District. Non-residential uses or mixed-use developments in the Office District may be externally or internally illuminated. See § 155.608.5.D for types of illumination.

B. LOCATION PERMITTED. All signs for uses allowed within the Office District must be located behind the street right-of-way.

C. SIGN HEIGHT. No sign may be over ten feet (10') in height, except attached signs where allowed. See also § 155.608.5.E. (Ord. 1127, passed 7-10-00)

D. TABLE OF SIGN REGULATIONS FOR USES IN OFFICE DISTRICTS.

USE	TYPE PERMITTED[3]	NUMBER PERMITTED	ATTACHED (A) OR FREESTANDING (F)[4]	MAXIMUM SIGN AREA (SQUARE FEET)
Single- and Two-Family Dwelling	Identification	1	A or F	1½
Multi-Family Building/Complex	Identification	1	A or F	9
Other single tenant[1] uses less than or equal to 150 lineal feet of lot frontage	Identification	1	A or F	50
Other single tenant[1] uses over 150 lineal feet of lot frontage	Identification	1	A or F	80
Other uses, all sizes[1]	Directory of Bulletin board	1 per major entrance	Δ[2]	12
Multiple tenant and/or multiple building parcel	Identification Identification	1 per major entrance, PLUS 1 per business establishment	F A	50 24
All uses	Temporary, as regulated at § 155.608.6.G and H	1 per lot OR 1 per business, as applicable	A or F A	12 12
All uses	Temporary, as regulated at § 155.608.8.A	1 per lot OR 1 per business as applicable	A or F A	16 16
Government/Wayfinding and intermittent uses occurring on a regular scheduled weekly basis		See § 155.608.6.L and K		
Residential Subdivision Development or Complex	Residential Development Message Board as regulated at 155.608.6.V.	N.A.	A or F	12 sq ft

(1) See § 155.608.7.A for provisions regarding multi-tenant properties, and § 155.608.9 regarding master sign plans.

(2) One (1) directory or bulletin board sign of up to twelve (12) square feet may be freestanding per major entrance in place of an attached directory or bulletin board sign only when such sign is behind the required setback.

(3) Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

[(4)] The maximum height limit of freestanding signs is ten feet (10'), unless further limited elsewhere in this Title.

('72 Code, § 24-2112) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93) (Ord. No. 1490-A, passed 4-10-06) **[formerly § 153.152]**

155.608.13 Signs in Mixed Use and Nonresidential Districts (HUC, B-1, B-3, B-D, B-H, I-1, I-2, MUD, TS, B-1SCD, ENT, AND AU).

A. ILLUMINATION LIMITATION. All signs, except temporary and portable signs, may be illuminated. See § 155.608.5.D for categories of internal and external illumination.

B. LOCATION PERMITTED. All signs for permitted uses must be located behind street rights-of-way, except as provided elsewhere in this § 155.608.

C. SIGN HEIGHT. No sign may be over ten feet (10') in height, except attached signs where allowed, and where elevated monument signs may be permitted in specific designated sign corridors. (Ord. 1127, passed 7-10-00)

D. TABLE OF SIGN REGULATIONS IN HUC, B-1, B-3, B-D, B-H, I-1, I-2, MUD, TS, B-1SCD, ENT, AND AU DISTRICTS.

TYPE OF SIGN	NUMBER PERMITTED	LOT FRONTAGE (LINEAL FEET)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)[(4)]
Freestanding identification or business	1[(1)(2)]	0 – 39 40 – 99 100 and over	50 75 100
Attached identification or business	3 per establishment	0 – 39 40 – 99 100 and over	40* 60* 80*
*Within the total sign area for attached signs, certain types of attached signs are further regulated as follows:			
Projecting, up to 4 feet from face of building	na	na	24
Awning	na	na	1 sq.ft. per 1 l.f. of front wall
Canopy	1	na	1 sq.ft. per a l.f. of front wall
Window	na	na	25% of glass area if opaque; 50% of glass area if open symbols without background
Temporary for campaigns/civic or special events as regulated at § 155.608.6.G and H	1 per lot OR 1 per business, as applicable	none	12 12
Temporary for business use on private property as regulated at	1 per lot OR 1 per business, as applicable	none	16 16

§ 155.608.8.A

Government/Wayfinding and intermittent uses occurring on a regular scheduled weekly basis		See §155.608.6 L and K	
Residential Development Message Board as regulated at §155.608.6.V	na	na	12 sq ft

(1) Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

(2) Freestanding signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also § 155.608.9 regarding a master sign plan.

(3) If a directory or bulletin board sign is freestanding, it must be located behind the setback line.

(4) The maximum height limit of freestanding signs is ten feet (10'), unless further limited elsewhere in this Title.

('72 Code, § 24-2113) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Am. Ord. 2059, passed 12-8-14; Am. Ord. 2141, passed 4/11/16)**[formerly § 153.153]**

155.608.14 Signs in Downtown Overlay District.

Identification, business or other signs on private or public property in the Downtown Overlay District must comply with the requirements of this § 155.608, except where specifically exempted below. In addition, certain signs that are not permitted in other districts may be allowed in the Downtown Overlay District only as specifically provided in this § 155.608.14.

A. SIGNS PROHIBITED IN THE DOWNTOWN OVERLAY DISTRICT. The following signs are prohibited in the Downtown Overlay District:

1. Any structure or any material for a sign face which is designed to be an internally illuminated wall, projecting, awning, or freestanding sign, whether or not it has any electrical or mechanical components that create internal light;
2. Any sign containing more than three (3) colors;
3. Signs placed in or extending over the public right-of-way, except when otherwise regulated in this § 155.608.14;
4. Signs listed at § 155.608.4, except when specifically permitted in this § 155.608.14; and
5. Feather signs.

B. SIGNS PROHIBITED IN SPECIFIC LOCATIONS IN THE DOWNTOWN OVERLAY DISTRICT

1. The following sign elements are prohibited in the 100 block of N Trade Street, the 100 block of E Charles Street between Trade Street and Cotton Gin Alley, the northeast side of the John Street between Cotton Gin Alley and Library Lane (the historic core), and any buildings designated as a local historic landmark dating from before 1920: any neon on a building face, projecting from a building, displayed on or through a window, or in a freestanding sign.
2. The following signs are prohibited for buildings that were initially residential dwellings:
   a. Attached signs for residential structures which have been converted to non-residential use.
   b. Freestanding signs over five feet (5') in height for buildings that have been converted from residential to nonresidential uses.
   c. Neon is not permitted in any sign for residential structures converted to non-residential use.

C. ADDITIONAL SIGNS PERMITTED IN THE DOWNTOWN OVERLAY DISTRICT. The following signs are encouraged and favored in the Downtown Overlay District:

1. Signs painted or stenciled on or through windows or doors to complement the architectural period or style of the building;
2. Individual sculpted or carved letters/logos/number of metal or wood applied to the building face;

3. Painted wood or metal signs applied to building face;

4. Projecting signs made of wood or metal and painted, and having at least seven and one-half feet (7.5') clearance when encroaching over a street, sidewalk or pedestrian use area, and having an agreement with the Town or NCDOT when encroaching a public right-of-way;

5. Awning or canopy sign when the sign is same or similar material and same plane as the awning or canopy, and not built up;

6. Neon signs displayed on or through a window area only and not occupying more than ten (10) square feet, when complementing the architectural period or style of the building, and not exceeding two (2) colors;

7. Portable signs in compliance with the regulations of this § 155.608.14.H; and

8. Externally illuminated identification signs in keeping with the architectural style and age of the surrounding structures. Direct light of white or yellow from a shielded source is the preferred method of illumination, although white or colored halo lighting, where individual opaque letters/symbols are displayed in front of a background which reflects a hidden light source, is permitted.

D. ATTACHED SIGNS. Attached signs, except as limited in § 155.608.14.B.2 above, are permitted in the number and total sign area specified in §§ 155.608.10 through 155.608.13.

E. FREESTANDING SIGNS. Freestanding signs may be allowed in association with a use within a building or a use when no building is present, subject to the limitations provided here and in other portions of § 155.608.14. Only one (1) freestanding sign is allowed per lot, except as allowed at § 155.608.7.C. When the associated building is at or extends into the street right-of-way for the entire frontage, then no freestanding sign is allowed. The size of freestanding signs shall comply with the following:

Lot Frontage	Maximum Sign Area	Maximum Sign Height
0-39	24 sq ft	5'
40-69	36 sq ft	6'[(1)]
70 and over	50 sq ft	8'[(1)]

[(1)] Allowed when sign is at least ten feet (10') from edge of public right-of-way and sidewalk

F. TEMPORARY SIGNS. Temporary signs as regulated at §§ 155.608.6 and 155.608.8 are permitted. Feather signs, however, as a specific style of temporary signs, are inconsistent with the overall character of the Downtown and are therefore prohibited.

G. DIRECTORY OR BULLETIN BOARD SIGNS. Directory or bulletin board signs are permitted as outlined in §§ 155.608.11 through 155.608.13.

H. PORTABLE SIGNS. Certain portable signs, up to eight (8) square feet in sign area and not more than five feet (5') in total height, may be allowed in the Downtown Overlay. Due to the specific character of subsections of the Downtown (historic core, arts-focused, contemporary, etc.), the use of differing shapes and materials for portable signs is allowed, and signs that match or complement the architectural theme, age, materials, and colors of the associated building are strongly encouraged. Acceptable forms may include but are not limited to: a two-sided A-frame configuration; an upright single or two-sided structure with a weighted foot or pedestal; a two- or three-dimensional shape or statue that provides hanging or fixed support for a flat message surface message area; or a chalkboard or board of other material with a weighted foot or pedestal. The use of molded plastic A-frame signs is not consistent with the character of downtown and is strongly discouraged. Because a portable sign's primary intent is to offer regularly updated details related to the business enterprise, like daily meal specials, the information included on an A-frame sign must be more than identification of the establishment. Such signs are intended to provide information to pedestrians, who may stop to take in the full message, so these signs need to be located near the pedestrian entrance, and must not prohibit pedestrian flow or safety around them. They may be displayed in front, and within twenty feet (20'), of the associated use's front door or front gate entrance. Where the associated use has a side or rear public entrance as well, then a second portable sign of the same type, size, and location relative to side/rear door may be permitted. When there is sufficient space between the wall of the building or use and the street right-of-way, then such portable sign must be located behind the right-of-way line. When the

building is located at the street right-of-way, the portable sign may be located within the street right-of-way, provided the sign does not prohibit pedestrian flow, block drivers' visibility, and has approval from the Town or NCDOT, as appropriate. [formerly § **153.064.I**]

I. MURALS. Murals may or may not be classified as signs based on whether they incorporate any advertising message for contemporary establishments and/or contemporary merchandise/services. Even though not technically signs, they are highly visible in the public realm. The Town Board of Commissioners has determined it is advantageous to the community to establish the following design requirements for non-sign mural placement within the downtown area. [formerly **§ 153.064(O)]**

1. PURPOSE. To increase community identity and foster a unique sense of place in downtown Matthews, murals are encouraged on buildings located within the Downtown Overlay District. For the purpose of these requirements, murals are purely artistic forms of expression that do not incorporate any advertisement for products, services or businesses. These forms of expression are generally regulated on a content-neutral basis and no mural will be permitted that contains language or design elements deemed offensive to the community.

2. REQUIREMENTS. No person shall paint a wall mural on the exterior of any structure or change any existing mural on the exterior of any structure prior to the issuance of a wall mural permit. The following design criteria shall apply to any mural artwork commissioned in the Downtown Overlay.

   a. The proposed wall mural shall be well integrated with the building and neighboring structures and be harmonious with the surrounding environment. The proposed wall mural, by its design, scale, construction and location, shall not have a substantial adverse effect on abutting property or the permitted use, and will contribute to Matthews unique character and quality of life.

   b. The proposed wall mural shall exhibit exceptional design quality that enhances the overall development and appearance of both the site and Downtown Matthews. The paint and/or materials to be used and applied on the structure shall be appropriate for use in an outdoor locale for an artistic rendition and shall be of a permanent or long lasting variety.

3. MAINTENANCE. Maintenance of the wall mural is the responsibility of the property owner. It shall be the property owner's responsibility to remove the wall mural if it is not maintained as required. Graffiti shall be removed in accordance with the Graffiti Abatement Ordinance requirements for graffiti removal in Chapter 94A. While natural aging is acceptable, murals that are not maintained sufficiently may be considered a public nuisance.

4. ANTI-GRAFFITI COATING REQUIRED. An anti-graffiti coating shall be applied to all murals at the time of installation and reapplied at intervals determined by the manufacturer.

5. PERMIT REQUIRED. A mural permit application shall be completed by the applicant and submitted to the Town Planning office to be referred to the appropriate committee for review and approval. The application shall include at a minimum the intended location of the mural, size, subject matter, medium and a summary of the general color palette to be used. A visual representation shall also be included in the application. The responsible Town representative shall issue a permit upon finding that all standards have been met.

155.608.15 Special Sign Corridors Created.

A. Certain geographic corridors exhibit, or have the potential of exhibiting, unique signage needs due to the higher speed and high volume traffic generated by major highways. Special sign corridors may be established with differing regulations from the rest of the jurisdiction in order to establish, enhance, and preserve the property values and economic viability of such corridors. Such special sign corridors shall meet the following:

1. The area shall follow on each side of a major highway carrying average daily traffic in excess of thirty thousand (30,000) vehicles.

2. The boundaries set for the special sign corridor shall include only those properties whose visibility is directly impacted by the major highway. These boundaries shall be established at the time the special sign corridor is adopted, and the criteria for inclusion into the special sign corridor shall be clearly defined.

3. The Board of Commissioners shall determine, upon recommendation by Planning Board, that the corridor exhibits, or has the potential to exhibit, unique signage needs related to the speed and volume of traffic which makes it different from other commercial or industrial corridors in the jurisdiction. In making such determination, these findings should be made:

   a. That the proposed special sign corridor will preserve or enhance the special character of the corridor;

   b. That the modifications to the sign regulations will follow the spirit and overall intent of § 155.608; and

   c. That the provisions in the special sign corridor will not cause disturbance or economic hardship to neighboring property outside the proposed district.

4. Regulations which may be modified shall take into consideration those factors causing the unique signage needs, including but not limited to: horizontal distance of the affected property from the major highway right-of-way, natural and man-made topography and road grade changes, road overpasses and underpasses, limited access for drivers, the greater than normal length of road frontage and/or building frontage along the major highway, the total building area covered by a single use or group of uses on a property, and the average speed of vehicles traveling on the major highway.

B. PROCEDURE FOR CREATING A SPECIAL SIGN CORRIDOR. The Planning Board, either on its own determination or by request from the Board of Commissioners, shall prepare documentation satisfying the review criteria listed in division (A) of this section and report its findings to the Board of Commissioners. The Board of Commissioners may set a public hearing date to discuss the findings and receive public input. Property owners in and adjacent to the proposed district shall be notified of the pending action by first class mail. The special sign corridor shall become effective only after the Board of Commissioners makes adequate findings, as listed in division (A) of this section, following the public hearing.

C. SPECIAL SIGN CORRIDORS LISTED. Special sign corridors are created for:

1. US 74/Independence Boulevard.

('72 Code, § 24-2115) (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Am. Ord. 803, passed 3-14-94) **[formerly § 153.154]**

155.608.16 Special Regulations for the US74/Independence Boulevard Sign Corridor.

A. The sign regulations for properties in the US74/Independence Boulevard corridor shall be the same as those specified in the tables for the various zoning districts, at §§ 155.608.10 through 155.608.13, unless they can meet one (1) or more of the special provisions given below. ('72 Code, § 24-2116)

The US74/Independence Boulevard sign corridor shall include: all properties fronting on Independence Boulevard; and all properties immediately adjacent to (not across a public street from) properties touching Independence Boulevard up to a maximum one thousand foot (1,000') depth from the centerline of Independence Boulevard right-of-way. When the boundary of the sign corridor splits a property, the regulations of the sign corridor in division (A) of this Section shall apply to the whole parcel if more than fifty percent (50%) of the principal building(s) is(are) located within the corridor boundaries. (Ord. 477, passed 2-8-88; Am. Ord. 789, passed 10-25-93; Am. Ord. 803, passed 3-14-94; Am. Ord. 873, passed 9-12-94)

B. US 74/INDEPENDENCE BOULEVARD SIGN CORRIDOR.

1. For the US74/Independence Boulevard sign corridor, increased signage will be allowed for B-1, B-3, B-H (Traditional or Parallel Traditional) districts, MUD, TS, ENT, and B-1SCD Conditional-Only zoned properties with large single or individual tenant spaces, large acreage tracts, and buildings set further away from the highway, as defined below.

   a. Properties in the Independence Boulevard sign corridor which include a single-user business greater than twenty thousand (20,000) square feet gross floor area shall be allowed attached and freestanding signage as shown on Table 1, § 155.608.15.B.5.

   b. Properties in the Independence Boulevard sign corridor which are greater than five (5) acres and developed for one (1) use, or for multiple users as a unified development shall be allowed attached and freestanding signage as shown on Table 2, § 155.608.15.B.6.

   c. Properties in the Independence Boulevard sign corridor with direct lot frontage on US 74

of at least one hundred feet (100') and which have all principal buildings and/or uses more than one hundred fifty feet (150') from the near edge of the US 74 right-of-way shall be allowed attached signage as shown on Table 3, § 155.608.15.B.7. Where the right-of-way line is not a straight line across the lot width of the affected property, an average right-of-way line will be determined for purposes of this § 155.608.15. It is not the intent of this provision to encourage buildings to be set far off the highway with a large intervening parking lot, but it is understood that some properties require a greater building setback.

d. Properties in the Independence Boulevard sign corridor which include a single-user business housed and actively conducting business in two (2) buildings each greater than fifteen thousand (15,000) square feet gross floor area shall be allowed attached and freestanding signage as shown in Table 4, § 155.608.15.B.8. (Ord. 1376-A, passed 8-9-04)

e. Indoor or outdoor public and commercial recreational facilities in the ENT District only that can accommodate more than five hundred (500) persons at one time as participants and/or spectators shall be allowed freestanding signage as shown in Table 5, § 155.608.15.B.9.

f. Properties in the Independence Boulevard sign corridor which meet more than one (1) of the above categories shall be allowed the least restrictive (largest and/or tallest) set of sign regulations for that property. It is not the intent of this section to permit the sign regulations of Tables 1 through 5 to be combined, except that the provisions of Table 3 for attached signs may be used where appropriate along with the provisions for freestanding signs in Tables 1, 2, or 5 when they also apply. (Ord. 1376-A, passed 8-9-04)

2. In the US74/Independence Boulevard sign corridor, elevated monument signs are permitted where freestanding signs greater than one hundred (100) square feet are allowed for B-1, B-3, B-H (Traditional or Parallel Traditional) districts, MUD, TS, ENT, and B-1SCD districts. An elevated monument sign is the combination of a freestanding sign and its raised base or background support, which extends from and is directly attached to the ground, and whose base or background support is generally solid, having no more than fifteen percent (15%) of its base or background support pierced through and open, and provided the width of the base or background support is at least eighty percent (80%) of the width of the message portion of the sign. The maximum width of an elevated monument sign shall not exceed two times its height.

3. In the US74/Independence Boulevard sign corridor, super signs may also be permitted where freestanding signs greater than one hundred (100) square feet are allowed within the ENT district. Super signs are signs which identify a public assembly facility with a capacity of more than one thousand five hundred (1,500) participants and spectators, for a single activity, such as a sports stadium. Due to the regional significance and economic impact of the use, identification of the facility may exceed sign area and height limits allowed elsewhere within the Town's jurisdiction.

4. In the US74/Independence Boulevard sign corridor, off-premise directional signs may be allowed on private property for parcels within the designated corridor without direct lot frontage on Independence Boulevard or with less than thirty feet (30') of lot frontage on Independence Boulevard. Such directional signs shall be no larger than twenty four (24) square feet, no higher than ten feet (10'), not placed on an artificially created berm, and shall be either a ground or post sign. Any property in a B-1, B-3, B-H (Traditional or Parallel Traditional), MUD, TS, ENT, or B-1SCD district may have a maximum of two such directional signs situated so as to direct traffic on US74 to the most appropriate exit or driveway to the property. Such directional signs for multi-tenant properties may list more than one business. Off-premise directional signs shall not be located within any sight triangle, or within fifty (50') of any other permanent sign on private property. Any off-premise signs allowed by this provision shall be separated from one another by a minimum of one hundred fifty feet (150'). The Town may provide wayfinding signs at appropriate exit locations which would serve the same purpose, and then any identified use would not also be eligible for this off-premise sign option within one thousand feet (1,000') of the wayfinding sign.

5. INDEPENDENCE BOULEVARD SIGN CORRIDOR TABLE 1. Properties with single-users greater than twenty thousand (20,000) square feet (B-1, B-3, B-H, MUD, TS, ENT, AND B-1SCD DISTRICTS)

TYPE OF SIGN	NUMBER PERMITTED	SINGLE USER GROSS FLOOR AREA (SQUARE FEET)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)
Freestanding identification or business [3]	1[1] [2]	40,000–74,999 75,000–99,999 100,000 and over	150 200 240
Attached identification only [4]	3 per use	20,000—39,999	135 (maximum 100 square feet on front of building and 35 square feet on side of building)
	3 per use	40,000—74,999	150
	1 unless one or more side(s) face thoroughfare	75,000 and over	225 on front facade, plus 150 on side when side faces thoroughfare
Attached business	2 per	40,000 and over	50, front facade only

[1] Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

[2] Freestanding signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also § 155.608.9 regarding a master sign plan. The larger sign area provisions here may be applied only one (1) time to a multi-tenant, joint freestanding sign when more than one (1) single-user on the property is greater than forty thousand (40,000) square feet GFA.

[3] Freestanding identification signs allowed under this table may be either ground signs or elevated monument signs, not to exceed twenty feet (20') in total height, and not located on an artificially created berm.

[4] The maximum vertical dimension of attached signs shall not exceed six feet (6').

(Ord. 2044, passed 10-13-14)

6. INDEPENDENCE BOULEVARD SIGN CORRIDOR TABLE 2. Properties greater than five (5) acres (B-1, B-3, B-H, MUD, TS, ENT, AND B-1SCD DISTRICTS)

TYPE OF SIGN	NUMBER PERMITTED	LOT SIZE (ACRES)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)
Freestanding identification or business [3]	1 [1] [2]	5.0–7.49 7.5–14.99 15.0 and over	150 200 240
Attached identification or business	3 per establishment	5.0–11.9 12–23.9 24.0 and over	100 100 150

[1] Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

[2] Freestanding signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also §155.609 regarding a master sign plan. The larger sign area provisions here may be applied only one (1) time to a multi-tenant, joint freestanding sign when more than one (1) single-user on the property is greater than forty thousand (40,000) square feet GFA.

[3] Freestanding identification signs allowed under this table may be either ground signs or elevated monument signs, not to exceed twenty feet (20') in total height, and not located on an artificially created berm.

7. INDEPENDENCE BOULEVARD SIGN CORRIDOR TABLE 3. Properties with principal structures/uses in excess of one hundred fifty feet (150') from US 74 right-of-way and minimum of one hundred feet (100') of frontage on US 74 (B-1, B-3, B-H, MUD, TS, ENT, AND B-1SCD DISTRICTS)

TYPE OF SIGN	NUMBER PERMITTED	DISTANCE FROM RIGHT-OF-WAY (FEET)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)
Attached identification only	3 per establishment	150–299 300–499 500 and over	150 225 250
Attached business	2 per establishment	150–299 300 and over	na 50, front facade only

8. INDEPENDENCE BOULEVARD SIGN CORRIDOR TABLE 4. Properties with single-users housed in two (2) buildings, each fifteen thousand (15,000) square feet (B-1, B-3, B-H, MUD, TS, ENT, AND B-1 SCD DISTRICTS)

TYPE OF SIGN	NUMBER PERMITTED	SINGLE USER IN TWO BUILDINGS (SQUARE FEET)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)
Freestanding identification or business[3]	1 [1] [2]	15,000 each and over	150 (all freestanding signs combined)
Attached identification only [4]	3 per building, 6 total	15,000 each and over	180 total; not to exceed 100 sqft on any of the buildings
Attached business	2 per building	15,000 each and over	100 - 50 per building

[1] Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

[2] Free standing signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also § 155.609 regarding a master sign plan. The larger sign area provisions here may be applied only one (1) time to a multi-tenant, joint freestanding sign when more than one (1) single-user on the property is housed in two (2) buildings each greater than fifteen thousand (15,000) square feet GFA.

[3] Freestanding identification signs allowed under this table may be either ground signs or elevated monument signs, not to exceed ten feet (10') in total height, and not located on an artificially created berm. (Ord. 1376-A, passed 8-9-04).

[4] The maximum vertical dimension of attached signs shall not exceed six feet (6')

[formerly § 153.155]

9. INDEPENDENCE BOULEVARD SIGN CORRIDOR TABLE 5. Properties with indoor or outdoor public or commercial recreation use that exceeds five hundred (500) person capacity (ENT DISTRICT ONLY)

TYPE OF SIGN	NUMBER PERMITTED	CAPACITY OF FACILITY/USE (PERSONS)	TOTAL MAXIMUM SIGN AREA (SQUARE FEET)
Freestanding identification [3]	1 [1] [2]	500 to 999 1,000 to 1,499	150 . 200 .
Attached identification (indoor use only) [4]	3 per building	500 to 749 750 to 999 1,000 and over	150 . 200 . 225 .
Freestanding identification	2 per facility [5]	1,500 and over	XXXXXX

[1] Two (2) freestanding identification signs may be permitted in accordance with the provisions of § 155.608.7.C.

[2] Free standing signs for multi-tenant properties are regulated by the provisions of § 155.608.7.A. See also § 155.609 regarding a master sign plan. The larger sign area provisions here may be applied only one (1) time to a multi-tenant, joint freestanding sign when more than one (1) single-user on the property has a capacity of five hundred (500) or more persons.

[3] Freestanding identification signs may be either ground signs or elevated monument signs, not to exceed ten feet (10') in total height, and not located on an artificially created berm.

[4] The maximum vertical dimension of attached signs shall not exceed six feet (6').

[5] Freestanding identification signs may be super signs, not to exceed XX sq ft in size, and XX feet in height, and be located within the ENT District, either on-or off-premise, but within XX feet of its associated facility.

155.609. Outdoor Illumination

155.609.1. Purpose and Intent

It is the purpose and intent of this Outdoor Illumination Section to accomplish the following:

A. To encourage the use of lighting design practices and systems that will: *i*) minimize glare, light trespass and light pollution; *ii*) conserve energy and resources while maintaining nighttime safety, security and productivity; and *iii*) to curtail the degradation of the nighttime visual environment.

B. To establish clear and comprehensive outdoor lighting standards with an emphasis on reducing glare and light trespass by requiring, in most circumstances, full cut-off (preferred) lighting fixtures.

C. To allow for outdoor lighting that is appropriate for the task and to establish light fixture height, wattage, distribution and illumination limits that will help prevent light trespass to adjacent properties.

D. To establish specific standards for certain land uses that typically have unique lighting requirements, such as (but not limited to) automotive dealerships, service stations, and outdoor sporting facilities.

155.609.2. Applicability

This outdoor lighting standard applies to any development, expansion or improvement within non-residential districts and non-residential uses in residential districts, any multi-family housing or mixed development which incorporates residential units, athletic fields, and the construction of parking lots where such developments include the installation of new outdoor lighting fixtures or the replacement of existing lighting fixtures. All new construction projects shall have enough exterior lighting to meet the minimum safety and security requirements of the ICC, the National Electrical Code (NEC) and the North Carolina Building Code (NCBC) family of codes including the NC Energy Conservation Code. The replacement of an existing lighting fixture is defined as a change of the type of fixture; a change in the mounting height of a fixture on a pole, building, or other structure; or a change in the location of a lighting fixture. All of these applications require compliance with this section. Routine lighting fixture maintenance such as replacement of lamps, ballast, starter, photo control, or similar components will not constitute the need to comply with this ordinance, and is permitted provided such changes do not result in a higher wattage or higher lumen output.

155.609.3. Definitions

Direct Glare – The effect causing visual discomfort resulting from insufficiently shielded light sources in the field of view.

Direct Illumination – Center of a beam, or main beam angle of a lighting fixture.

Fixture – A gas-powered, battery-powered, solar-powered or electrically powered device that is secured to a wall, ceiling, pole, or post that is used to hold one or more lamps (or jets) and is intended to emit light.

Flood Light – Any light fixture or lamp that incorporates a reflector or a refractor to concentrate light output into a directed beam in a particular direction.

Footcandle (FC) – A quantitative unit measuring the amount of light cast onto a given point, measured as one 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.

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.

Initial (Burn-in) Illumination – The measured amount of illumination after approximately one hundred (100) hours of burn-in time.

Lamp – The component of a luminaire that produces the light.

Light Source – The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

Light Trespass – Effects of light that strays from the intended purpose and becomes an annoyance, a nuisance, or a deterrent to visual performance. As such, light trespass should always be considered negative, unlike spill light, which can have positive or negative attributes. Light trespass is the encroachment of light causing annoyance, loss of privacy, or other nuisance.

Lumen – A unit of luminous flux.

Luminaire – A complete lighting system including a lamp or lamps and a fixture.

Maintained Illumination – The amount of illumination below which the light level is not supposed to fall throughout system life measured at seventy percent (70%) of rated lamp life.

Mounted Fixture Height – The height of a complete fixture from the top point of any part of the fixture to the ground directly below where the supporting pole or wall or other support structure meets the ground surface.

Outdoor Lighting – The night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Outdoor Performance Area – A facility other than a sports field or stadium predominantly or completely without roofed structures intended for spectators to observe educational, recreational, or cultural programming, and where tickets may be sold or fees collected for the activity. This may include but is not limited to an outdoor amphitheater, an outdoor movie theater, or similar facility with seating around the perimeter.

Shielding – A design feature or a device that is applied to a luminaire to prevent its luminous output from being visible from selected locations or horizontal and/or vertical angles.

Sky Glow – The brightening of the night sky that results from the reflection of radiation (visible and non-visible) scattered from the constituents of the atmosphere (gaseous molecules, aerosols, and particulate matter), in the direction of the observer. It comprises two separate components:

Natural sky glow – that part of the sky glow, which is attributable to radiation from celestial sources and luminescent processes in the earth's upper atmosphere.

Artificial sky glow - that part of the sky glow which is attributable to man-made sources of radiation (e.g., outdoor electric lighting), including radiation that is emitted directly upwards and radiation that is reflected from the earth's surface.

Spill Light – Visible light (usually unwanted) which extends beyond the limit of the area which the light is intended to illuminate.

Temporary Light – Any lighting fixture or instrument producing light that can be moved or relocated in a moments notice.

Wall Pack – A type of light fixture typically surface-mounted on a vertical wall surface.

Watts – The measure of the amount of energy (electricity) an incandescent fixture uses. Lamps are typically rated for efficiency by noting lumens per watt.

155.609.4. General Exemptions

The following lighting applications are exempt from the requirements of this section:

A. Emergency Lighting: Lighting required for public safety, in the reasonable determination of the inspection official holding authority.

B. DOT Lighting: Department of Transportation highway signage luminaires, which must comply with federal DOT standards.

C. Decorative Lighting: Low wattage fixtures (lamps under eight [8] watts or one hundred [100] lumens) used for holiday decorations and annual civic events, or temporary or permanent building tubing fixtures which follow architectural features on buildings.

D. Individual residential lighting that is not reviewed as part of a development plan.

E. Illumination being installed for temporary usage only, refer to § 155.609.10.G.

F. Municipal lighting installed within public rights-of-way, for the principal purpose of illuminating streets, sidewalks, bicycle facilities, or multi-modal pathways within or adjacent to a public street, refer to § 155.609.10.H. No exemption shall apply to any lighting fixture located within a public right-of-way when its purpose is to illuminate areas within or outside the right-of-way not directly associated with providing safety for one or more modes of transportation by the general public.

155.609.5. Light Measurement Technique

Measurements shall be made at three feet (3') above finished grade, with the light registering portion of the meter held parallel to the ground, pointing up for horizontal readings (for spill light) and at the brightest light source for maximum vertical light readings (for glare). The meter shall have an accuracy tolerance of no greater than plus or minus five percent (5%). Measurements shall be taken with a light meter that has been calibrated within two (2) years. Light levels are specified, calculated and measured in footcandles (FC), and should be taken after a one hundred (100) hour burn-in time, which will more accurately register the lighting levels affecting the subject site and

adjacent properties and public rights-of-way.

155.609.6. Outdoor Illumination Plan Required

Any development activity that proposes outdoor illumination shall include a detailed outdoor illumination plan as part of the Landscape Plan submission. When no landscape plan would be necessary, an outdoor lighting plan shall be submitted and approved prior to any permit for lighting installation. This outdoor illumination plan shall at a minimum include:

A. Lighting fixture cut sheets for all exterior lighting fixtures such as: type of unit, color of unit, wattage of unit, lumen output of unit, and the cut-off classification of the unit. Any lighting fixture requiring a pole on which to be mounted shall include the pole specification, clearly stating the proposed pole height (including concrete base).

B. A photometric (ISO foot-candle) site plan that shows typical foot-candle contours within all property lines. The submitted lighting plan shall be in accordance with IESNA standards for uniformity, and show all maximum/minimum and average/minimum light levels. Points of light shown on the plan shall be a maximum of ten feet (10') apart. The light grid diagram may show the locations a maximum of thirty feet (30') apart within that portion of a site which is designed for and utilized as an existing or proposed vehicle loading or maneuvering area, outdoor storage area not accessible to the general public, or outdoor sports fields, courts, pools, or similar facility, any of which covers three (3) acres or more in area. The scaled site plan drawing shall show locations of all existing and proposed exterior lighting in relation to all property lines, building outlines, parking and curbing, required preserved or new landscape areas, and above ground storm water detention areas. If any proposed lighting fixture is indicated as being within close proximity to an existing or proposed tree, or that an existing or proposed tree may partially or completely block light from the fixture onto the intended surface, now or in the future, then a written explanation for the lighting fixture location must be included.

C. When a phased plan is proposed such that one or more building sites may not be clearly determined or the architecture of a building may not be confirmed, but grading or other land disturbing activity is proposed, then a note on the lighting plan must be included to state this plan is a partial compliance document, and must clearly indicate what is included here and what remains to be submitted at a future date.

D. When a single-family subdivision includes common areas such as common open space, pathways, parking lots and clubhouses, a lighting plan as defined here is required as part of the preliminary plan review process for any subdivision of land. See § 155.405.9.A. Proposed Conditions.

E. Plan certification by a licensed illumination professional holding the PE, LC or CLEP certification**,** or similar certification that indicates proficiency in the design of outdoor illumination, a lighting manufacturer, or the local electric utility. The designer shall verify the plans meet the Town's design requirements and illumination standards.

155.609.7. General Illumination Design Standards

A. All new lighting installations and renovations to existing lighting fixtures adjacent to a residentially zoned or used property shall show the intent to limit horizontal light levels at property lines to one (1) footcandle initial (burn-in) illumination. All new lighting installations and renovations to existing lighting fixtures adjacent to a commercial property shall show the intent to limit footcandle (FC) levels at property lines to two (2) footcandles initial illumination. In addition, vertical light readings shall not exceed one and one half (1.5) FC at any point along the site perimeter. When the horizontal initial illumination level exceeds these standards at any given point, then the average illumination level at the property line within fifty feet (50') of that point shall not exceed one (1) FC for adjacent residential or two (2) FC for adjacent nonresidential, and a written explanation why the limit cannot be met shall be provided on the plan. The applicant shall incorporate additional evergreen plant materials at the place where the perimeter lighting level exceeds the given standards.

B. The maximum horizontal light level allowed at any point on a given parcel or property (with the exception of automobile dealerships, service stations and sporting facilities) shall not exceed twenty (20) footcandles initial. The minimum light level within any portion of a property, other than single-family residential, which is intended to be utilized by residents, employees, customers or visitors shall be maintained at 0.50 footcandles. The maximum light level allowed at any point on an automobile dealership (display or parking area) shall not exceed fifty (50) footcandles initial. The maximum light level allowed under a canopy on a service station property shall not exceed thirty (30) footcandles initial. All outdoor sporting facilities shall be illuminated to IESNA standards, with great care taken to minimize spill light at the property lines. Refer

to § 155.609.10.C for guidelines applying to outdoor sporting facilities.

C. All lighting fixtures rated one hundred fifty (150) watts (incandescent lamp or appropriate lumen equivalent) or less may be used without restriction to light distribution (non-cutoff classification) except when the luminaire creates direct glare perceptible to persons on a public right of way, or into the window openings of a residential dwelling unit. Care should be taken to minimize light trespass across property lines. Internal louvers or "glare shields" should be provided where the emitted light becomes a hindrance. House side shields may also be effective in reducing light trespass.

D. All lighting fixtures rated between one hundred seventy five (175) watts and four hundred (400) watts (incandescent lamp or appropriate lumen equivalent) shall be rated as a "full cutoff" type when placed in the aiming position for which they are designed.

E. All lighting fixtures rated above four hundred (400) watts (incandescent lamp or appropriate lumen equivalent) shall be listed as a "full cutoff" distribution only, and shall not emit any light above the horizontal plane of the fixture when placed in the aiming position for which they are designed. With exception of sporting facilities, the light source should not be visible (within reason) from adjacent properties or the public street right-of-way.

F. All building wall mounted lighting fixtures, or wall packs, shall be of the full cutoff type.

G. All lighting fixtures illuminating building facades, steeples, trees, billboards, signs, flags, etc. (vertical surfaces lighted from the bottom up) shall not exceed one hundred fifty (150) watts (incandescent lamp or appropriate lumen equivalent), with the exception of Department of Transportation highway signage luminaires, which must comply with federal DOT standards. Lighting fixtures shall be selected, located, aimed and shielded so that direct illumination is focused exclusively on the item being illuminated, and away from adjacent properties and the public street right-of-way. Only US, State or local Government flags may be lit with uplight.

H. All outdoor lighting fixtures shall be located a minimum of ten feet (10') from a property or right-of-way line, and should be kept out of and at least two feet (2') away from any required perimeter or streetscape buffer, and tree save area. Where the required separation from a property or right-of-way line cannot be achieved due to on-site improvements, a written explanation of the alternative spacing shall be included on the plan drawing.

I. The layout of outdoor lighting fixtures shall be designed so that the poles do not interfere with other elements of the approved site plan such as trees, landscaping or parking. In general, poles shall be kept at least twenty feet (20') away from the trunk of any large maturing tree and at least ten feet (10') away from any small maturing tree. When a fixture is proposed near an existing preserved tree, the pole shall be no closer to the trunk than ten feet (10') from a small maturing tree or twenty feet (20') from a large maturing tree, or the tree's root protection zone, whichever is greater.

J. All floodlights shall include top and side shielding, and be aimed at least forty five degrees (45º) below the horizontal.

K. To eliminate unneeded lighting, exterior lighting systems are encouraged to include automatic timers, dimmers, sensors, or similar controls that will turn off lights during daylight hours and when the site is not occupied or open for business.

L. All fixtures and lamps shall be maintained in good working order, and replacement lamps and fixtures shall match approved plans. Landscaping shall be maintained in a manner that does not obstruct security lighting while not damaging or removing required landscape materials. Dark pockets on developed portions of any site other than single family residential should be corrected. The property owner and occupant shall be jointly responsible for lighting system maintenance. The provisions of NCGS 136-32.2 shall also be the responsibility of the property owner and occupants.

155.609.8. Special Design Requirements

The following criteria shall be followed for all outdoor lighting designs. Submission of lighting plans providing documentation that all of the following applicable criteria are met is necessary for approval. When any of these criteria cannot be met, or when sufficient documentation is not provided to clearly show compliance, then the Planning Director may request further documentation prior to plan approval.

The maximum mounted fixture height (grade to top of fixture) for all ground mounted or building mounted lighting fixtures, except those used for sporting facilities, shall be as follows:

A. Commercial and mixed use property – 32 feet

B. Residential property (single or multi-family) – 20 feet

C. Pedestrian pathways or sidewalks separate from road rights-of-way – 16 feet

D. Public right-of-way for non-transportation-related lighting (i.e., signs) – 16 feet

155.609.9. Prohibited Uses of Lighting

A. Unshielded flood lights, except for residential floodlights rated one hundred (100) watts (incandescent lamp or appropriate lumen equivalent) or less, that are permitted but must be aimed towards the ground, and not towards adjacent properties.

B. Unshielded lamps or fixtures, except those used for private residential swimming pools, hot tubs, semi-enclosed decks or porches and similar accessory structures. See also § 155.609.7.C and G for further standards.

C. Any flashing, moving, or twinkling within lighting fixtures. Changing of colors in architectural accent lighting only may occur when each hue displayed is constant for a minimum of eight (8) seconds and the change between colors is gradual, not immediate. Such fixtures shall be carefully aimed so as not to spill over onto signs or other features.

155.609.10. Standards For Specific Uses

A. GAS AND SERVICE STATION CANOPIES

All lighting fixtures mounted on the underside of canopies must be "full-cutoff" classified, being either completely recessed/flush in the canopy, or having solid sides on a surface mounted fixture (canopy edges do not qualify as shielding).

The light source shall be metal halide, ceramic metal halide or LED.

Lighting levels under the canopy shall be no greater than thirty (30) footcandles. Areas outside the pump island canopy shall be illuminated as to provide proper safety to customers, but shall be limited and not exceed twenty (20) footcandles initial.

B. MOTOR VEHICLE DEALERSHIP STANDARDS

All lighting within a dealership display area shall be automatically reduced in light level by twenty five percent (25%) after 11:00 PM or within one (1) hour after close of daily business, whichever is earlier, and shall not return to full intensity before 8:00 AM.

Outdoor areas where nighttime motor vehicle sales activity takes place and where accurate color perception of the vehicles by customers is required are allowed specific lighting level provisions. The display areas for new and used vehicles available for sale which are accessible to the general public during business operating hours shall not exceed fifty (50) foot candles. Other areas of the dealership property, such as inventory storage or repair vehicle storage, which are not intended for vehicle display, shall be designed to not exceed twenty (20) foot candles, although some portions within the site may slightly exceed this limit due to close proximity to a display area.

C. GENERAL OUTDOOR SPORTING FACILITY/PERFORMANCE AREA LIGHTING STANDARDS

The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed eighty feet (80') from finished grade unless approved prior to construction by the Board of Adjustment through a variance process.

All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with the manufacturer's maximum glare control package (louvers, shields, visors or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing field or performance area. Other on-site improvements, such as parking lots and concession or restroom facilities, should not rely on lighting from the playing fields or performance area, but shall have separate lighting designed not to exceed twenty (20) foot candles initial lighting levels when combined with any spill light from the fields, and not create any areas of public access and use which are void of a minimum of 0.5 FC maintained while the facility is open to the public.

The hours of operation for the sports field lighting system for any game or event shall not exceed 8:00AM to 11:00PM. An exception to this time limit may be granted for tournament play which has been weather-delayed, or when a tournament or production is scheduled in advance with a final game or program to occur beyond 11:00 PM. The facility's property owner and management/production authority for the tournament or event are jointly responsible for providing notice of potential time extension to the Town Manager and adjacent property owners/occupants. Written notice may be distributed to adjacent property owners/occupants by first class mail postmarked forty eight (48) hours in advance or door hang tags at least twenty four (24) hours in advance of the event. Written notice shall be provided to the Town Manager by e-mail and first class mail postmarked forty eight (48) hours in advance of the event.

Lighting of playing fields or performance areas shall only be turned on when activity is scheduled and occurring. When scheduled activities are completed prior to 11:00 PM, the field or performance area lights shall be turned off (when egress lighting is separate) or reduced in light level by at least fifty percent (50%) within one (1) hour after conclusion of play or other activity. When there are no scheduled activities at a sports field or performance area, then the lighting of them shall not be turned on.

The security and egress illumination lighting systems may remain turned on for any amount of time deemed necessary to remove people safely.

Light levels for sports field illumination shall comply with, but not exceed IESNA standards. Where new sporting facility lighting is installed adjacent to an existing residential property, the intent shall be made for all installations to limit property line light levels to a maximum horizontal level of three (3) foot candles initial, and a maximum vertical level of one and one-half (1.5) foot candles at the property line of any developed residential parcel. When not installed adjacent to a residential property, light levels at the property line shall not exceed a maximum horizontal level of four (4) foot candles initial and a maximum vertical level of two (2) foot candles at the property line of any developed parcel or right-of-way. All possible means of shielding must be applied if this level has not been met. Owner must prove to the appropriate permitting authority that these means have been exhausted, and the intent has been made to meet these goals.

Additional landscape screening may be necessary at select locations in order to reduce spill light on adjacent property. The lighting plan shall include a notation that the owner shall be responsible for providing additional landscaping or other visual screening within nine (9) months of the verified light readings at identified points along the property line which are in excess of intended limits. This additional screening shall be approved as an amended landscape plan prior to installation.

D. STANDARDS FOR MIXED USE DEVELOPMENTS WITH MULTIPLE PARCELS

When a mixed use development exists or is proposed which would include two or more parcels sharing infrastructure improvements such as driveway curb cuts, parking lots, dumpster enclosures, and internal private drives, then the light level limits at interior perimeter property lines between nonresidentially used parcels do not apply. All lots within the mixed use development which are not designed for exclusive residential use and not bisected by a public street shall be treated as a single tract for purposes of perimeter light levels. The light levels listed at § 155.609.7.A will apply to any property line within the mixed use development adjacent to a public right-of-way or adjacent to any parcel zone or used exclusively for residential purposes.

E. SECURITY LIGHTING

Outdoor security lighting should be designed to provide safety to a building occupant, while effectively allowing proper surveillance, though not to exceed lighting levels described in § 155.609.7.A and B.

The use of motion sensors, timers, photocells or other means to activate lighting during nighttime hours is required to conserve energy, provide safety, and promote compatibility between different land uses.

In order to direct light downward and minimize the amount of spill light, all security lighting fixtures shall be shielded and aimed so that the main beam is directed toward the ground or designated area where security lighting is needed.

F. ARCHITECTURAL ACCENT LIGHTING

Lighting fixtures used to accent architectural features, materials, colors, style of buildings, landscaping or art shall be located, aimed and shielded so that light is directed only on those features. Such fixtures shall be aimed or shielded to minimize light spill from the source in conformance with the luminaire standards.

Accent lighting shall not generate excessive light levels, cause glare, or direct light beyond the façade onto neighboring properties, streets or night sky.

US, State or Government flags may be illuminated from below provided such lighting is focused primarily on the individual flag or flags, and to limit light spill into the night sky. These fixtures must conform with § 155.609.7.G.

G. TEMPORARY OUTDOOR LIGHTING

Any temporary outdoor lighting that conforms to the requirements of this section shall be allowed. Any temporary lighting that does not conform to these outdoor lighting standards may be permitted after considering: *i*) the public and/or private benefits that will arise from the temporary lighting; *ii*) any annoyance or safety problems that may result from the use of the temporary lighting, and *iii*) the duration of the temporary nonconforming lighting. The applicant shall provide a detailed description of the proposed temporary outdoor lighting to the Planning Director for review and approval.

H. PUBLIC AND PRIVATE ROADWAYS

Where lighting is provided, all streets, sidewalks, bicycle facilities, and multi-modal pathways should be sufficiently illuminated to ensure the security of the street right-of-way and safety of pedestrians present in the area.

Street lighting must be included on all new residential and commercial streets. In addition, street lighting must be installed on the perimeter of the development along a thoroughfare or boulevard, as well as any collector road.

For a new subdivision, a lighting layout and overall design is required in the subdivision design submittal documents as a part of the preliminary plan review process. Lighting plan submittals shall include the fixture, lamp, pole height and the method of shielding being used.

Subdivision developers are required to have the roadway lighting design approved by the Public Works Department with design assistance from the appropriate power company, and shall then submit the approved design to the power company prior to installing the assemblies. An accurate scale reference must be included on all layout drawings.

When lighting is provided, private roads and drives, and public or private off-road pathways and greenways shall be sufficiently illuminated to ensure users' safety and security.

All new lighting fixtures must be installed on new steel, fiberglass, aluminum, wood or concrete poles.

Chapter 7. Public Improvement Standards

155.701. Streets [formerly § 152.30]

A. RIGHT-OF-WAY.

1. A proposed street right-of-way must be of sufficient width to accommodate the required cross section. However, the right-of-way shall not be less than the standards listed below unless allowed through Flexible Design Provisions at § 155.401.7 or through a subdivision variance outlined at § 155.712.

TABLE OF MINIMUM RIGHT-OF-WAY REQUIREMENTS

Street Type	Feet
Freeway or Expressway (Class I)	350[1]
Limited Access Arterial (Class II)	200[1]
Commercial Arterial (Class III-C)	150[1]
Major Arterial (Class III)	100[1]
Minor Arterial (Class IV)	70[1]
Collector (Class V)	60[2]
Local (Class VI)	50[3]
Local Limited (Class VI-L)	44[3]
Alley	30[4]

[1] See § 155.701.B. and § 155.707.A.

[2] See § 155.701.C.3. and § 155.707.A.6.

[3] See § 155.707.A.7.

[4] See § 155.707.A.8.

2. The Town Public Works Director, after consulting applicable plans and programs, and after consulting with appropriate county, state and/or federal officials will be responsible for the determination of the classifications of streets or segments of streets. These standards represent the normally required rights-of-way. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas or areas where horizontal or vertical alignments must be improved and will be determined on a case by case basis.

3. When a subdivider or developer elects to establish a roadway divided with a center strip or median, the right-of way must be increased over the width given in the table above by the width of the median and any curb and gutter adjacent to the median. See also § 155.701.D.

4. The Class VI-L street may only be used subject to the following conditions:

   a. It serves no more than ten (10) dwelling units and does not exceed five hundred feet (500') in length.

   b. All land which touches the street must be subdivided into lots or is otherwise platted so that a further extension is not possible. **[Formerly § 152.30(A)**

B. ARTERIAL STREET RIGHT-OF-WAY (CLASS I, II, III, III-C, OR IV). Whenever a tract of land to be subdivided or developed includes any part of an arterial street shown on any thoroughfare plan adopted by the Town

Board of Commissioners and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider or developer is responsible for the dedication of the right-of way up to one hundred feet (100') (fifty feet (50') on either side of the centerline) and the reservation of greater right-of-way in accordance with the provision of § 155.707.A. The remainder of the minimum required right-of-way over one hundred feet (100') must be reserved and may be dedicated for future rights-of-way use and must be shown as such on the final plat. All measurements involving minimum lot standards under these regulations shall be made at the edge of the right-of-way whether dedicated or reserved and must be shown as such on the final plat.

1. FREEWAYS AND EXPRESSWAYS. Whenever a tract of land to be subdivided or developed includes any part of the proposed right-of-way as shown on a Thoroughfare Plan adopted by the Board of Commissioners, or adopted by the North Carolina Board of Transportation, and whenever those proposed rights-of-way have been further defined by acceptable locational procedures sufficient to identify property to be affected, the right-of-way for the freeway or expressway shall be reserved and remain undeveloped pending future acquisition by the State of North Carolina or other governmental unit. The subdivider or developer shall reserve the proposed right-of-way for a period not to exceed three years from the date of obtaining the approval of the preliminary subdivision plat, after which the land shall be considered as free of reservation.

2. ADDITIONAL ROADWAYS. The provision of this section shall also apply to additional roadways that are specifically approved for right-of-way protection by the Board of Commissioners. **[Formerly § 152.30(B)]**

C. DESIGN CRITERIA. The following criteria shall be followed for all improvements within or adjacent to public streets in conjunction with any proposed rezoning, preliminary subdivision, expansion of an existing development (40% or more increase in building square footage or outdoor use area), any new development, or any redevelopment project. The provisions listed at § 155.405.4. shall also be utilized for these types of projects, unless they clearly do not apply. (Am. Ord. 2059, passed 12-8-14)

1. STREET CONNECTIVITY. The purpose of this section is to support the creation of a highly connected transportation system within the Town in order to provide choices for drivers, bicyclists, and pedestrians; promote walking and bicycling; connect neighborhoods to each other and to local destinations such as schools, parks, shopping, and service/employment centers; reduce vehicle miles of travel and travel times; increase effectiveness of municipal service delivery; to reduce response times for first responders; and free up arterial capacity to better serve regional long distance travel needs. It is the intent of this Title to build streets that are integral components of community design. Streets shall be detailed to complement neighborhoods and commercial centers and shall be pedestrian in scale. In addition to these standards, streets shall conform to the provisions in this Chapter 7. In certain situations, streets are encouraged to be designed with on-street parking. Specific care shall be taken to buffer existing developments from substantial changes in street classification. When existing Class VI streets are extended by new development, traffic calming methods such as speed humps shall be considered to reduce potential increases in traffic speeds and volumes.

2. COMPLIANCE WITH ADOPTED STREET PLANS. The street layout shall conform to the arrangement, width and location of public streets indicated on the adopted Thoroughfare Plan, Comprehensive Transportation Plan (CTP), and/or small area plan that includes a street network layout, when one or more exists for the area. Whenever a tract of land included within any proposed development plan embraces any part of the street system as designated on the Thoroughfare Plan, CTP, or small area plan, the development shall be required to dedicate and plat the right-of-way, and shall be responsible for the cost and the installation of the improvements in accordance with the Town's standards for roadways. Developments which embrace only one (1) side of an existing or planned arterial or collector right-of-way will only be required to dedicate and plat additional right-of-way for that portion of roadway on which the development has frontage, and shall be responsible for the cost and the installation of the improvements in accordance with the Town's standards for roadways. When this Chapter calls for reservation rather than dedication of larger arterial road rights-of-way, then reservation is required.

3. COLLECTOR (CLASS V) STREETS. The determination for, and the designation of, a collector street shall be based on the criteria below. New developments will be required to provide a collector street

to or at the outer perimeter boundaries of the development based on the criteria below. If the street in question meets at least two (2) of the criteria, then the street must be built to an appropriate collector street standard:

a. The street intersects directly with an arterial street (Class IV or higher) and provides access to an area with an overall density of ten (10) dwelling units per acre, or provides access to more than one hundred fifty (150) dwelling units.

b. The street by its general configuration, in relationship to the existing development of the area, in effect serves a collector function.

c. The street extends into an undeveloped area in such a manner as to serve a future collector function.

d. The street serves as primary access to a significant nonresidential, institutional, or recreational land, as well as an access to a residential area of twenty (20) or more acres.**[Formerly § 152.30(H)]**

4. VEHICULAR CONNECTIVITY.

a. STREET ARRANGEMENT. Streets should be designed and located so that they relate to the topography, preserve natural features such as streams and tree growth and provide for adequate public safety and convenience, and shall adhere to any approved Thoroughfare Plan, CTP or small area plan that includes a street network layout. Vehicular connections from adjacent property (street stub-outs, temporary dead-ends) must be utilized unless the Public Works Director deems the connection impractical due to topographic conditions, environmental constraints, property shape or property accessibility.

Where a through street or a series of streets establishes a connection between two (2) public streets, such street shall be a public street. A developer may submit written justification that such connecting street(s) can appropriately function as a private street, including a provision for funding and implementation of ongoing maintenance to be recorded at the Mecklenburg County Register of Deeds (at time of final plat approval or prior to issuance of grading permit where no plat is involved. This written documentation shall be reviewed, and if it is found to be accurate and that no public access may be impeded if such street segment(s) are not public, then it may be accepted by the Public Works Director, in consultation with the Planning Director. Local public and private streets may incorporate traffic calming devices. Streets should be designed so pedestrians have convenient and safe means to cross streets. Allowable treatments may include, but are not limited to, roundabouts, raised pedestrian cross walks, multi-way stops, bulb-outs, alternative pavement treatments, and signals at cross walks when warranted.

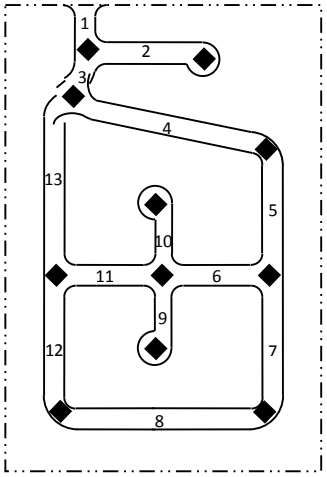
b. BLOCK LENGTH. Maximum block lengths inside proposed developments should be in accordance with lengths shown in the following table. Short block lengths are strongly encouraged in order to create a better pedestrian-scaled environment. The Public Works Director may waive this requirement if it is determined that this requirement is impractical due to topographic conditions, environmental constraints, property shape, or property accessibility.

Block widths within neighborhoods should be sufficient to allow two (2) tiers of lots except where single tiers of lots will facilitate nonresidential development and the separation of residential and nonresidential developments or the separation of residential developments from arterials, railroad rights-of-way, linear greenways or parks.

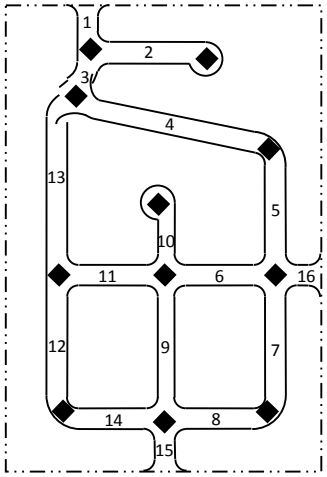
MAXIMUM BLOCK LENGTH BY ZONING DISTRICT				
R-20	R-15	O, B-3, I-1, I-2, B-1SCD	R-12	R-9, R-MH, R-15MF, R-12MF, R/I, R-VS, CrC, B-1, B-H, B-D, SRN, C-MF, MUD, TS, ENT
1100 FT	900 FT	800 FT	700 FT	660FT
HUC, AU				
NA				

NA = Not Applicable **[Formerly 152.30(D)]**

c. CONNECTIVITY INDEX. Within any new development project that includes new public and/or private streets, a Connectivity Index shall be used to determine the adequacy of street layout design. This is calculated as the ratio of the number of street links (road sections between intersections) in the project's street layout divided by the number of street nodes (intersections and cul-de-sac heads). For comparison purposes, a perfect grid has a Connectivity Index of 2.0 or higher. The Connectivity Index for a conventional cul-de-sac



EXAMPLE 1
(13 LINKS/11 NODES) = 1.18 CONNECTIVITY RATIO
WHERE ◆ = NODE



EXAMPLE 2
(16 LINKS/11 NODES) = 1.45 CONNECTIVITY RATIO
WHERE ◆ = NODE

subdivision is often 1.0 or less.

Example 1 in the accompanying illustration exhibits a connectivity index of 1.18 (13 links and 11 nodes). With minor additions to adjoining property, Example 2 in the accompanying illustration exhibits a connectivity index of 1.45 (16 links and 11 nodes).

Any development shall be required to achieve a connectivity index as shown in the following Table of Minimum Street Connectivity Index.

The Public Works Director in consultation with the Planning Director may assign connectivity index reductions or bonuses for certain site-specific criteria. A reduction as indicated in the table below may be granted if it is determined that more than sixty (60) percent of any "side" of a development (4 sides total) faces impracticalities for connectivity to adjacent properties due to the presence of controlled-access highways, railroad rights-of-way, stream buffers, existing developments that have not provided street stub-outs for connection purposes, or similar significant physical limitations. A bonus as indicated in the table below may be granted where pedestrian and/or bicycle pathways/trails are constructed to link any cul-de-sac to another street or cul-de-sac within the development or to another pedestrian or bicycle facility at the exterior edge of the development. Street links on existing adjacent streets that are not part of the proposed development are not included in the connectivity index calculation.

Table of Minimum Street Connectivity Index.

MINIMUM CONNECTIVITY INDEX BY ZONING DISTRICT		
R-20, R-15, R/I, I-1, I-2, B-3, B-D, B-H, B-1SCD	R-12, R-9, R-MH, R-15MF, R-12MF, O, B-1, C-MF	HUC, R-VS, CrC, SRN, MUD, TS, ENT
0.85	0.95	1.3
AU		

NA

NA = Not Applicable

INDEX REDUCTIONS	REDUCTION VALUE	INDEX BONUSES	BONUS VALUE
Controlled-access highway, railroad right-of-way, gated street, or adjacent developments with no street stub-outs (temporary dead-ends)	-0.05	Pedestrian or bicycle path (a minimum of 20 FT easement with 8 FT path)	+0.025
McAlpine Creek, Four Mile Creek, or North Fork of Crooked Creek stream buffer/any SWIM buffer 50' or wider	-0.025	Pedestrian or bicycle access to other improved public use amenity (park, plaza, etc.)	+0.05
Extra-long street segment without any intersecting street: >1,000ft in residential area; >800ft in nonresidential or mixed use area	-0.025		

d. CUL-DE-SACS. In general, permanent cul-de-sac streets and permanent dead-end streets are discouraged in the design of street network systems, and they should be used only when topography, the presence of natural features, and/or vehicular safety factors make a vehicular connection impractical. Where cul-de-sacs or dead-end streets are unavoidable, developments shall incorporate provisions for future vehicular connections to adjacent, undeveloped properties, and to existing adjacent developments where existing connections are poor. No system of multiple branching cul-de-sacs from a single junction within a connected street network is permitted, unless the Public Works Director in consultation with the Planning Director deems it unavoidable due to environmental constraints.

Any permanent dead-end streets or cul-de-sac shall comply with the length limits shown in the following table, and shall be provided with a turnaround at the closed end of the street as set forth in § 155.707.C.5.

MAXIMUM CUL-DE-SAC LENGTH (1)		
R-20, R-15, R-12, R-15MF, R-12MF, R/I, B-1SCD	R-9, R-MH, I-1, I-2	R-VS, CrC, SRN, C-MF
800 FT	700 FT	400 FT
O, B-1, B-3, B-D, B-H, MUD, ENT	HUC, TS, AU	
250 FT	NA	

(1) Measured from center point of closest intersection to center point of turnaround
NA = Not Allowed

Reference to a "cul-de-sac" does not restrict design to the use of a fully-paved circular turnaround area. See also §155.707.C.5. The design of a permanent turnaround may be a circular area with or without a center island, a hammerhead or "Y" design, or other alternative that will allow a typical motor vehicle using such dead-end roadway to make a curved movement or multiple-point back and forth angles to turn the vehicle around. The specific design of the turnaround area shall be approved by the County and Town Engineer. When lots along a proposed cul-de-sac are adjacent to an undeveloped parcel, a pedestrian/bike easement at least twenty feet (20') in width shall be created from the cul-de-sac to the adjacent property line for future connection. **[Formerly § 152.30(E)]**

e. CLOSES AND OTHER ALTERNATIVES TO CUL-DE-SACS. Alternative designs, such as closes, hammerhead turn arounds, and other configurations that allow vehicles to maneuver at the end point to reverse direction may be approved on a case by case basis.

f. CROSS ACCESS. Traffic studies have shown that highly connected street networks provide much greater traffic throughput and mobility for a community, at less cost. A high degree of connectivity should occur not only at the level of arterials, but also on collector, local and other secondary roads. Such connectivity vastly improves a street network's performance. The street pattern should not force short trips of one (1) or two (2) miles onto Class I or II roads; it should be possible to make trips of this sort by using collector or other secondary streets. With a highly connected street network, cross-town trips should be possible using fairly direct secondary roads.

All development in nonresidential and mixed use zoning districts shall be designed to allow for cross-access to adjacent properties within these zoning districts to encourage shared parking and shared access points on public and private streets. When cross access is deemed impractical by the Public Works Director on the basis of severe topography, environmental constraints or vehicular safety factors, and is not detailed by the Thoroughfare Plan, CTP, or any small area plan which includes a street network layout, the requirement may be waived provided that appropriate bicycle and pedestrian connections are provided between adjacent developments or land uses. Development plans should provide a cross-access easement and complete the connection if completing the link can derive an immediate benefit. If no immediate benefit can be derived, development plans should provide cross access and construction easements and arrange the site design so when the adjoining property owner extends the connection to the property line, the link will be completed, and a financial guarantee equivalent to the cost of construction on a per lineal foot basis in current dollar value shall be provided to the Town. If the link is to be completed in the future, the grade and angle of the connection, as well as the location of parking, landscaping, and other improvements must be set at the time of development of the premises to allow for reasonable and feasible extension into the adjacent property

g. SECOND AND ADDITIONAL POINTS OF ACCESS REQUIRED FOR RESIDENTIAL DEVELOPMENTS. At a minimum, a second point of open and functioning vehicular access from the existing public street system (not a stub-out or a temporary dead-end) is required for developments that exceed one hundred (100) residential units, and a third shall be required for developments that exceed three hundred fifty (350) residential units. These second and third points shall be open and functioning prior to the issuance of the 101st and 351st Certificate of Occupancy respectively for the development. The number of further open and functioning vehicular access points shall be controlled and determined by the development's Town-approved Traffic Impact Analysis, described in § 155.701.C.9. If a Traffic Impact Analysis should establish a higher standard for the number of open and functioning vehicular access points from the existing public street system, the requirement of the Traffic Impact Analysis shall prevail. These requirements shall not preclude a development from also meeting the connectivity index required in § 155.701.C.4.c. For purposes of this Section, a median-divided vehicular access point counts as a single vehicular access point. This Section does not preclude any development from connecting to existing street stubs and/or street stub right-of-ways abutting their property.

5. PEDESTRIAN CONNECTIVITY. Pedestrian circulation and connectivity should be placed adjacent to planned streets. All sidewalks and pedestrian pathways shall be designed to comply with the standards in § 155.707.D. Pedestrian crossings shall be made safer for pedestrians whenever possible by shortening crosswalk distance with curb extensions, reducing curb radii, and eliminating free right-turn lanes. Traffic calming devices may be installed to help facilitate safer pedestrian crossings.

Pedestrian walkways shall form an on-site circulation system that minimizes conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall connect building entrances to one another and from building entrances to public sidewalk connections and existing or planned transit stops. All developments that contain

more than one building shall provide walkways between the principal entrances of the buildings and to adjoining streets.

Multi-purpose paths may be used to enhance pedestrian and bicycle travel where the existing vehicular circulation system does not serve these patrons well. The paths shall connect to the street system in a safe and convenient manner. See also § 155.707.D.6.

6. BICYCLE CONNECTIVITY. Bicycle accommodations in the form of bike lanes, wide outside lanes or shared lane markings should be incorporated in the design of all arterials and collector streets. Sidewalks are not encouraged as substitutes for bike lanes, although multi-use paths at least ten feet (10') in width may replace standard sidewalk adjacent to streets. In addition, streets with bicycle routes must incorporate a marked bike lane that shall be a minimum four feet (4') in width (excluding curb and gutter), or may utilize shared lanes with motorized vehicles when a Class VI Local or Class V residential Collector street.

Nonresidential and mixed use developments shall provide appropriate bicycle amenities to encourage cyclists. Signage indicating the presence of such amenities shall be scaled for easy reading by bicyclists, pedestrians and motorists. Bicycle parking shall be provided according to the requirements established in § 155.607.D.

Bicycle connections within and through all developments are encouraged and may also be designed separate from on-street improvements. Off-street bicycle facilities may include bicycle-only pathways or multi-use trails, and shall comply with the standards in §155.707.D.

7. DRIVEWAY ACCESS MANAGEMENT. Guidelines for driveway access points along non-local streets and thoroughfares (Classes I and II when allowed, and Classes III through V) are as follows:

a. NUMBER OF DRIVEWAY ACCESS POINTS**.** While all lots or parcels are entitled to at least one driveway on an adjacent public street, new development should minimize or eliminate individual curb cuts along arterials. Where possible, vehicular access should be shared with adjacent properties and/or alleys should be utilized for access. The artificial division of a single parcel or development site to increase the number of access points is not permitted.

All lots, parcels, or any other division of land adjacent to non-local streets may be allowed driveways or street connections in accordance with the following, except where access is otherwise limited or controlled.

PARCEL FRONTAGE	NUMBER OF DRIVEWAYS ALLOWED
< 350 ft	1
351 – 600 ft	2
>601 ft	3

b. Special Provisions for Wide Street Frontage. Additional driveways may be possible on properties with six hundred feet (600') or more of street frontage, when there is a clear need to provide separate access points for different types of traffic, such as emergency vehicles, large tractor trailers, buses, and private passenger vehicles, to the same property, and/or when topography or street configuration cause an insufficient sight distance for the design speed of the roadway. When additional driveway locations are requested the following elements shall be submitted jointly to the Town Planning Office, Town Public Works Department, Mecklenburg County LUESA, and NCDOT (if applicable):

i. A written explanation of the need to separate different types of vehicular traffic as it enters the site, including a description and anticipated number of different types of vehicles entering and exiting the site, and the time of day any conflicts may be anticipated;

ii. A written explanation with accompanying scaled drawing of the current road configuration, outlining the design speed of the road, all public or private vehicular access pints within three hundred feet (300') of the proposed new driveway location, any curve that creates a reduction in sight distance for drivers,

any topographic changes, any groves of trees, buildings, signs, other structures, or other visual impairments for traffic either entering or exiting the site which would indicate the need for additional driveways;

iii. A description of the pavement material and cross section for construction of each existing and proposed driveway;

iv. A site plan, drawn to scale, showing the location of all existing and proposed improvements to the site (building footprints, parking lots, curb lines, trash dumpster location, signs, landscaping, detention facilities, etc.); any public or private driveways, streets or curb cuts (used or unused) within three hundred feet (300') of the site; location of any off-site structures, landscaping, etc., that may cause a reduction in sight distance; and topography lines at ten foot (10') intervals minimum, or four foot (4') intervals if visibility is indicated as restricted due to existing land contours or proposed grading.

A request for any additional driveway shall be jointly submitted to the Town Public Works and Planning offices, Mecklenburg County LUESA, and NCDOT (if applicable). If all involved agencies determine the need has been accurately defined, then a driveway permit for such additional driveways will be allowed. **[Formerly §153.096(A).]**

c. LOCATION OF DRIVEWAY ACCESS POINTS ON NONLOCAL (CLASS V OR HIGHER) ROADWAYS**.**

i. No driveway may be located within fifty feet (50') of the corner of two intersecting streets.

ii. No driveway may be located at the road right-of-way within twenty feet (20') of any property line for any nonresidential or multi-family uses.

iii. For any nonresidential or multi-family uses, if a driveway exists on an adjoining lot, no new driveway may be located at the road right-of-way within forty feet (40') of the existing driveway either on that lot or an adjoining lot except where both property owners agree to have a single driveway for joint usage.

iv. Driveways for detached single family, two-family/duplex, or single family attached uses shall be located at least ten feet (10') from a property line at the road right-of-way.

v. Within the Downtown Overlay, the twenty foot (20') distance from a property line may be reduced when a parcel's lot width is insufficient for a driveway to be placed completely to the side of a building (existing, expanded, or new) when the building's front wall dimension parallel to the street is at least forty five percent (45%) of the lot width, and the lot width is less than one hundred feet (100'). Any request for reduction of this provision shall be written on the parcel's Downtown Overlay compliance site plan, and shall be approved as a part of the Downtown Overlay plan, subject to approval by the Town Engineer, Mecklenburg LUESA and NCDOT (if applicable). **[Formerly §153.096(C)]**

d. EMERGENCY ACCESS DRIVEWAYS. Emergency access driveways may be created when such locations will allow for a necessary alternate access into a site specifically included as part of approved zoning conditions in a Parallel Traditional or Conditional-Only zoning district. Emergency access driveways may be paved within the right-of-way, when required by NCDOT on state maintained roads. Emergency access driveways shall primarily use a solid subsurface with natural cover, such as concrete porous blocks subsurface and grass cover, and may be crossed with a removable or breakaway barricade, gate, bollards, or other method to prevent general public use. Where a gate is employed, it shall meet the Town's Gated Communities Ordinance. **[Formerly § 153.096(D)]**

e. DRIVEWAY PERMIT REQUIRED. Any person desiring to construct a driveway or other connection within the right-of-way of a public street must secure a permit prior to start of construction. Failure to secure a permit prior to construction may result in the removal of the improvements at the expense of the property owner and/or developer, and may result in the denial of access at that location. All driveways must conform to design and construction standards established by the Town and NCDOT if applicable. Nothing in this section exempts any person from complying with any regulations or requirements of the

state regarding driveway connections to state maintained roads, nor does compliance with all state regulations exempt any person from the provisions of this section. In cases where these regulations may overlap or conflict, the more restrictive provision shall control. The granting of a driveway permit by the Town Public Works Department does not insure the granting of a state permit; however Mecklenburg LUESA will evaluate all applications under both sets of regulations and advise the applicant if a problem exists which may result in the rejection of the request. **[Formerly § 153.096 initial paragraph and § 153.096(F)]**

8. MEDIAN CROSS-OVER SPACING. Crossovers along median divided streets Class IV and higher should be spaced no closer than one thousand two hundred feet (1,200'). For all other streets, the spacing should be no closer than six hundred sixty feet (660'). In general, if the left turn lane storage requirements for adjacent intersections overlap, the minimum spacing shall be increased to provide adequate left turn lane storage in both directions. Where the NCDOT Driveway Manual or Median Crossover Guide conflicts, the stricter of the two standards should prevail.

9. TRAFFIC IMPACT ANALYSIS. The Traffic Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving subdivisions, rezoning, site plan reviews, expansions of existing development, and other development reviews. The TIA helps identify where the development may have a significant impact on safety, traffic and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIA can be used to evaluate if the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow.

   a. THRESHOLD FOR TRAFFIC IMPACT ANALYSIS. A Traffic Impact Analysis (TIA) is required for any proposed rezoning, preliminary subdivision, expansion of an existing development, or site plan, if the nature of the proposed rezoning or development is such that the number of trips it can be expected to generate equals or exceed one hundred fifty (150) new peak hour trips. Trips are those occurring on peak days on the adjacent roadway(s). Trip generation shall be measured based on the current edition of the Institute for Transportation Engineers (ITE) Trip Generation Manual. In the case of a plan review submittal where the uses are not known, trip generation calculations shall assume the permitted use that generates the highest number of peak hour trips or a likely mix of uses as identified by the applicant and accepted as appropriate by the Public Works Director.

      A TIA shall also be required if the proposed development activity is for, or could accommodate, fifty (50) or more dwelling units, or for any nonresidential use meeting one or more of the following: covering more than two (2) acres; including more than three (3) building lots; providing an assembly area for more than four hundred (400) persons; involving office or sales floor area over twenty thousand (20,000) square feet; within one hundred fifty (150) lineal feet of any intersection of two (2) designated thoroughfares; within five hundred (500) lineal feet of any public road intersection currently operating as a Level of Service D or E; and/or involving service or delivery vehicles in excess of one (1) ton. Where a proposed development site undergoing review does not identify specific proposed uses and/or buildings, the applicant must identify the capacity of the property to be used for any of the above situations. it is determined that a new project's traffic will substantially affect an intersection or a roadway segment already identified as operating at a failing level of service, that a project may create a hazard to public safety, or that a project will substantially change the off-site transportation system or connections to it.

   b. A multimodal analysis may also be allowed or required, when a proposed development meets any of the following: includes one or more uses that complement each other and could be commonly expected to generate cross use, such as residential uses and daily commercial activities, or offices and food services, etc.; has development site(s) totaling two (2) acres or more which may be developed; is located along one or more nonlocal streets (Class V or higher) where sidewalk and/or bike facilities are or are planned to be located; is located adjacent to one or more parcels which are designated on an approved pedestrian or bicycle plan or CTP for some pedestrian or bicycle improvements; if any

portion of the development site is located within one quarter (1/4) mile of a bus or transit stop; if the development site will connect to an existing or planned residential development. A multimodal analysis shall at a minimum include an estimate of the persons which could logically be assumed to walk or bicycle internally in the development site and from within the development site to a location beyond the boundary of the development site. This estimated count may be broken down into appropriate age groups and between modes of nonmotorized transit. The Plan Review Committee, at the Presubmittal Conference, shall determine if a multimodal analysis is desirable or required.

c. DETERMINATION OF SCOPE. The applicant shall arrange for a Presubmittal Conference, which may be in person or via conference call with digital connection for display and delivery of documents, to discuss the rezoning or development project with the Plan Review Committee, and NCDOT when appropriate, and the developer's traffic engineering consultant. The applicant shall supply the following information for consideration and discussion at or prior to the Conference: traffic analysis base information, site location map and all intersections within one quarter (1/4) mile of the site, any bus or transit stops or daily bus routes within one quarter (1/4) mile of the site, site layout, data on existing and proposed land uses, projected timing of construction and build-out year, and description of project. The Presubmittal Conference will determine the appropriateness and extent of the individual TIA and/or multimodal analysis requirements as outlined here for each project.

An applicant may request a waiver of the TIA by providing documentation at the Presubmittal Conference that the amount of newly generated traffic would not of sufficient volume to warrant a full traffic study. If all participants at the Conference concur, the TIA may be waived.

10. PUBLIC STREETS. The criteria listed in the following table shall be the minimum requirements for streets intended to be dedicated to the Town for maintenance. Where streets may be accepted for maintenance by NCDOT, and NCDOT has adopted different criteria, the more restrictive standards shall be utilized.

		CLASSES VI & VI-L			CLASS V		
		Level*	**Rolling**	**Hilly***	**Level***	**Rolling**	**Hilly***
a.	Terrain Classification	0-8%	8.1-15%	15%+	0-8%	8.1-15%	15%+
b.	Minimum Sight Distance (ft.)	200	150	110	250	200	150
c.	Maximum Grade	6%	10%	12%	4%	8%	10%
d.	Minimum Radius (ft.)	250	150	90	350	250	175
e.	Minimum Tangent Between Reverse Curves	50	50	50	100	100	100
f.	K Values (crest/sag)	28/35	20/20	15/20	45/45	28/35	20/20

11. INTERSECTIONS: The criteria listed in the following table shall be the minimum requirements for streets intended to be dedicated to the Town for maintenance. Where streets may be accepted for maintenance by NCDOT, or would intersect NCDOT streets, and NCDOT has adopted different criteria, the more restrictive standards shall be utilized.

		Level*	**Rolling**	**Hilly***
a.	Terrain Classification	0-8%	8.1-15%	15%+
b.	Clear Sight Distance (feet)	35	35	35
c.	Vertical Alignment within 50 feet of intersection	1%	3%	4%
d.	Minimum Angle of Intersection	75º	75º	75º
e.	Minimum Curb and			

	Right-of-way radius (ft.)			
	i. Classes VI & VI-L	20	20	20
	ii. Class V	30	30	30
f.	Minimum Street Offsets for			
	Adjacent Intersections (ft.)			
	i. Classes VI & VI-L	125	125	125
	ii. Classes V	200	200	200

*Use of level or hilly terrain criteria not permitted without prior approval of the Town Engineer and Mecklenburg County LUESA. **[Formerly § 152.30(C)]**

12. ARTERIAL STREET (CLASS IV AND HIGHER) DESIGN CRITERIA. Design Criteria for arterial streets shall be established by Mecklenburg County LUESA on a case by case basis using the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets and/or NCDOT Roadway Design Manual and any local design policies. **[Formerly § 152.30(C)(3)]**

13. INTERSECTION CORNER. A minimum thirty five feet (35') by thirty five feet (35') sight triangle (measured along right-of-way lines) shall be provided at each intersection corner. An additional ten feet (10') by seventy feet (70') sight triangle shall be provided at intersections connecting to NCDOT maintained roadways. Additional sight distance requirements may be required by the NCDOT or the Town of Matthews. Commercial drives connecting to public streets shall be designed in accordance with the NCDOT "Policy on street and driveway access to N.C. Highways" and/or the Town of Matthews requirements as provided in the Mecklenburg County Land Development Standards Manual, as applicable. **[Formerly § 152.30(C)(4)]**

D. ROADWAY DIVIDED BY A CENTER STRIP.

1. Where a subdivider or developer elects to establish a roadway divided with a planted center strip, the median shall be at least five feet (5') wide when intended to be permeable and may accommodate storm water detention facilities. The roadway on either side of the median may incorporate curb and gutter with occasional breaks for storm water inlets, or may be designed without interior raised curbs, when approved by Mecklenburg LUESA and the Town Engineer as necessary for proper flow of storm water. Streets with planted center medians may be designed to direct surface water runoff to the center median. The roadway pavement, width, outside curbs, bicycle and pedestrian facilities adjacent to a center median shall be at least equal to the required cross section design for the designated street type from centerline out. (See the Mecklenburg County Land Development Standards Manual for details.)

2. A subdivider or developer may elect to incorporate a narrow center strip which serves to limit or prohibit crossover traffic movement through employment of a raised barrier (curb) or paved median of any width. The center median shall not have any permeable materials, planting beds, or surface drainage improvements. Inlets and subsurface drainage facilities may be allowed. **[Formerly § 152.30(A)(4)]**

155.702. Lots [formerly §152.31]

A. FRONTAGE ON STREETS. Each lot shall have frontage on a street except where allowed by this Title. However, lots designed for one-family attached dwellings need not front on a street provided that all portions of the dwelling unit proposed for those lots shall be located within three hundred feet (300') of a public street that furnishes direct access to the property and that access to each lot be made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership. Lots designed for cottage cluster housing developments need not front on a street, provided that the overall development site has frontage on a street and that access to each dwelling unit is made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.

B. SIDE LINES. Side lot lines shall, as nearly as practicable, be at right angles to or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than sixty degrees (60°).

C. MINIMUM SIZES. Lots shall meet the required widths, depth and area requirements of this Title when they are provided for the applicable zoning district.

D. LOTS SUBJECT TO FLOODING. In addition to the provisions of Chapter 9 Floodplain Regulations, lots that are subject to flooding shall not be established in subdivisions for the purpose of creating building sites except as provided in this paragraph. Lots shall be construed to be subject to flooding when a flood crest recurring with a probable frequency of one (1) time in one hundred (100) years would inundate any part of a proposed lot. If any part of a proposed lot is subject to flooding, the subdivider shall make a determination of the crest elevation of the flood expected to be equaled or exceeded, on the average, of one (1) time in one hundred years (the "100 year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to Mecklenburg County LUESA. This determination must reflect the actual conditions imposed by the completed subdivision, and must give due consideration to the effects of urbanization and obstructions. No proposed building lot that is subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour as determined by field survey, at an elevation one foot above the one hundred (100) year flood crest. Such line shall be known and identified on the final plat as the "Building Restriction Flood Line." All habitable buildings or structures shall be located outside the Building Restriction Flood Line. All lots subject to flooding as defined here may be approved only if there will be available for building a usable lot area of not less than two thousand (2,000) square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the building restriction flood line. During the construction of a subdivision, the developer shall maintain the stream bed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and banks of the stream 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 storm water drains, culverts, bridges or erosion control devices will not be construed as obstructions in the stream. The developer shall take all necessary measures to stabilize the stream bed at end of construction.

155.703. Street Name Signs and Barricades [formerly § 152.32]

A. Standard street name signs shall be installed at a minimum at one corner of all street intersections. The design, material, location, and installation of the signs shall be in accordance with standards specified by the Town Public Works Department.

B. Barricades shall be installed at the end of all dead-end streets, except cul-de-sacs which have been improved with permanent turnaround as required by this Chapter 7. These barricades shall have a minimum length of twenty-five (25) feet, plus end sections. Design, material and installation of the barricades shall be in accordance with standards as specified in the Mecklenburg County Land Development Standards Manual. Reflectorized material shall be placed on the barricade in accordance with the standards.

155.704. Design Standards for Storm Water Collection and Drainage

155.704.1 Design Standards for Storm Water Provisions on All Development Projects

A. PURPOSE. The purpose of this section is to control the peak flow of less-common storm events and should be used in conjunction with Chapter 8, the Post Construction Ordinance, and/or SWIM buffer provisions in § 155.704.2, when they also apply, to any parcel of land.

B. PLAN REQUIRED. No development or use of land that involves or would create more than twenty thousand (20,000) square feet of impervious groundcover shall be permitted without the submission and approval of a storm water management plan. Division of a parcel on or after July 10, 2000 into two (2) or more parcels that, when combined, would create impervious surface areas of twenty thousand (20,000) or more square feet shall be required to provide a storm water management plan for the combined total built-upon surface. No certificates of occupancy or building permits for such development shall be issued until the storm water management plan is approved by the County Engineer and/or Town Engineer, whichever is appropriate.

Built-upon ground cover in existence prior to July 10, 2000, and not altered or removed after that date, shall not be used in measuring the twenty thousand (20,000) square feet.

C. CONTENTS OF A STORM WATER MANAGEMENT PLAN. The storm water management plan shall include: a site plan showing existing and proposed buildings or other built-upon impervious surfaces; existing on-site and adjacent storm water drainage facilities; site construction plans, grading plans, and proposed storm water management system; and any other appropriate information requested by the Town Engineer or Mecklenburg LUESA. Storm water facilities shall be required to control the peak runoff release rate for both the two (2) year and ten (10) year six (6) hour storms, with an emergency overflow capable of safely discharging flow from the fifty (50) year twenty four (24) hour storm event. All storm water management systems shall conform to the standards and specifications as provided in the Charlotte-Mecklenburg Storm Water Design Manual (latest revision), Charlotte-Mecklenburg BMP Design Manual (latest revision), Mecklenburg County Land Development Standards Manual (latest revision), or the more restrictive of any standards that conflict.

D. PLAN APPROVALS. Neither the Town Engineer nor Mecklenburg LUESA shall approve a storm water management plan if the built-upon ground cover proposed in the plan would increase the peak level of the storm water runoff from the site for both the two (2) year and ten (10) year six (6) hour storms, unless the storm water management plan identifies measures to control and limit runoff to peak levels as detailed in § 155.704.1.C. no greater than would occur from the site if left in its existing condition. Furthermore, if documented downstream flooding concerns exist, the storm water management plan shall not be approved if the built-upon ground cover proposed in the plan would increase the peak level of the storm water runoff from the site for both the two (2) year and ten (10) year six (6) hour storms, or less common storms at the discretion of the Town Engineer or Mecklenburg LUESA, unless the storm water management plan identifies measures to control and limit runoff to peak levels for such storms no greater than would occur from the site if left in its natural, undeveloped, good condition; or, if currently undeveloped, its existing condition.

E. Requirement waiver. The Town Engineer may waive any requirements under this section when storm water from the site would drain via an approved, permanent easement recorded at the Mecklenburg County Register of Deeds, or directly to a FEMA flood plain when within the same parcel of land. A written request for waiver shall be submitted to the Town Engineer which must be supported by a downstream flood analysis using the criteria specified in Chapter 3, Section 5 of the Charlotte-Mecklenburg BMP Design Manual (latest revision). In order to grant a waiver, the Town Engineer shall determine that the supplied flood analysis provides sufficient documentation that a waiver of storm water detention will not create increased flooding potential at, above, or below the subject location.

F. Conflict of Laws. This section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law, including the Post Construction Ordinance. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

G. Inspections. Inspections shall be in accordance with the procedures outlined in § 155.710. **[Formerly § 153.101]**

155.704.2 Design Standards for Surface Water Improvement and Management (SWIM) Buffers [formerly § 152.33]

A. PURPOSE. The purpose of a stream buffer network is to ensure that the stream and adjacent lands will fulfill their natural functions. Stream systems are comprised of the stream and their drainage basins. Streams have the primary natural functions of conveying storm and ground water, storing floodwater and supporting aquatic and other life. Vegetated lands adjacent to the stream channel in the drainage basin serve as a "buffer" to protect the stream system's ability to fulfill its natural functions. Primary natural functions of the buffer include:

1. Protect water quality by filtering pollutants;
2. Provide storage for floodwaters;
3. Allow channels to meander naturally; and
4. Provide suitable habitats for wildlife.

B. APPLICABILITY.

1. All properties shall comply with the buffer requirements of this Section except those which, as of the effective date February 14, 2000, have previously secured a right to proceed by:

   a. Being subject to a recorded subdivision plat;

   b. Being subject to a preliminary subdivision plan approved by the Board of Commissioners prior to the effective date of this Section;

   c. Having otherwise secured a vested property right under state law.

2. Redevelopment or expansion of structures, uses, or other development projects included in § 155.704.2.B.1 above, shall comply with the buffer requirements of this Section; however uses and structures previously approved and constructed in a buffer may remain.

3. A site specific development plan amended by action of the Board of Commissioners subsequent to adoption of this Section shall comply, in its amended form, with the SWIM buffer requirements, however uses and structures previously approved for construction in a buffer may remain.

C. BUFFER STANDARDS

1. BUFFER DESCRIPTION. Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

TABLE OF BUFFER TREATMENT BY BUFFER ZONE

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the streamside zone	Prevent encroachment and filter run-off	
Land Disturbance/ Vegetative Requirements	**UNDISTURBED (no cutting, clearing or grading).** If existing tree density is inadequate reforestation is required.	**Limited clearing (no grading).** Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6-inch caliper per 1,000 square feet. If existing tree density is inadequate, reforestation is encouraged.	**Herbaceous ground cover,** including grass, is allowed; maintenance of existing forest or reforestation is encouraged	(1)
Uses	**VERY RESTRICTED** Permitted uses limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near parallel (≥75º) water and sewer utilities and near perpendicular road crossings (≥75º)with stabilization of disturbed areas as specified in § 155.704.2.E.	**RESTRICTED** Permitted uses limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width	**RESTRICTED** Permitted uses limited to those allowed in Stream Side Zone and Managed Use Zone, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPs) if approved in accordance with §	(2)(3)

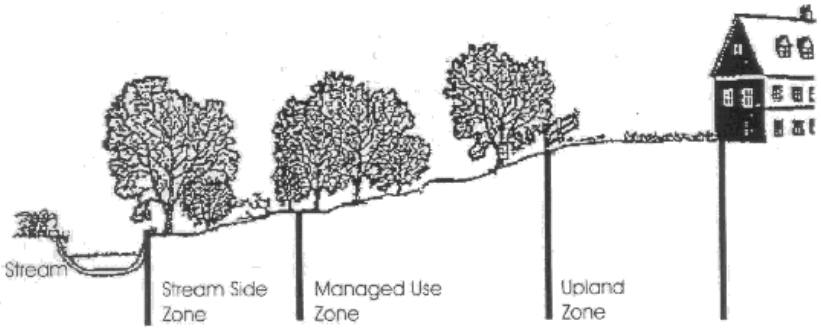
155.704.2.F.2. as a condition of a buffer width variance

Notes:

(1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Mecklenburg County Land Development Standards Manual (§s 40.01, 40.02, and 40.03 or as revised).

(2) Fill material cannot be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.

(3) Notwithstanding the uses and structures permitted in the "Upland Zone", the stricter standards of floodway regulations, if applicable, shall apply.



2. MINIMUM BUFFER WIDTHS. Minimum stream buffer widths vary based on the size of the upstream drainage basin, as described in the following table. Mecklenburg County's Geographic Information System will locate streams and delineate the size of drainage basins associated with each.

TABLE OF MINIMUM BUFFER WIDTHS BY BASIN SIZE AND BUFFER ZONE

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each Side of Stream	Notes
≥640 acres	30 feet	45 feet	Balance of floodway PLUS 100% of flood fringe, but no less than 25 feet	Floodway PLUS 100% of flood fringe, but no less than 100 feet	(1)(2)
≥300 acres	20 feet	20 feet	10 feet	50 feet	(1)
≥50 acres	20 feet	None	15 feet	35 feet	(1)

Notes:

(1) Buffer widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

(2) Floodplain and buffer calculations will be based upon the flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

3. DIFFUSE FLOW REQUIREMENT. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Mecklenburg County Land Development Standards Manual.

a. Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.

b. Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies.

4. PONDS. Ponds that intersect the stream channel shall have the same buffers as the original stream measured from the top of the bank of the pond. Buffer requirements do not apply to wet ponds used as structural BMPs.

5. BUFFER DELINEATION. The following buffer delineations are required:

a. Stream and buffer boundaries including all buffer zones must be clearly delineated on all site specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.

b. Buffer boundaries including all buffer zones must be clearly marked on-site prior to any land disturbing activities. Where existing trees are to be preserved in a buffer zone, limits of grading shall maintain a minimum twenty foot (20') separation from the base of each tree of eight inch (8") DBH or larger on the upland side of the buffer.

c. The outside boundary of the buffer must be permanently marked on each parcel following the completion of grading activities and prior to occupancy.

d. Separate buffer zones must be permanently marked at highway stream crossings.

e. Buffer boundaries including the delineation of each buffer zone as well as all buffer requirements must be specified on all surveys and record plats, on individual deeds, and in property association documents for lands held in common.

E. BUFFER IMPACTS ALLOWED. The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Mecklenburg County Land Development Standards Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

1. Near perpendicular (seventy five degrees (75°) or greater) road crossings for connectivity or transportation links.

2. Near perpendicular (seventy five degrees (75°) or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.

3. Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Mecklenburg County Land Development Standards Manual.

4. Public paths and trails parallel to the creek outside the Stream Side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.

5. Incidental drainage improvements/repairs for maintenance.

6. Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.

7. New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed to minimize impacts to the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.

8. Mitigation approved by a state or federal agency acting pursuant to §§ 401 or 404 of the federal Clean Water Act.

F. APPEALS AND SWIM BUFFER VARIANCES, WITH MITIGATION.

1. APPEALS. An appeal to reverse or modify the order, decision, determination, or interpretation of any authorized Town or County official shall comply with the requirements of Chapter 4 of this Title.

2. VARIANCE PROVISIONS.

   a. When a difficulty or hardship would result from adherence to the buffer width requirements and/or buffer treatment standards, a request for subdivision variance may be filed with the Planning Board in compliance with the procedures of § 155.712.B. Such request shall not be deemed complete for consideration until a written report with recommended actions, including preferred mitigation techniques, from Mecklenburg LUESA is provided. It shall be the responsibility of the applicant requesting the SWIM buffer variance to obtain this report.

   b. The standards for granting a variance, as set out in § 155.712 of these regulations shall be met. Site specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this Chapter, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Mecklenburg County Land Development Standards Manual, and provisions outlined for PCO compliance may also be applied, when determined to be appropriate by the Storm Water Administrator. These techniques are not construed to offset the requirement of § 155.704.C.3 for diffuse flow.

3. MITIGATION TECHNIQUES. The following techniques are available to landowners for mitigation of buffer impacts, in association with the granting of a SWIM buffer variance to specific buffer requirements of § 155.704.A through E, inclusive.

   a. INSTALLATION OF STRUCTURAL BMPS. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP design plan must be submitted to the Mecklenburg County Department of Environmental Protection for approval based on specifications contained in the Mecklenburg County Land Development Standards Manual. This plan must also include a long term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.

   b. STREAM RESTORATION. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by the Mecklenburg County Department of Environmental Protection on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Mecklenburg County Land Development Standards Manual and receive approval by Mecklenburg County Department of Environmental Protection.

   c. STREAM PRESERVATION. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Matthews, Mecklenburg County, or conservation trust, with a plan approved by the Mecklenburg County Department of Environmental Protection.

   d. WETLANDS RESTORATION. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Restoration plan must be approved by the Mecklenburg County Department of Environmental Protection.

   e. BOTTOM LAND HARDWOOD PRESERVATION. On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve

specific pollutant removal targets within the impacted area. Plan to be approved by Mecklenburg County Department of Environmental Protection.

f. CONTROLLED IMPERVIOUS COVER FOR DISTURBANCE LANDWARD OF STREAM SIDE ZONE. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to twenty four percent (24%). Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Department of Environmental Protection.

g. OPEN SPACE DEVELOPMENT. The submission of a site specific development plan that preserves fifty percent (50%) of the total land area as undisturbed open space. Plan to be approved by Mecklenburg County Department of Environmental Protection.

h. MITIGATION CREDITS. The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Mecklenburg County Land Development Standards Manual. Mitigation credits purchased under any other program, i.e., U.S. Army Corps of Engineers, shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.

i. ALTERNATIVE MITIGATION. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section. The owner shall submit such plan with proposed buffer impacts and detailed mitigation information to the Mecklenburg County Department of Environmental Protection for approval. The criteria used to judge acceptability of any alternative plan shall be the degree to which the plan addresses the preservation of the four primary natural functions of stream buffers given in § 155.704.A. When considering proposed mitigation alternatives, the Mecklenburg County Department of Environmental Protection shall give equal weight to proposals which utilize the preservation of unique or endangered habitat or natural areas against proposed buffer impacts. Plans may be submitted in conjunction with a mitigation plan submission to the US Army Corps of Engineers and NC Department of Environment and Natural Resources for proposed stream or wetlands impacts.

G. FINANCIAL SECURITY REQUIRED. When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to the Mecklenburg County Department of Environmental Protection, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five (75) percent of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to the Mecklenburg County Department of Environmental Protection. The owner must also verify the adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. The Mecklenburg County Department of Environmental Protection will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within thirty (30) days of the date of notice.

H. MAINTENANCE RESPONSIBILITIES FOR STRUCTURAL BMPS—CIVIL PENALTIES. Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than five hundred dollars ($500.00). Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action. (Ord. 1124, passed 2-14-00)

155.705. Dedication of Open Space and Recreational Land [formerly § 152.40]

A. GENERAL PROVISION. The subdivider or developer of any site which includes a residential component with single dwelling per lot (detached or attached) shall dedicate a portion of such land in accordance with this Section or pay a fee in lieu thereof, in accordance with § 155.706, for public park, greenway, pathway, recreation, and open space sites to serve the recreational needs of both the residents of the subdivision and the general public. When closes, mini-park sites, or similar small pockets of land are designed and improved primarily for use of the nearby residents, they may be considered as meeting a portion of this open space dedication.

B. AMOUNT OF LAND TO BE DEDICATED. At least one thirty fifth (1/35) of an acre shall be dedicated for each dwelling unit lot planned or proposed in the subdivision plat, except that any land to be dedicated which lies within the one hundred (100) year floodplain, any required SWIM buffers, or has slopes greater than fifteen percent (15%) or is included within overhead utility easements shall be dedicated at a rate of at least one twentieth (1/20) of an acre per dwelling unit.

C. NATURE OF LAND TO BE DEDICATED. Except as otherwise required by the Town Board of Commissioners at the time of preliminary plan approval, all dedications of land shall meet the following criteria:

1. UNITY. The dedicated land shall form a single parcel of land except where the Town Board of Commissioners determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Town Board of Commissioners may require that such parcels either be connected by a dedicated strip of land at least thirty feet (30') in width, or be an improved small pocket of land specifically intended to be used by the adjacent residential parcels.

2. USABILITY. At least one-half of the total land dedicated shall be located outside of areas of special flood hazard, SWIM buffers, alluvial soils, lakes, or other water bodies, and areas with slopes greater than fifteen percent (15%). Land dedicated only for greenways need not follow the requirements of this subsection.

3. MINIMUM SIZE. In general, land dedicated for recreational purposes shall have an area of at least four (4) acres. When the requirements of § 155.705.B would create less than four (4) acres, the Town Board of Commissioners may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be dedicated for recreational purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where minimal requirements of this subsection cannot be met, the provisions of § 155.706 shall be applicable. Land dedication only for greenways or allowed small pocket spaces need not follow the requirements of this subsection.

4. SHAPE. The shape of the portion of the dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways or allowed improved small pocket spaces need not follow the requirements of this subsection.

5. LOCATION. The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the subdivision for which the dedication was made and shall bear a reasonable relationship to the use of the area by the future inhabitants of the subdivision or residential development.

6. ACCESS. Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least thirty feet (30') wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for usable access to dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access to greenway dedications are required and shall be at least twenty feet (20') wide.

7. TOPOGRAPHY. The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen percent (15%).

8. USABILITY. Any land dedicated as open space to meet the requirements of this section shall generally be improved based on its intended use, such that a playground shall have age-appropriate play structures and open fields shall be level and free of overhead utilities or trees and of sufficient shape and size for various team sports. When the proposed land dedication is intended to preserve land in its natural environment, minimal improvements may be required.

D. PROCEDURE FOR DEDICATION OF LAND. The dedication of land shall be reviewed for recommendations by the Planning Board and the Parks and Recreation Director as part of the Sketch Plan review process prior to the filing of an application for approval of the Preliminary Plan. The subdivider shall designate on the Sketch Plan the area of land to be dedicated pursuant to this Section. Where wetlands falling under the jurisdiction of State or Federal agencies have been certified to exist on the property, the boundaries of such wetlands shall also be identified. Any subdivider wishing to request payment of funds in lieu of land dedication in accordance with § 155.706 shall submit a letter of request along with the Sketch Plan.

155.706. Payment of Fees in Lieu of Dedication [formerly § 152.41]

A. GENERAL. The payment of fees, in lieu of the dedication of land under § 155.705 above, may occur at the request of the subdivider or developer. The payment of fees in lieu of land dedication also may be required by the Town Board of Commissioners at the time of preliminary plan approval upon finding that all or part of the land required to be dedicated under § 155.705 is not suitable for public recreation and open space purposes, or upon finding that the recreational needs of the proposed development can be met by other park, greenway, or recreational facilities planned or constructed by the Town within reasonable proximity to the development.

B. PROCEDURE FOR APPROVAL. Any subdivider wishing to pay fees in lieu of land dedication shall submit a letter of request with the Sketch Plan submittal. As part of the Sketch Plan review the Planning Board and the Parks and Recreation Department shall make recommendations concerning land dedication or payment of fees in lieu of land dedication. Following Sketch Plan recommendations, the subdivider shall prepare the Preliminary Plan and include land dedication or payment of fees in lieu of land dedication as part of the Preliminary Plan submission for approval.

C. TIME OF PAYMENT. The fees in lieu of land dedication shall be paid prior to recording any lot(s) in the subdivision to which the fees relate.

D. AMOUNT OF PAYMENT. The amount of the payment shall be the product of:

1. The number of acres to be dedicated, as required by § 155.705 above;
2. The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time such payment is due to be paid.

E. DISAGREEMENT AS TO AMOUNT. When the applicant disagrees with the fair market value methodology as explained here, the applicant may choose to obtain a special appraisal by a professional appraiser. (A professional appraiser is an individual who can show by credentials and experience that he or she has knowledge of land appraisals of a similar type). The Plan Review Committee (PRC) shall review the conclusions of the established method and the appraiser, and may receive comments from both the County tax assessor's office and the applicant. The PRC shall make a recommendation on an appropriate value to the Town Board of Commissioners, who shall determine a final amount within thirty (30) days of receiving the PRC's recommendation. If the applicant continues to disagree with the Board of Commissioner's decision, another professional appraiser shall be chosen jointly by the applicant and the Town to provide an additional appraisal. The cost of this supplementary professional land appraiser shall be borne evenly by the applicant and the Town. The decision of this supplementary appraisal shall be final, and shall be certified by the Board of Commissioners within thirty (30) days of receipt of final appraisal report.

F. USE OF FUNDS. All funds received in lieu of land dedication shall be deposited in a Park and Recreation Improvement Fund to be established by the Town. The deposits shall be used by the Town for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general vicinity of the subdivision.

155.707. Improvements [formerly § 152.50]

A. IMPROVEMENT RESPONSIBILITY. In order to facilitate the provision of street right-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner for development rights transfer purposes as provided in § 155.701.B of this ordinance.

1. CLASS I (FREEWAY-EXPRESSWAY): The entire right-of-way width shall be reserved for future acquisition.

2. CLASS II (LIMITED ACCESS ARTERIAL): The entire right-of-way width shall be reserved for future acquisition.

3. CLASS III-C (COMMERCIAL ARTERIAL):

   a. RIGHT-OF-WAY. One hundred feet (100') dedicated and the remainder reserved for future acquisition (fifty feet (50') on each side of centerline). Any development along a Class III-C Street which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

   b. IMPROVEMENTS. Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town and Mecklenburg LUESA to construct all or a portion of the street if the developer wants to make use of the street for access to the development.

4. CLASS III (MAJOR ARTERIAL):

   a. RIGHT-OF-WAY. The developer is responsible for the dedication of up to one hundred feet (100') (fifty feet (50') each side of the centerline) as provided for in § 155.701.B. Any development along a Class III street which requires specific improvements of the street to meet traffic demands of the particular development must dedicate the right-of-way necessary to accommodate those improvements.

   b. IMPROVEMENTS. Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. Development sites which are dependent on an unbuilt portion of a Class III street may be required to be phased or deferred until the missing section of roadway is continued through or along the entire site. The developer has the option, after consultation with the Town and Mecklenburg LUESA to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new Class III streets or extensions of Class III streets must utilize reverse frontage with the only access points being public streets or specifically approved street type entrances.

5. CLASS IV (MINOR ARTERIAL).

   a. RIGHT-OF-WAY. The developer is responsible for the dedication of up to seventy feet (70') (thirty five feet (35') each side of the centerline) as provided for in § 155.701.A. Additional right-of-way which may be required for improvements to meet specific traffic demands of the development must be dedicated by the developer.

   b. IMPROVEMENTS. Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet the traffic demands of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement

project for the street is programmed and funded, the developer may be relieved of the actual construction, but the developer remains liable for the costs of the improvements for which he or she would otherwise be liable. Development sites which are dependent on an unbuilt portion of a Class IV street may be required to be phased or deferred until the missing section of roadway is continued through or along the entire site. The developer has the option, after consultation with the Town and Mecklenburg LUESAs to construct all or a portion of the street if the developer wants to make use of the street for access to the development. Development along new Class IV streets or extensions of Class IV streets must utilize reverse frontage with the only access points being public streets or specifically approved street type entrances.

6. CLASS V (COLLECTOR).

a. RIGHT-OF-WAY. Dedicated by the developer.

b. IMPROVEMENTS. Constructed by the developer.

7. CLASS VI AND CLASS VI-L (LOCAL):

a. RIGHT-OF-WAY. Dedicated by the developer.

b. IMPROVEMENTS. Constructed by the developer. All streets must be constructed to comply with the minimum standards of the Mecklenburg County Land Development Standards Manual and all appropriate applicable Town requirements. Public improvements shall be made in accordance with adopted plans, programs and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

8. ALLEY (PUBLIC AND PRIVATE).

a. RIGHT-OF-WAY. Dedicated by the developer if public. Private alleys may be located within an established single parcel paralleling the alley pavement, or may be located within an easement over adjacent parcels.

b. IMPROVEMENTS. Constructed by the developer. All alleys must be constructed to comply with the minimum standards of the Mecklenburg County Land Development Standards Manual and all appropriate applicable Town requirements. Public improvements shall be made in accordance with adopted plans, programs and budgets. When an alley is dedicated to the public, it should not be expected that the occurrence of development will result in immediate installation of further public street improvements by the public sector. Private alleys shall meet the construction standards for public alleys for subgrade, base, and surface although standards for curbing, sidewalks, and minimum widths may be altered. (Am. Ord. 2059, passed 12-8-14)

B. REQUIRED WORK ON GROUND.

1. Street and sidewalk infrastructure improvements are not required for any minor residential subdivision containing not more than three (3) lots where required improvements do not exist within five hundred feet (500') of the proposed subdivision. Further subdivision of lots within the minor subdivision shall not occur within twenty-four months.

2. Except as provided in these regulations, improvements shall have been completed and approved in accordance with the standards of these regulations as specified below before any final plat of a subdivision shall be eligible for approval.

C. STREETS.

1. GRADING.

a. Proposed street rights-of-way shall be graded to a minimum of eight feet (8') behind the curb.

b. Longitudinal grades shall conform with the requirements of § 155.701.C.

c. The transverse grade or crown shall be at a slope of three eighths inches (3/8") to one foot (1'). The maximum slope for cut or fill embankment shall be one foot of vertical distance to every one and one half feet (1½') of lateral distance. Fill embankments shall be formed

of suitable material placed in successive layers of not more than six inches (6") in depth for the full width of the cross sections including the width of the slope area. No stumps, trees, brush, rubbish, or other unsuitable materials or substances shall be placed in the embankment. Each successive six-inch layer shall be thoroughly compacted by a sheepsfoot tamping roller, ten (10) ton power roller, pneumatic tired roller, or other methods approved by the Mecklenburg LUESA. Embankments over and around all pipe and culverts shall be of select materials, placed and thoroughly tamped and compacted as directed by the Mecklenburg LUESA. All grading and excavation shall conform to the *Standard Specifications for Roads and Structures* of the North Carolina State Highway Commission.

2. SUBGRADE. For standards and requirements see the Mecklenburg Land Development Standards Manual.

3. ROADWAY BASE.

   a. All roadways shall be improved with a base course to the required width of the roadway.

   b. The material and construction methods for base course shall meet the requirements of the latest edition of the NCDOT Standard Specifications.

   c. The stone base shall be compacted to one hundred percent (100%) of the maximum density obtainable with the Standard Proctor Test by rolling with ring or tamping roller or with a pneumatic tired roller with a minimum weight of ten tons. When completed, the base course shall be smooth, hard, dense, unyielding and well bonded. Certified test reports shall be submitted to Mecklenburg LUESA and the Town Engineer.

   d. In lieu of a stone base course, a bituminous concrete base course, Type I19.0X may be substituted. Construction shall conform to the requirements of Section 640 of the NCDOT Standard Specifications. (Ord. No. 1292, passed 5-12-03)

   e. Bituminous concrete base course, type I19.0X, shall be used in widening strips less than five feet (5') in width. (Ord. No. 1292, passed 5-12-03)

4. ROADWAY SURFACE.

   a. All roadways shall be improved with a surface course to the required width of the roadway.

   b. Plant mixed asphalt shall conform in all respects to the Section 645 of the NCDOT Standard Specifications (S9.5X and SF9.5X). On Class I, II, III, III-C, IV and V streets the asphalt mix will be determined by truck volumes (ESALS). A prime coat shall be applied when the base has been in place for seven (7) days or more. The compacted surface course shall not be less than one and one half inches (1½ ") thick.

   c. The Inspector for Mecklenburg LUESA and the Town Public Works Department shall be notified prior to, and approve the use of, recycled asphalt.

   d. Standard curb and gutter shall be constructed on all arterial (Class I, II, III, III-C and IV), industrial access, office access, or multi-family access streets. Rolled curb and gutter or standard curb and gutter shall be constructed on all minor and secondary residential access streets (Class V, VI, and VI-L). Curb and gutter design shall conform to Town standards.

5. CUL-DE-SAC DESIGN. Any road segment terminating in a permanent deadend shall include turnaround area. One of the options illustrated below may be used, or another alternative as designed by the developer and approved by the County and Town Engineer may be allowed. see also § 155.701.C.4.e.

D. SIDEWALKS, NON-STREETSIDE PUBLIC USE PATHS, BICYCLE FACILITIES AND GREENWAYS-VARIOUS NON-MOTORIZED VEHICULAR USE AREAS.

1. REQUIREMENTS. Sidewalks shall be constructed on both sides of all classes of streets.

2. LOCATION OF SIDEWALKS. The outer edge of the sidewalk shall generally be located at the street right-of-way edge or one foot (1') inside of the right-of-way. However, a variance may be granted for location other than the edge of the right-of-way to avoid excessive grading and the destruction of trees, to allow placement of utility lines or surface water drainage facilities, or other unusual circumstances.

3. MATERIAL AND CONSTRUCTION. Sidewalks shall be constructed of not less than three thousand six hundred (3600) PSI concrete and shall be a minimum of five feet (5') wide and four inches (4") thick and constructed on an adequately graded base, except that where the sidewalk crosses a driveway it shall be six inches (6") thick. Subgrade shall be compacted to ninety five percent (95%) of the maximum density obtainable with the Standard Proctor Test. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound. Troweled joints shall be provided at intervals of not less than five feet (5') and expansion joints at intervals of not less than thirty feet (30'). The sidewalk shall have a lateral slope of one quarter inch (1/4") per foot. Test reports shall be submitted to Mecklenburg LUESA and the Town Engineer.

4. ACCESSIBLE RAMPS. Accessible ramps are required where sidewalks intersect curbing, at any street intersection, and at Type III driveway connections. Ramps must comply with current ADA standards and Mecklenburg County Land Development Standards Manual.

5. ELEVATION. The elevation of the sidewalk shall be flexible to allow for flexibility in tree preservation and reduction of excessive grading. When approaching intersections or driveways the sidewalk shall generally not be less than six inches (6") above the roadway crown, and within fifty feet (50') of any intersection the elevation of the sidewalk shall not be more than eighteen inches (18") above the roadway crown unless approved by the Town Public Works Department.

6. NON-STREETSIDE PUBLIC USE PATHS. There may be situations where pedestrian movement can be met or enhanced with the use of paths not adjacent and parallel to a street. This may include mid-block connections, multimodal pathways, shared use alleys, or other design formats. When such pathway is proposed in a development, it shall be designed and built to meet the minimum construction standards for sidewalks as given in § 155.707.D.3. above and shall be a minimum width as needed for the specific type of modal use anticipated. Any non-streetside pathway facility that may allow bicycles and pedestrians shall be a minimum of ten feet (10') wide. The use of any path that intends to mix motorized vehicles with nonmotorized transport shall be favorably recommended by the PRC, and the minimum width, materials, and construction shall be approved by Mecklenburg LUESA and the Town Engineer.

7. BICYCLE FACILITIES THAT ARE SEPARATE FROM MOTORIZED VEHICULAR USE TRAVEL LANES. There are a variety of design options for bicycle use that are separated from on-street shared travel lanes. When any such bicycle facility is included in any adopted plan, such as a neighborhood or small area plan, the Carolina Thread Trail, or the Town's Comprehensive Bicycle Plan, then the portion of the facility within the development site shall be required to be built at the time the surrounding or adjacent development is installed. Where no adopted construction standards exist, the PRC shall recommend the minimum width, materials, and construction, which shall be approved by Mecklenburg LUESA and the Town Engineer. A request to delay construction may be considered through the subdivision variance process at § 155.172, if there are no bicycle facilities connection to the development site and a bond or other acceptable financial guarantee is posted to assure full funding for the improvements when it is appropriate to do so.

8. GREENWAYS. Town and County adopted greenway plans identify trail pathways through the community separate from roadside sidewalks. These greenways run generally parallel to creeks and may be located within SWIM buffers, PCO buffers, and/or floodplains. When any portion of a greenway is shown on any adopted plan within a development site, it shall be installed at the time the site is developed and shall meet all adopted construction design standards. When no adopted construction standards exist, the PRC shall recommend the minimum width, materials, and construction, which shall be approved by Mecklenburg LUESA and the Town Engineer. A request to delay construction may be considered through the subdivision variance process at § 155.712, if there are no pathways connecting to the development site and a bond or other acceptable financial guarantee is posted to assure full funding for the improvements when it is appropriate to do so.

E. STORM DRAINAGE.

1. All storm drainage design shall conform to the standards and specifications as provided at § 155.704.1, in Chapter 8 Matthews Post Construction Ordinance, the Charlotte Mecklenburg Storm Water Design Manual, Mecklenburg County Land Development Standards Manual, or the more restrictive of any standards that conflict.

2. All work and materials shall conform to the latest edition of the NCDOT Standard Specifications unless otherwise specified in the Mecklenburg County Land Development Standards Manual or by the Design Manual for the Post Construction Ordinance. (Ord. 1585, passed 8-13-07)

F. WATER SUPPLY SYSTEM.

1. When any part of the subdivision or development lies within one thousand feet (1,000') of the Charlotte-Mecklenburg public water system, it shall be properly connected to the public water system or an alternate community system approved by the Division of Environmental Health of the State Department of Environment and Natural Resources and shall meet all Charlotte Mecklenburg Utility Department standards and be constructed in such a manner as to serve adequately for both domestic use and fire protection on all lots and buildable areas shown on the subdivision plat or development plan. The size of the water mains shall be at least six inches (6").

2. Fire hydrants shall be installed in accordance with Charlotte-Mecklenburg Utility Department standards.

G. SANITARY SEWERS.

1. When any part of the subdivision or development site lies within one thousand feet (1,000') of the Charlotte-Mecklenburg sanitary sewerage system, sanitary sewer shall be installed in a manner as to serve adequately all lots and building sites with connection to the public system.

2. Sewer connections shall comply with the regulations of the State Department of Environment and Natural Resources (DENR) and shall be constructed under the supervision and approval of the Department of Environment and Natural Resources. All sewer collection lines shall be at least eight inches (8") in diameter.

3. Where lots are not to be connected with a sewerage system, they must be at least twenty thousand (20,000) square feet in area, contain an area for the installation of approved septic tank and disposal fields, and must be approved in writing by the Mecklenburg County Department of Environmental Health.

H. STREETSCAPE TREES. Streetscape trees are a protection against excessive heat and glare and enhance the attractiveness and value of property. Streetscape trees can also serve as a traffic calming measure, encouraging drivers to reduce speeding. The provisions of § 155.606.3 shall be followed. Where the Town has adopted specific tree species and spacing/location requirements for existing roads, those plans shall be followed as new subdivisions and development projects are designed. Where new streets are designed that are not part of an approved plan, then the species, locations, and spacing of trees shall follow the standards listed in § 155.606.3. (Ord. No. 1618, passed 4-14-08)

I. TREES ON BUILDING LOTS. Existing tree cover shall be taken into account as the layout of new streets and lots is designed and build placement is determined. Tree canopy preservation and protection standards listed at § 155.606.7 shall be followed, utilizing preservation of existing trees to the greatest extent feasible. Post Construction Ordinance provisions for Undisturbed Open Space may also be met by preserving existing trees and planting new trees. Existing trees on the tract identified for designation as Undisturbed Open Space shall be clearly identified on the site and on all plans. (Ord. No. 1618, passed 4-14-08)

J. STREET LIGHTS. Street lighting shall be installed in each new subdivision and development site unless exempted by the Town Public Works Director. Street lights shall meet the standards given at § 155.609. This shall be the responsibility of the developer with placement coordinated with and approved by the Town Public Works Director as part of preliminary plan review.

155.708. Streetscape Tree Standards [formerly § 152.51]

Streetscape trees shall generally be planted or preserved along the edges of streets, except where an adopted streetscape plan or alternative streetscape provisions are in place. Specific standards are provided at § 155.606.3.

155.709. Landscaping Standards [formerly § 152.52]

A. PRESERVATION STANDARDS. Existing trees specified on an approved landscape plan to remain on site during any land disturbing activity are protected trees. Special criteria apply to protected trees either as individuals or in a stand. The standards provided in § 155.606.11 of this Title shall be followed.

B. PLANTING STANDARDS. Planting standards apply uniform and commonly acceptable guidelines to the installation of new trees into the landscape. Standards help ensure tree survivability and long-term health. The standards provided at § 155.606.12 of this Title shall be followed.

C. MAINTENANCE STANDARDS. The property owner and/or lessee shall maintain all tree and landscape areas in accordance with the approved landscape plan. Maintenance shall include watering, weeding, mowing, fertilizing, treating, mulching, pruning, removal and replacement of dead or diseased trees. Maintenance shall be performed on a regular basis in order to maintain plant vigor and stability, and to present a neat and well-kept appearance at all times. The standards provided at § 155.606.13 of this Title shall be followed.

D. MITIGATION FOR LOSS OF STREETSCAPE TREES. The loss of a protected or approved new streetscape tree normally requires replacement by the subdivider or developer during the three (3) year Landscape Establishment Guarantee period. Replacement streetscape trees shall not be planted until approved by the Town. The standards provided at § 155.606.13.C. of this Title shall be followed.

1. Failure by the subdivider to replace trees as indicated here shall be cause for the Town to complete the replacement action using the subdivider's Landscape Establishment Guarantee.

2. Beyond the three-year period, all streetscape trees within the public right-of-way shall be the responsibility of the Town for ongoing maintenance, removal, and replacement. All streetscape trees on private property, after the three (3) year period, shall be the responsibility of the property owner for maintenance, as provided at § 155.606.13.D. The Town vision is to encourage mature trees along streets, so will generally not allow removal or unnecessary pruning of streetscape trees. No streetscape tree on private property may be substantially pruned or limbed up, removed or replaced by the property owner without Town approval. (Ord. No. 1618, passed 4-14-08)

155.710. Inspections [formerly § 152.60]

A. Mecklenburg County LUESA and the Town Engineer must be notified two (2) working days in advance of the work so that all necessary inspections of the work may be made.

B. County and Town inspectors must be allowed access to all parts of the work, and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in accordance with the specifications.

C. No material may be placed nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.

D. In case of any disputes arising as to the material furnished or the manner of performing the work, the inspector shall have the authority to reject the materials or reject completed work. The contractor shall remove any work or material condemned as unsatisfactory by the authorized inspector and shall rebuild and replace same to the standard required by the specifications, all at his own expense.

E. In the event that work is suspended for more than forty eight (48) hours, Mecklenburg County LUESA and the Town Engineer or other designated authority must be notified and any work re-inspected.

F. When subdivisions or developments are being developed in phases or for development of adjoining tracts, and upon which lots structures are being and/or are to be constructed, a surety bond, letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit filed with the Mecklenburg County LUESA in the amount determined by Mecklenburg County LUESA and the Town Engineer shall be required, or the bond by §§ 155.405.8.C. and 155.405.10. shall be retained, in order to insure that the streets shall be in acceptable completed condition at the time active development activity is concluded.

1. Mecklenburg County LUESA will release the posted securities only after LUESA and the Town Public Works Director have determined that all work guaranteed by the securities filed has been completed within the subject phase in compliance with the standards set forth in these regulations, and that barricades approved by the Mecklenburg County LUESA in accordance with § 155.703.B

have been installed at the termination point of any street leading into future phases of the development.

2. All subsequent development of future phases or development of adjoining tracts, whether or not those phases are shown on a preliminary plan, shall not be allowed, nor shall the removal of barricades required by § 155.703.B be allowed, and no access to adjoining property for development purposes shall be allowed via previously completed sections of a subdivision or development site until the developer shall first have filed a surety bond, letter of credit or other form of security as described in § 155.710.F with Mecklenburg LUESA in an amount determined by Mecklenburg LUESA.

G. The performance bond required by this section shall not be released until the phase under development has met the criteria for acceptance of streets as outlined in § 155.405.10, and it has been determined by Mecklenburg LUESA and the Town Public Works Director that streets are in an acceptable completed condition. (Ord. No. 1010; passed 11-9-98; Am. Ord. 2141, passed 4-11-16)

155.711. Acceptance of Dedicated Land and Public Improvements [formerly § 152.08, 09]

A. ACCEPTANCE OF STREETS WITHIN A SUBDIVISION. The approval of a preliminary or final plat by the Board of Commissioners shall not constitute the acceptance by the Town of any street, public utility line, or other public facility or ground shown upon that plat. The Town shall not maintain, lay out, open, improve, grade, pave, or light any street or authorize the laying of water mains, sewers, connections, or other utilities in any street unless that street has been accepted as a public street by a resolution adopted by the Board of Commissioners in a regular or duly called special session.

B. ACCEPTANCE PROCEDURE. The Board of Commissioners shall not adopt any resolution accepting a new street or any public improvements unless:

1. The Board has received a written request from the subdivider, developer, or from a majority of the property owners along a street that the street be accepted as a public street for maintenance by the Town.

2. The Board of Commissioners receives a report from the Public Works Director that:

a. Either final approval of the street or streets was granted by Mecklenburg LUESA and the Town Public Works Director at least one (1) year prior to the time of the request for maintenance or that the street or streets existed as a public street prior to the effective date of these regulations and as such have functioned as a street or streets for a least one year; provided that this one (1) year testing period may be waived by the Board of Commissioners in cases where the development density set forth in division B.2.b of this Section has been met and the Board of Commissioners finds that the street or streets requested for maintenance would suffer damage from further delay of application of the final surface course required under § 155.405.10 of this Title;

b. At least eighty percent (80%) of the lots fronting on the street or streets requested for maintenance contain an occupied dwelling unit, occupied multi family, commercial or mixed use building, or occupied permanent principal use which does not involve a building; and

c. Any defects which have appeared in new streets during the one (1) year waiting period, or in the case of existing streets, any defects identified by the Public Works Director at the time the request for maintenance is made have been repaired.

3. The Board of Commissioners determines that the street corresponds in its location and aligns with a street shown on an approved preliminary subdivision plat or development plan or that the street was established as a public street prior to the adoption of these regulations and therefore not subject to these regulations.

4. The security bond as required by Mecklenburg LUESA according to § 155.405.10 of this Title shall not be released prior to acceptance of the street by the Board of Commissioners or by the North Carolina Department of Transportation (NCDOT). **[formerly § 152.09]**

155.712. Public Improvement Variances [formerly § 152.06]

The Planning Board may review and make recommendations on requests for public improvement variances from the regulations of §§ 155.701, 155.702, 155.704, 155.707, 155.708, and 155.709. These recommendations shall be forwarded to the Town Board of Commissioners for final decision. Request for public improvement variances shall be governed by the following requirements and procedures. (Am. Ord. 2038, passed 5-11-15)

A. GENERAL. Where the Planning Board finds that unnecessary hardships or practical difficulties may result from strict compliance with these regulations and/or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend, and the Board of Commissioners may authorize, variances to these regulations, provided that the public improvement variances shall not have the effect of nullifying the intent and purpose of these regulations. Approval of a public improvement variance shall be based on evidence in each specific case that:

1. The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or
2. The difficulty or hardship from the application of these regulations would prevent the owner from making reasonable use of the property; or
3. The granting of a variance would permit the preservation of an historic structure or site; or
4. The granting of a variance would permit the preservation of a mature grove of hardwood trees or a significant specimen tree.

B. PROCEDURES. Wherever practicable, a request for a public improvement variance should be submitted in writing by the subdivider or developer at the time the sketch plan or development site plan is submitted for review to the Planning Board or Plan Review Committee. The request shall state fully the grounds for the application and all of the facts relied upon by the applicant.

Chapter 8. Post Construction Storm Water Regulations

155.801. General Provisions [formerly § 154]

A. TITLE. These regulations shall be officially known as the "Post Construction Storm Water Ordinance" and is commonly known as and referred to in this Title as the "PCO". **[formerly known as § 154.001]**

B. AUTHORITY. The Town is authorized to adopt these regulations pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes 143-214.7 and rules promulgated by the Environmental Management Commission; Session Law 2004-163; Chapter 160A, §§ 174, 185. **[formerly known as § 154.002]**

C. FINDINGS. It is hereby determined that: Development and redevelopment alter the hydrologic response of local watersheds and increase storm water runoff rates and volumes, flooding, soil erosion, stream channel erosion, non-point source pollution, and sediment transport and deposition, as well as reduce groundwater recharge; these changes in storm water runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and these effects can be managed and minimized by applying proper design and well planned controls to manage storm water runoff from development sites. Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and Federal Phase II Storm Water Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including the Town of Matthews (the "Town"), to adopt the minimum storm water controls such as those included in the PCO. Therefore, the Town establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of storm water runoff and discharge. **[formerly known as § 154.003]**

D. PURPOSE.

1. GENERAL**.** The purpose of these regulations is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post construction storm water runoff and non-point source pollution associated with new development and redevelopment. It has been determined that proper management of construction-related and post construction storm water runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

2. SPECIFIC. These regulations seek to meet its general purpose through the following specific objectives and means:

   a. Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

   b. Minimizing changes to the predevelopment hydrologic response for new development and redevelopment in their post construction state in accordance with the requirements of these regulations for the applicable design storm in order to reduce flooding, streambank erosion, and non-point and point source pollution, as well as to maintain the integrity of stream channels, aquatic habitats and healthy stream temperatures;

   c. Establishing minimum post construction storm water management standards and design criteria for the regulation and control of storm water runoff quantity and quality;

   d. Establishing design and review criteria for the construction, function, and use of structural storm water control facilities that may be used to meet the minimum post construction storm water management standards;

   e. Establishing criteria for the use of better management and site design practices, such as the preservation of greenspace and other conservation areas;

   f. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural storm water best management practices (BMPs) to ensure that they continue to function as designed, are maintained appropriately, and pose minimum risk to public safety;

   g. Establishing administrative procedures for the submission, review, approval and disapproval of storm water management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance; and

   h. Coordinating post construction storm water control provisions to be consistent with other standards within this Title, including such areas as storm water detention, landscaping and tree canopy, open space, and nonconforming improvements. (Am. Ord. 2025A, passed 6-9-14) **[formerly known as § 154.004]**

E. APPLICABILITY AND JURISDICTION.

1. GOOSE CREEK DISTRICT. All developments and redevelopments within the corporate limits of the Town of Matthews in the Goose Creek District as illustrated by the "Post Construction Ordinance Map of the Town of Matthews" and described in 155.801.E.4. below are not subject to this Chapter, but rather are subject to the requirements contained in North Carolina Administrative Code 15A NCAC 2B.0600 – o.609 as administered by the North Carolina Department of Environment and Natural Resources.

2. CATAWBA AND YADKIN DISTRICTS. The requirements of these regulations shall apply to all developments and redevelopments within the Town not within the Goose Creek District, unless one of the following exceptions applies to the development or redevelopment as of the effective date of June 30, 2007.

   a. For residential development, preliminary subdivision plan application or in the case of minor subdivisions, construction plan for required improvements, submitted and accepted for review;

   b. For nonresidential development, preliminary subdivision plan application submitted and accepted for review, provided that subdivision-wide water quality and quantity features required at the time of submittal are contained within the submittal and provided the plan is subsequently approved and all necessary easements are properly established;

   c. Zoning use application submitted and accepted for review for uses that do not require a building permit;

   d. Certificate of Building Code Compliance issued by the proper governmental authority;

   f. Valid building permit issued pursuant to G.S. § 153A-344 or G.S. § 160A-385(b)(I), so long as the permit remains valid, unexpired, and unrevoked;

g. Common law vested right established (e.g., the substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid governmental approval to proceed with a project); and/or

h. A conditional zoning district or parallel conditional district approved prior to the effective date of this article/ordinance, provided formal plan submission has been made and accepted for review either prior to five (5) years from the Effective Date of these regulations in the case of conditional zoning districts approved on or after February 14, 2000 or prior to two (2) years from the Effective Date of these regulations in the case of conditional zoning districts approved prior to February 14, 2000, and provided such plans encompass either a minimum of twenty five (25%) of the area of the project, or any phase of a project so long as such phase is part of a project that includes project-wide water quality requirements to achieve eighty five percent (85%) Total Suspended Solids removal from developed areas. If no such formal plan submission occurs within the above-described five (5) year or two (2) year time frames, the requirements of these regulations shall be applied to the project, except for total phosphorus removal, undisturbed open space and buffer requirements not in effect at the time of the approval of the conditional zoning district, all of which do not apply. Any changes to a conditional zoning district necessary to comply with the requirements of these regulations shall be made through administrative amendment and not through a rezoning.

3. EXEMPTIONS. The requirements of the PCO shall not apply within the corporate limits with respect to the following types of development or redevelopment activities:

a. Residential development that cumulatively disturbs less than one acre and cumulatively creates less than twenty four percent (24%) built upon area based on lot size or the lot is less than twenty thousand (20,000) square feet (lot must have been described by metes and bounds in a recorded deed prior to the Effective Date of the PCO and cannot be part of a larger development);

b. Commercial and industrial development that cumulatively disturbs less than one acre and cumulatively creates less than twenty thousand (20,000) square feet of built upon area (built upon area includes gravel and other partially impervious materials);

c. Redevelopment that incorporates removal of some or all previous buildings and above-ground structures but reuses existing impervious area (same footings/foundations) for new buildings, that results in no net increase in built upon area, that cumulatively disturbs less than twenty thousand (20,000) square feet and is not part of a larger common plan of development or sale;

d. Any intensification of development on an existing improved/partially improved site not part of a larger common plan of development or sale, which may convert ground-level impervious surface to more intense uses, such as a paved area being converted to a building, in no net increase in built-upon area, that cumulatively disturbs less than twenty thousand (20,000) square feet, and that provides equal or greater storm water control than the previous development;

e. Any intensification of development on an existing improved/partially improved site which is part of a larger common plan of development or sale, and only when the overall larger common plan for development or sale has already incorporated and installed sufficient storm water control improvements such that no further storm water control measures are necessary to accommodate the new impervious area being created; and

f. Activities exempt from permit requirements of § 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities). (Am. Ord. 2025A, passed 6-9-14)

4. NO DEVELOPMENT OR REDEVELOPMENT UNTIL COMPLIANCE AND PERMIT. No development or redevelopment shall occur except in compliance with the provisions of the PCO or unless exempted. No development for which a permit is required pursuant to the PCO shall occur except in compliance with the provisions, conditions, and limitations of the permit.

5. MAP. The provisions of the PCO shall apply within the areas designated on the map titled "Post Construction Ordinance Map of the Town of Matthews, North Carolina" (hereafter referred to as the "Post Construction Ordinance Map" or "PCO Map"), which is adopted simultaneously with this Chapter. The Post Construction Ordinance Map and all explanatory matter contained on it accompanies and is made a part of the PCO. The Post Construction Ordinance Map shall be kept on file by the Storm Water Administrator or designee (the "Storm Water Administrator") and shall be updated to take into account changes in the land area covered by the PCO and the geographic location of all structural BMPs permitted under the PCO. In the event of a dispute, the applicability of the PCO to a particular area of land or BMP shall be determined by appeal through the Storm Water Administrator. **[formerly known as § 154.005]**

F. INTERPRETATION.

1. MEANING AND INTENT. All provisions, terms, phrases, and expressions contained in the PCO shall be construed according to the general and specific purposes set forth in § 155.801.D, Purpose. If a different or more specific meaning is given for a term defined elsewhere in this Title, the meaning and application of the term in the PCO shall control for purposes of application of the PCO.

2. TEXT CONTROLS IN EVENT OF CONFLICT. In the event of a conflict or inconsistency between the text of the PCO and any heading, caption, figure, illustration, table, or map, the text shall control.

3. AUTHORITY FOR INTERPRETATION. The Storm Water Administrator has authority to interpret the PCO. Any person may request an interpretation by submitting a written request to the Storm Water Administrator who shall respond in writing within thirty (30) days. The Storm Water Administrator shall keep on file a record of all written interpretations of the PCO.

4. REFERENCES TO STATUTES, REGULATIONS, AND DOCUMENTS. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design and Administrative Manuals), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

5. COMPUTATION OF TIME. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town. References to days are calendar days unless otherwise stated.

6. DELEGATION OF AUTHORITY. Any act authorized by the PCO to be carried out by the Storm Water Administrator of the Town may be carried out by his or her designee.

7. USAGE.

a. MANDATORY AND DISCRETIONARY TERMS. The words "shall", "must", and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

b. CONJUNCTIONS. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions or events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

c. TENSE, PLURALS, AND GENDER. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

8. MEASUREMENT AND COMPUTATION. Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site. **[formerly known as § 154.006]**

G. DESIGN MANUAL.

1. REFERENCE TO DESIGN MANUAL. The Storm Water Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for

decisions about storm water management permits and about the design, implementation and performance of structural and non-structural storm water BMPs. The Design Manual includes a list of acceptable storm water treatment practices, including the specific design criteria for each storm water practice. Storm water treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the PCO and the Phase II laws. Failure to construct storm water treatment practices in accordance with these criteria may subject the violator to a civil penalty as described in § 155.807 of the PCO.

2. RELATIONSHIP OF DESIGN MANUAL TO OTHER LAWS AND REGULATIONS. If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

3. CHANGES TO STANDARDS AND SPECIFICATIONS. Standards, specifications, guidelines, policies, criteria, or other information in the Design Manual in effect at the time of acceptance of a complete application shall control and shall be utilized in reviewing the application and in implementing the PCO with regard to the application.

4. AMENDMENTS TO DESIGN MANUAL. The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.**[formerly known as § 154.007]**

H. RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS.

1. CONFLICT OF LAWS. The PCO is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of the PCO are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of the PCO imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare, shall control.

2. PRIVATE AGREEMENTS. The PCO is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of the PCO are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of the PCO shall govern. Nothing in the PCO shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with the PCO. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties. **[formerly known as § 154.008]**

I. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

1. EFFECTIVE DATE. The PCO shall take effect on June 30, 2007.

2. VIOLATIONS CONTINUE. Any violation of the provisions of the PCO existing as of the Effective Date of the PCO shall continue to be a violation under the PCO and be subject to penalties and enforcement unless the use, development, construction, or other activity complies with the provisions of the PCO.**[formerly known as § 154.110]**

155.802. Administration and Procedures [formerly § 154, Section II]

A. THE STORM WATER ADMINISTRATOR. The Storm Water Administrator has designated responsibilities as listed at § 155.206. **[formerly known as § 154.021, moved to § 155.206]**

B. REVIEW PROCEDURES.

1. PERMIT REQUIRED; MUST APPLY FOR PERMIT. A storm water management permit is required for all development and redevelopment unless exempt pursuant to the PCO. A permit may only be issued subsequent to a properly submitted, reviewed and approved permit application, pursuant to this Chapter. The content and form of the permit shall be established by the Storm Water Administrator.

2. EFFECT OF PERMIT. A storm water management permit shall govern the design, installation, and construction of storm water management and control practices on the site, including structural BMPs and elements of site design for storm water management other than structural BMPs. The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of storm water for the development or redevelopment site consistent with the requirements of the PCO, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. Compliance after project construction is assured by the maintenance provision of the PCO.

3. AUTHORITY TO FILE APPLICATIONS. All applications required pursuant to the PCO shall be submitted to the Storm Water Administrator by the land owner or the land owner's duly authorized agent or anyone having interest in the property by reason of a written contract with the owner.

4. ESTABLISHMENT OF APPLICATION REQUIREMENTS, SCHEDULE, AND FEES.

   a. APPLICATION CONTENTS AND FORM The Storm Water Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the storm water management permit application shall describe in detail how post construction storm water runoff will be controlled and managed, the design of all storm water facilities and practices, and how the proposed project will meet the requirements of the PCO.

   b. SUBMISSION SCHEDULE. The Storm Water Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

   c. PERMIT REVIEW FEES. The Storm Water Administrator shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

   d. ADMINISTRATIVE MANUAL. For applications required under the PCO, the Storm Water Administrator shall compile into an Administrative Manual the application requirements, submittal checklist, submission schedule, fee schedule, maintenance agreements, a copy of the PCO, and where to obtain the Design Manual, as well as other information and materials necessary for the effective administration of the PCO. This Administrative Manual shall be made available to the public.

5. SUBMITTAL OF COMPLETE APPLICATION. Applications shall be submitted to the Storm Water Administrator pursuant to the application submittal schedule in the form established by the Storm Water Administrator, along with the appropriate fee established pursuant to this Chapter. An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to the PCO, along with the appropriate fee. If the Storm Water Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

6. REVIEW. Within thirty (30) working days after a complete application is submitted, the Storm Water Administrator shall review the application and determine whether the application complies with the standards of the PCO. A copy of the application including all attachments shall be provided to the Town for review.

   a. APPROVAL. If the Storm Water Administrator finds that the application complies with the standards of the PCO, the Storm Water Administrator shall approve the application and issue a storm water management permit to the applicant. The Storm Water Administrator may impose conditions of approval as needed to ensure compliance with the PCO. The conditions shall be included in the permit as part of the approval.

   b. FAILS TO COMPLY. If the Storm Water Administrator finds that the application fails to comply with the standards of the PCO, the Storm Water Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

c. REVISION AND SUBSEQUENT REVIEW. A complete revised application shall be reviewed by the Storm Water Administrator within fifteen (15) working days after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within sixty (60) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee.**[formerly known as § 154.022]**

C. APPLICATIONS FOR APPROVAL.

1. CONCEPT PLAN AND CONSULTATION MEETING. A Concept Plan shall be submitted to and approved by the Storm Water Administrator prior to approval of the preliminary plan for a project or approval of a rezoning application, and prior to submittal of a Storm Water Management Permit Application. The Concept Plan should be submitted for review along with sketch plans for the project. The purpose of the Concept Plan is to demonstrate how a proposed project shall comply with the post construction ordinance requirements in the early stages of project design. At the time of submittal of a Concept Plan the Storm Water Administrator or land owner or the land owner's duly authorized agent or anyone having interest in the property, by reason of a written contract with the owner, may request consultation(s) on a Concept Plan for the post construction storm water management system to be utilized in the proposed development project. This consultation meeting(s) should take place at the time of the preliminary plan of the subdivision, submission of a rezoning application, or other early step in the development process. The purpose of this meeting(s) is to discuss the post construction storm water management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to storm water management designs before formal site design engineering is commenced. Local watershed plans and other relevant resource protection plans may be consulted in the discussion of the Concept Plan. To accomplish this goal the following information should be included in the Concept Plan, which should be submitted in advance of the meeting as specified in the Administrative Manual.

a. EXISTING CONDITIONS / PROPOSED SITE PLANS. A Concept Plan shall include existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; proposed Undisturbed Open Space area; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

b. NATURAL RESOURCES INVENTORY. A Concept Plan submitted prior to a consultation meeting shall include a written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, flood plains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic system setbacks, etc.) Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

c. STORM WATER MANAGEMENT SYSTEM CONCEPT PLAN. A Concept Plan shall include the proposed post construction storm water management system including: preliminary selecting and location of proposed structural storm water controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of proposed Undisturbed Open Space areas; location of all floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

2. STORM WATER MANAGEMENT PERMIT APPLICATION. The storm water management permit application shall detail how post construction storm water runoff will be controlled and managed and how the proposed project will meet the requirements of the PCO, including § 155.803, Standards. All such plans submitted with the application shall be prepared by a registered North Carolina professional engineer or landscape architect. The engineer or landscape architect shall

perform services only in their area of competence, and shall verify that the design of all storm water management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with the PCO. The submittal shall include all of the information required in the submittal checklist established by the Storm Water Administrator. Incomplete submittals shall be treated pursuant to § 155.802.B.5.

3. AS-BUILT PLANS AND FINAL APPROVAL. The applicant shall certify that the completed project is in accordance with the approved storm water management plans and designs, and shall submit actual "as- built" plans for all storm water management facilities or practices after final construction is completed. Failure to provide approved as-built plans within the time frame specified by the Storm Water Administrator may result in assessment of penalties as specified in § 155.807, Violations and Enforcement. At the discretion of the Storm Water Administrator, performance securities or bonds may be required for storm water management facilities or practices until as-built plans are approved. As-built plans shall show the final design specifications for all storm water management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed, and location and size of all Undisturbed Open Space areas and tree plantings. The designer of the storm water management measures and plans shall certify, under seal, that the as-built storm water measures, controls, and devices are in compliance with the approved storm water management plans and designs and with the requirements of the PCO. Final as-built plans and a final inspection and approval by the Storm Water Administrator are required before a project is determined to be in compliance with the PCO. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of as-built plans and the completion of a final inspection and approval of a project.**[formerly known as § 154.023]**

D. APPROVALS.

1. EFFECT OF APPROVAL. Approval authorizes the applicant to go forward with only the specific plans and activity authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

2. TIME LIMIT/EXPIRATION. A Storm Water Management Permit and accompanying plan approved under the provisions of the PCO shall remain valid for a period of three (3) years from the date of approval. If no work on the site in furtherance of the plan has commenced within the three (3) year period, the permit and plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced that involves any utility installations or street improvements except grading, the permit and plan shall remain valid and in force and the project may be completed in accordance with the approved plan. **[formerly known as § 154.024]**

E. APPEALS AND VARIANCES.

1. POWERS AND DUTIES OF THE STORM WATER ADVISORY COMMITTEE. The Storm Water Advisory Committee (the "SWAC"), shall have the following powers and duties:

a. ADMINISTRATIVE REVIEW. To hear and decide appeals according to the procedures set forth in this Chapter, where it is alleged there is an error in any order, decision, determination, or interpretation made by the Storm Water Administrator in the enforcement of the PCO, including assessments of remedies and/or penalties.

b. VARIANCES. To grant variances in specific cases from the terms of the PCO according to the standards and procedures in § 155.802.E.

2. PETITION TO SWAC FOR APPEAL OR VARIANCE. An appeal may be initiated by any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of the PCO. A petition for variance from the requirements of the PCO may be initiated by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having written contractual interest in the affected property.

a. FILING OF NOTICE OF APPEAL. A notice of appeal shall be filed with the Storm Water Administrator contesting any order, decision, determination or interpretation within thirty (30) working days of the day of the order, decision, determination or interpretation made or rendered by the Storm Water Administrator in the enforcement of the PCO, including

assessments of remedies and penalties. SWAC may waive or extend the thirty (30) day deadline only upon determining that the person filing the notice of appeal received no actual or constructive form of notice of the order, decision, determination or interpretation being appealed. The notice filed with the Storm Water Administrator shall be accompanied by a nonrefundable filing fee as established by SWAC as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner. Failure to timely file such notice and fee shall constitute a waiver of any rights to appeal under the PCO. Upon receipt of a notice of appeal, the Storm Water Administrator shall transmit to SWAC copies of all administrative papers, records, and other information regarding the subject matter of the appeal. The filing of such notice shall stay any proceedings in furtherance of the contested action, except the Storm Water Administrator may certify in writing to SWAC that because of facts stated in the certificate, a stay imposes an imminent peril to life or property or would seriously interfere with the enforcement of the PCO. SWAC shall then review such certificate and may override the stay of further proceedings.

b. FILING A VARIANCE PETITION. A petition for variance, in the form prescribed by SWAC, shall be filed with the Storm Water Administrator accompanied by a nonrefundable filing fee as established by SWAC as well as a list of adjoining properties including tax parcel numbers and the name and address of each owner. Upon receipt of a variance petition, the Storm Water Administrator shall transmit to SWAC copies of all information regarding the variance.

c. NOTICE AND HEARING. SWAC shall, in accordance with the rules adopted by it for such purposes, hold public hearings on any appeal or variance petition which comes before it. SWAC shall, prior to the hearing, mail written notice of the time, place and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property and to the owners of property adjacent to the subject property. The hearing shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

d. STANDARDS FOR GRANTING AN APPEAL. SWAC shall reverse or modify the order, decision, determination or interpretation under appeal only upon finding an error in the application of the PCO on the part of the Storm Water Administrator. In modifying the order, decision, determination or interpretation, SWAC shall have all the powers of the Storm Water Administrator from whom the appeal is taken. If SWAC finds that a violation of the PCO has occurred, but that in setting the amount of the penalty the Storm Water Administrator has not considered or given appropriate weight to either mitigating or aggravating factors, SWAC shall either decrease or increase the per day civil penalty within the range allowed by the PCO. Any decision of SWAC that modifies the amount of a civil penalty shall include, as part of the findings of fact and conclusions of law, findings as to which mitigating or aggravating factors exist and the appropriate weight that should have been given to such factors by the Storm Water Administrator in setting the amount of the civil penalty levied against the Petitioner.

e. STANDARDS FOR GRANTING A VARIANCE. Before granting a variance, SWAC shall have made all the following findings:

   i. Unnecessary hardships would result from the strict application of the PCO.

   ii. The hardships result from conditions that are peculiar to the property, such as the location, size or topography of the property.

   iii. The hardships did not result from actions taken by the petitioner.

   iv. The requested variance is consistent with the spirit, purpose, and intent of the PCO; will secure public safety and welfare; and will preserve substantial justice.

f. VARIANCE CONDITIONS. SWAC may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

g. ACTION BY SWAC. SWAC bylaws will determine the number of concurring votes needed to grant an appeal or request for variance. SWAC shall grant or deny the variance or shall reverse, affirm or modify the order, decision, determination or interpretation under appeal

by recording in the minutes of the meeting the reasons that SWAC used and the findings of fact and conclusions of law made by SWAC to reach its decision.

h. REHEARING. SWAC shall refuse to hear an appeal or variance petition which has been previously denied unless it finds there have been substantial changes in the conditions or circumstances relating to the matter.

3. REVIEW BY SUPERIOR COURT. Every decision of SWAC shall be subject to Superior Court review by proceedings in the nature of *certiorari.* Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the later occurring of the following: 1) the decision of SWAC is filed; or 2) a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with SWAC at the time of its hearing of the case. **[formerly known as § 154.025]**

155.803. Standards [formerly § 154, Section III]

A. GENERAL STANDARDS. All development and redevelopment to which the PCO applies shall comply with the standards of this section. **[formerly known as § 154.031]**

1. All built-upon area for development and redevelopment subject to the requirements of this PCO shall be at a minimum thirty feet (30') landward of all perennial and intermittent surface waters. This built-upon area setback can be located within the stream buffer area defined by this PCO, but any disturbances within the built-upon area setback must also comply with SWIM buffers and detention standards as outlined at § 155.704, and regulated floodways as outlined in Chapter 9. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement shall be granted if one or more of the following is satisfied and documented:

a. Based on an on-site determination by the Storm Water Administrator or designee, surface waters are not present on the site. When a landowner or other affected party believes that the maps have inaccurately depicted surface waters, he or she shall consult the Storm Water Administrator or designee. Upon request, the Storm Water Administrator or designee shall make on-site determinations. Surface waters that appear on the maps shall not be subject to this Chapter if this on-site determination shows that they fall into one of the following categories:

i. Ditches and manmade conveyances other than modified natural streams unless constructed for navigation or boat access;

ii. Manmade ponds and lakes located outside natural drainage ways;

iii. Ephemeral (storm water) streams.

b. Based on a variance issued pursuant to § 155.802.E., unnecessary hardships would result from the strict application of this requirement.

c. Based on a determination by the Storm Water Administrator, a lack of practical alternatives exists for accomplishing the basic purpose of the project in a manner that would avoid or result in less adverse impact to surface waters considering the potential for a reduction in size, configuration, or density and all alternative designs.

B. WATERSHED DISTRICTS. Standards for development and redevelopment vary depending on the watershed district in which a project is located as described in the Town's "Post Construction Ordinance Map," which is adopted simultaneously as described in § 155.801.E.4. The Town is divided into the following watershed districts for purposes of the PCO.

1. CATAWBA DISTRICT. That area of land that drains to West Fork Twelve Mile, McAlpine, and Four Mile Creeks in the Catawba River basin in the Town, including all creeks and tributaries.

2. YADKIN DISTRICT. That area of land that drains to the North Fork of Crooked Creek in the Yadkin River basin in the Town, including all creeks and tributaries.

3. Goose Creek District. That area of land that drains to Goose Creek in the Yadkin River Basin in the Town, including all tributaries. This area of land is not subject to the provisions of this Chapter, but rather is subject to the requirements contained in the State of North Carolina Administrative Code 15A NCAC 2B.0600 – 0.609 as administered by the North Carolina Department of Environment and Natural Resources. **[formerly known as § 154.032]**

C. DEVELOPMENT STANDARDS FOR THE CATAWBA DISTRICT.

1. DEVELOPMENT STANDARDS FOR LOW DENSITY PROJECTS. Any project in the Catawba District is considered low density when said drainage area has less than or equal to twenty four percent (24%) built upon area as determined by the methodology established in the Design Manual. Such low-density projects shall comply with each of the following standards.

   a. VEGETATED CONVEYANCES. Storm water runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

   b. STREAM BUFFERS. The S.W.I.M. Stream Buffer requirements apply in the Catawba as described in Chapter 7. In addition, intermittent and perennial streams within the project boundary shall be delineated by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be shown in the storm water management permit application along with all buffer areas. All perennial and intermittent streams draining less than fifty (50) acres shall have a minimum thirty foot (30') vegetated buffer including a ten foot (10') zone adjacent to the bank. All buffers shall be measured from the top of the bank on both sides of the stream. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the ten foot (10') zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. The buffer widths for streams draining greater than or equal to fifty (50) acres and the other provisions of the S.W.I.M. regulations shall apply in the Catawba District. Passive recreational uses are allowed in the buffer, including greenway trails and bicycle paths, as well as other land uses consistent with maintaining the natural topography and vegetation.

2. DEVELOPMENT STANDARDS FOR HIGH DENSITY PROJECTS. Any project in the Catawba District is considered high density when said drainage area has greater than twenty four percent (24%) built upon area as determined by the methodology established in the Design Manual. Such high-density projects shall implement storm water treatment systems that comply with each of the following standards.

   a. STORM WATER QUALITY TREATMENT VOLUME. Storm water quality treatment systems shall treat the runoff generated from the first inch of rainfall.

   b. STORM WATER QUALITY TREATMENT. All structural storm water treatment systems used to meet these requirements shall be designed to have a minimum of eighty five percent (85%) average annual removal for Total Suspended Solids. Low Impact Development techniques as described in the Design Manual can be used to meet this requirement.

   c. STORM WATER TREATMENT SYSTEM DESIGN. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual.

   d. STREAM BUFFERS. The S.W.I.M. Stream Buffer requirements apply in the Catawba as described in Chapter 7. In addition, intermittent and perennial streams within the project boundary shall be delineated by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be shown in the storm water management permit application along with all buffer areas. All perennial and intermittent streams draining less than fifty (50) acres shall have a minimum thirty foot (30') vegetated buffer including a ten foot (10') zone adjacent to the bank. All buffers shall be measured from the top of the bank on both sides of the stream. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the ten foot (10') zone adjacent to the bank shall require stream bank stabilization using bioengineering

techniques as specified in the Design Manual. The buffer widths for streams draining greater than or equal to fifty (50) acres and the other provisions of the S.W.I.M. regulations shall apply in the Catawba District. Passive recreational uses are allowed in the buffer, including greenway trails and bicycle paths, as well as other land uses consistent with maintaining the natural topography and vegetation.

e. STORM WATER VOLUME CONTROL. Storm water treatment systems shall be installed to control the volume leaving the project site at post-development for the one (1) year, twenty four (24) hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than one hundred twenty (120) hours.

f. STORM WATER PEAK CONTROL. For residential developments exceeding twenty four percent (24%) built-upon area, peak control shall be installed for the appropriate storm frequency (i.e., 10, 25, 50 or 100 yr, 6 hr) as determined by the Storm Water Administrator based on a downstream flood analysis provided by the owner or designee using the criteria specified in the Design Manual or if a downstream analysis is not performed the peak shall be controlled for the ten (10) year and twenty five (25) year, six (6) hour storms. For commercial development exceeding twenty four percent (24%) built-upon area, peak control shall be installed for the 10-yr, 6-hr storm and additional peak control provided for the appropriate storm frequency (i.e., 25, 50 or 100-yr, 6-hr) as determined by the Storm Water Administrator based on a downstream flood analysis provided by the owner or designee using the criteria specified in the Design Manual or if a downstream analysis is not performed the peak shall be controlled for the 10-yr and 25-yr, 6-hr storms. Controlling the 1-year, 24-hour volume achieves peak control for the 2-year, 6-hour storm. The emergency overflow and outlet works for any pond or wetland constructed as a storm water BMP shall be capable of safely passing a discharge with a minimum recurrence frequency as specified in the Design Manual. For detention basins, the temporary storage capacity shall be restored within seventy two (72) hours. Requirements of the Dam Safety Act shall be met when applicable. **[formerly known as § 154.033]**

D. DEVELOPMENT STANDARDS FOR THE YADKIN DISTRICT.

1. DEVELOPMENT STANDARDS FOR LOW DENSITY PROJECTS. Any project in the Yadkin District is considered low density when said drainage area has less than or equal to ten percent (10%) built upon area as determined by the methodology established in the Design Manual. Such low density projects shall comply with each of the following standards.

a. VEGETATED CONVEYANCES. Storm water runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

b. STREAM BUFFERS. Intermittent and perennial streams within the project boundary shall be delineated by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be shown in the storm water management permit application along with all buffer areas. All perennial and intermittent streams draining less than fifty (50) acres shall have a minimum fifty foot (50') undisturbed buffer. All perennial and intermittent streams draining greater than or equal to fifty (50) acres shall have a one hundred foot (100') undisturbed buffer, plus the entire floodplain. All buffers shall be measured from the top of the bank on both sides of the stream. The uses allowed in the stream side zone described in the S.W.I.M. Stream Buffer requirements in Chapter 7 as well as the other provisions of the S.W.I.M. regulations shall apply in the Yadkin District (except buffer widths). Passive recreational uses are allowed in the buffer, including greenway trails and bicycle paths, as well as other land uses consistent with maintaining the natural topography and vegetation.

2. DEVELOPMENT STANDARDS FOR HIGH DENSITY PROJECTS. Any project in the Yadkin District is considered high density when said drainage area has greater than ten percent (10%) built upon area as determined by the methodology established in the Design Manual. Such high density projects shall implement storm water treatment systems that comply with each of the following standards:

a. STORM WATER QUALITY TREATMENT VOLUME. Storm water quality treatment systems shall treat the runoff generated from the first inch of rainfall.

b. STORM WATER QUALITY TREATMENT. All structural storm water treatment systems used to meet these requirements shall be designed to have a minimum of eighty five percent (85%) average annual removal for Total Suspended Solids and seventy percent (70%) average annual removal for Total Phosphorus. Low Impact Development techniques as described in the Design Manual can be used to meet this requirement.

c. STORM WATER TREATMENT SYSTEM DESIGN. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual.

d. STREAM BUFFERS. Intermittent and perennial streams within the project boundary shall be delineated by a certified professional using U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology and shall be shown in the storm water management permit application along with all buffer areas. All perennial and intermittent streams draining less than fifty (50) acres shall have a minimum fifty foot (50') undisturbed buffer. All perennial and intermittent streams draining greater than or equal to fifty (50) acres shall have a one hundred foot (100') undisturbed buffer, plus the entire floodplain. All buffers shall be measured from the top of the bank on both sides of the stream. The uses allowed in the stream side zone described in the S.W.I.M. Stream Buffer requirements in Chapter 7 as well as the other provisions of the S.W.I.M. regulations shall apply in the Yadkin District (except buffer widths). Passive recreational uses are allowed in the buffer, including greenway trails and bicycle paths, as well as other land uses consistent with maintaining the natural topography and vegetation.

e. STORM WATER VOLUME CONTROL. Storm water treatment systems shall be installed to control the volume leaving the project site at post-development for the 1-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of twenty four (24) hours, but not more than one hundred twenty (120) hours.

f. STORM WATER PEAK CONTROL. For residential developments exceeding ten percent (10%) built-upon area, peak control shall be installed for the appropriate storm frequency (i.e., 10, 25, 50 or 100-yr, 6-hr) as determined by the Storm Water Administrator based on a downstream flood analysis provided by the owner or designee using the criteria specified in the Design Manual or if a downstream analysis is not performed the peak shall be controlled for the 10-yr and 25-yr, 6-hr storms. For commercial development exceeding ten percent (10%) built-upon area, peak control shall be installed for the 10-yr, 6-hr storm and additional peak control provided for the appropriate storm frequency (i.e., 25, 50 or 100-yr, 6-hr) as determined by the Storm Water Administrator based on a downstream flood analysis provided by the owner or designee using the criteria specified in the Design Manual or if a downstream analysis is not performed the peak shall be controlled for the 10-yr and 25-yr, 6-hr storms. Controlling the 1-year, 24-hour volume achieves peak control for the 2-year, 6-hour storm. The emergency overflow and outlet works for any pond or wetland constructed as a storm water BMP shall be capable of safely passing a discharge with a minimum recurrence frequency as specified in the Design Manual. For detention basins, the temporary storage capacity shall be restored within seventy two (72) hours. Requirements of the Dam Safety Act shall be met when applicable. **[formerly known as § 154.034]**

E. STANDARDS FOR STORM WATER CONTROL MEASURES

1. EVALUATION ACCORDING TO CONTENTS OF DESIGN MANUAL. All storm water control measures and storm water treatment practices (also referred to as Best Management Practices, or BMPs) required under the PCO shall be evaluated by the Storm Water Administrator according to the policies, criteria, and information, including technical specifications, standards and the specific design criteria for each storm water best management practice contained in the Design Manual. The Storm Water Administrator shall determine whether these measures will be adequate to meet the requirements of the PCO.

2. DETERMINATION OF ADEQUACY; PRESUMPTIONS AND ALTERNATIVES. Storm water treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of the PCO. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of the PCO before it can be approved for use. The Storm Water Administrator may require the applicant to provide such documentation, calculations, and examples as necessary for the Storm Water Administrator to determine whether such an affirmative showing is made.

3. SUBMITTAL OF DIGITAL RECORDS. Upon submittal of as-built plans, the location of storm drainage pipes, inlets and outlets as well as the location of all BMPs as well as Undisturbed Open Space must be delivered to the Storm Water Administrator in the digital format specified in the Design Manual. **[formerly known as § 154.035]**

F. TOTAL PHOSPHOROUS MITIGATION FOR THE YADKIN DISTRICT.

1. PURPOSE. The purpose of this mitigation is to reduce the cost of complying with the seventy percent (70%) total phosphorus removal criteria for developments exceeding fifty percent (50%) built-upon area while ensuring the reduction of pollution loads and achievement of the ordinance objectives.

2. GENERAL DESCRIPTION. For the Yadkin District, there are two (2) total phosphorus mitigation options available to developments greater than or equal to sixty percent (60%) built-upon area, including offsite mitigation and a buy-down option as described in this Chapter. For developments with greater than or equal to fifty percent (50%) and less than sixty percent (60%) built-upon area, off-site mitigation only is allowed provided it occurs in the same named creek system. Both off-site and buy-down mitigation will result in the construction of retrofit BMPs. In addition, the buy-down option is available provided the Town of Matthews has projects and/or property available for mitigation. There is no total phosphorus requirement in the Catawba District so the mitigation option is not necessary.

3. CRITERIA FOR OFF-SITE MITIGATION FOR THE YADKIN DISTRICT.

a. The owner or designee of a proposed construction site that will include greater than or equal to fifty percent (50%) built upon area shall construct a BMP retrofit project designed to achieve an equivalent or greater net mass removal of total phosphorus as would be achieved by removing seventy percent (70%) of the total phosphorus from the proposed site. Off-site mitigation is allowed only for total phosphorus removal above fifty percent (50%). On-site BMPs shall be constructed to achieve fifty percent (50%) removal of total phosphorus.

b. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Off-Site Total Phosphorus Mitigation." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the storm water management permit application and shall at a minimum contain a description of the BMP(s) to be constructed, including their type and size as well as the pollutant removal efficiencies to be achieved. The location of the site where the BMP(s) are to be constructed shall be described, including the size of the drainage area to be treated and percentage and type of existing built upon area. The application must also include the pounds of total phosphorus being mitigated for and the pounds of total phosphorus reduced with the retrofit BMP(s). A legally valid instrument shall be submitted with the application to demonstrate that the applicant has land rights to perform the BMP retrofit on the property.

c. The criteria for approval of offsite total phosphorus mitigation by the Storm Water Administrator are as follows:

i. BMP(s) must be constructed in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual.

ii. BMP(s) must be sized for the corresponding watershed area according to the Design Manual.

iii. BMP(s) must be inspected by the Storm Water Administrator and found to be in compliance with all approved plans and specifications prior to the release of occupancy permits for the mitigated site.

iv. Following approval from the Storm Water Administrator, BMP(s) may be installed and credits obtained for pounds of total phosphorus removed that can be applied to future projects. These credits can be accumulated or "banked" for a period of time as specified by the Storm Water Administrator in the Administrative Manual.

v. All off-site mitigation BMPs shall be subject to the maintenance requirements as well as installation and maintenance performance securities specified in § 155.806.

4. CRITERIA FOR TOTAL PHOSPHORUS BUY-DOWN OPTION FOR THE YADKIN DISTRICT.

a. The owner or designee of a proposed construction site that will include greater than or equal to sixty percent (60%) built upon area may "buy-down" the seventy percent (70%) phosphorus removal requirement to no less than fifty percent (50%). On-site BMPs must be installed to remove the remaining total phosphorus load. The money shall be used by the Town of Matthews to construct BMP retrofit projects designed to achieve an equivalent or greater net mass removal of total phosphorus as would be achieved by removing seventy percent (70%) of the total phosphorus from the proposed site.

b. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Total Phosphorus Buy-Down." The Storm Water Administrator shall design this application to include all pertinent information. This application shall be submitted with the storm water management permit application and shall at a minimum contain calculations showing the total load buy-down and all cost calculations as described in the Design Manual.

c. The criteria for the buy-down option are as follows:

i. The buy-down option shall not be approved by the Storm Water Administrator unless projects and/or properties are available for mitigation, including BMP construction, BMP maintenance, BMP rehabilitation and stream restoration.

ii. There is no time constraint for the Town of Matthews to spend mitigation money; however, the Town shall strive to spend buy-down monies in a timely and efficient manner such that a net improvement in water quality results.

iii. All BMPs constructed by the Town of Matthews as part of this mitigation option shall be maintained by the Town of Matthews into perpetuity.

d. The criteria for calculating the buy down cost shall be provided in the Design Manual.**[formerly known as § 154.036]**

G. DEED RECORDATION AND INDICATIONS ON PLAT. The approval of the storm water management permit shall require an enforceable restriction on property usage that runs with the land, such as plat, recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. The location of all designated Undisturbed Open Space for a site shall be recorded at the Register of Deeds Office as "Undisturbed Open Space." Streams and buffer boundaries including the delineation of each buffer zone must be specified on all surveys and record plats. The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Mecklenburg County Register of Deeds Office upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the Mecklenburg County Register of Deeds Office so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles. A copy of the recorded maintenance agreement shall be provided to the Storm Water Administrator within fourteen (14) days following receipt of the recorded document. A maintenance easement shall be recorded for every structural BMP to allow sufficient access for adequate maintenance. The specific recordation and deed restriction requirements as well as notes to be displayed on final plats and deeds shall be contained in the Administrative Manual. **[formerly known as § 154.037]**

155.804. Development and Redevelopment Mitigation [formerly § 154, Section IV]

A. MITIGATION PAYMENT. Development and redevelopment on a lot less than one (1) acre in size measured in accordance with § 155.801.F.8 that is not exempt according to § 155.801.E.2 is allowed by right to forego meeting the requirements of the PCO provided the Town is paid a mitigation fee according to rates set forth in the Administrative Manual and provided such development and redevelopment are not part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules. **[formerly known as § 154.041]**

B. CRITERIA FOR MITIGATION PAYMENT.

1. NOTIFICATION TO STORM WATER ADMINISTRATOR. The by-right mitigation option does not require approval by the Storm Water Administrator; however, notification that this right is to be exercised for a particular lot must be made prior to the issuance of any permits for the project. This notification is to be made to the Storm Water Administrator on a standard form provided in the Administrative Manual.

2. USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment to install water quality enhancement measures, including but not limited to BMPs, stream restoration, open space preservation, etc. BMP(s) installed using the mitigation payment must be constructed in accordance with 15A NCAC 2H .1008(c), as explained in the Administrative Manual. All BMPs constructed by the Town as part of this mitigation option shall be maintained by the Town of Matthews into perpetuity.

3. TIME FRAME FOR USE OF MITIGATION PAYMENT. The Town shall use the mitigation payment within a maximum of two (2) years of the end of the calendar year from the receipt of the payment. As an option, the Town of Matthews may elect to use the fee to purchase and plant trees within the Town. **[formerly known as § 154.042]**

155.805. Undisturbed Open Space [formerly § 154, Section V]

A. PURPOSE. Undisturbed Open Space provides for a reduction in the negative impacts from storm water runoff through nonstructural means. The combination of the structural BMPs described in § 155.803 with the non-structural Undisturbed Open Space provisions described in this § 155.805 allow the objectives of the PCO to be fulfilled. **[formerly known as § 154.051]**

B. GENERAL DESCRIPTION. Undisturbed Open Space is required for all development unless mitigated. The percentage of Open Space required depends on a project's built-upon area as described below. Undisturbed Open Space requirements can be met in stream or lake buffers, designated common areas or on individual lots for residential development (e.g., backyards, borders, etc.). Undisturbed Open Space cannot be designated within rights of way, utility easements, etc. where re-disturbance could occur. Grass fields can also be used to meet Undisturbed Open Space requirements; however, the fields must be replanted in accordance with the tree planting provisions described in § 155.805.E. below. Undisturbed Open Space is preferred where it will provide maximum water quality benefit (i.e., around gullies and existing drainage areas, adjacent to streams and wetlands, around structural BMPs, etc.). **[formerly known as § 154.052]**

C. UNDISTURBED OPEN SPACE CRITERIA. Undisturbed Open Space requirements apply to projects as described below.

1. LESS THAN TWENTY FOUR PERCENT (24%) BUILT-UPON AREA. A project with less than twenty four percent (24%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of twenty five percent (25%) of the project area.

2. GREATER THAN OR EQUAL TO TWENTY FOUR PERCENT (24%) AND LESS THAN FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to twenty four percent (24%) and less than fifty percent (50%) built-upon area shall include as Undisturbed Open Space within the boundaries of the project a minimum of seventeen and one-half percent (17.5%) of the project area.

3. GREATER THAN OR EQUAL TO FIFTY PERCENT (50%) BUILT-UPON AREA. A project with greater than or equal to fifty percent (50%) built upon area shall include as Open Space within the boundaries of the project a minimum of ten percent (10%) of the project area. **[formerly known as § 154.053]**

D. UNDISTURBED OPEN SPACE DESIGNATION. The Undisturbed Open Space location shall be recorded at the Register of Deeds Office as "Undisturbed Open Space" and future disturbance is prohibited except for greenway trails with unlimited public access, Charlotte- Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town of Matthews. **[formerly known as § 154.054]**

E. UNDISTURBED OPEN SPACE MITIGATION.

1. PURPOSE. The purpose of this mitigation is to reduce the cost of complying with the Undisturbed Open Space requirement while ensuring the reduction of pollution loads and achievement of the ordinance objectives.

2. GENERAL DESCRIPTION. Approved disturbance to the Open Space area described in § 155.805.C. above must be off-set by an allowable form of mitigation, including on-site and off-site mitigation as well as through payment-in-lieu.

3. UNDISTURBED OPEN SPACE MITIGATION CRITERIA.

a. ON-SITE MITIGATION. On-site mitigation shall allow the disturbance of designated Undisturbed Open Space area on a project with the fulfillment of the following criteria on the project site:

i. Fifty percent (50%) increase in total Undisturbed Open Space area designation above the requirements specified in § 155.805.D, except when the Undisturbed Open Space area qualifies as a "grass field" in which case the size of the required Undisturbed Open Space area remains unchanged. The portion of the Open Space area that is a grass field, whether or not disturbed, must be replanted with trees as specified in subsection 3, below.

ii. Establishment of a minimum of six inches (6") of top soil to the disturbed Open Space area following the completion of construction activities. This material may be obtained from on-site when available.

iii. Planting of a minimum of thirty six (36) trees per acre of Undisturbed Open Space area as follows:

- Trees shall have a minimum caliper of one and one-half inches (1.5").
- Trees shall be of a quality set forth by the American Standard for Nursery Stock and will be selected from a list of acceptable native species for planting in Undisturbed Open Spaces established by the Town of Matthews.
- Planted trees shall contain a mix of at least three (3) different species in roughly equal proportions and be "large mature shade tree species" as listed in § 155.606.14.
- Trees shall be planted in accordance with specifications provided by the Town of Matthews.
- Trees shall be warranted for a minimum of three (3) years following planting and any dead or diseased trees must be replaced.

iv. The area around and between trees must be stabilized using an approved vegetative ground cover and mulch.

v. The slope of any graded or disturbed area that is dedicated for Undisturbed Open Space cannot exceed three (3) to one (1) (3:1).

vi. The flow of water across the Undisturbed Open Space area must be controlled to prevent soil erosion or mulch disturbance.

b. OFF-SITE MITIGATION. On a case by case basis and at the sole discretion of the Storm Water Administrator, the Town may allow Undisturbed Open Space disturbance and off-

site mitigation through the acceptance for ownership or conservation easement properties for the protection of Undisturbed Open Space, provided the result will be an increased protection of water quality over what would be attained through preservation of Undisturbed Open Space or on site mitigation (see Administrative Manual).

c. PAYMENT - IN - LIEU OF UNDISTURBED OPEN SPACE DEDICATION. Payment-in-lieu of Undisturbed Open Space dedication is only allowed for industrial and commercial developments and multi-family projects that are in excess of fifty percent (50%) built upon area. Payment-in-lieu shall only be allowed to the extent an approved disturbance cannot be offset by onsite mitigation as determined by the Storm Water Administrator. The following criteria shall be fulfilled for the payment-in-lieu option:

i. A fee shall be paid to the Town or its designee based on the following formula: 1.25 x (appraised value of subject property including intended use without improvements). The appraised value of the subject property shall be determined by a licensed, independent real estate appraiser retained by the developer or owner. The Town may accept the appraised value or at its discretion obtain its own appraisal. In the event the parties cannot agree on the appraised value, the two appraised values shall be averaged together to determine the final appraised value to be used in the formula above.

ii. Payment shall be accepted by the Town or its designee prior to land disturbing activities.

iii. The Town shall use the payment-in-lieu to purchase Undisturbed Open Space in the same river basin (Yadkin or Catawba) as the property to be disturbed within a maximum of two (2) years of the end of the calendar year from the receipt of the payment. As an option, the Town may elect to use up to ten percent (10%) of the fee to purchase and plant trees within the Town.

4. APPROVAL CRITERIA FOR UNDISTURBED OPEN SPACE MITIGATION.

a. APPLICATION FOR UNDISTURBED OPEN SPACE MITIGATION. The Storm Water Administrator shall receive, review, approve, disapprove or approve with conditions an "Application for Undisturbed Open Space Mitigation." The Storm Water Administrator shall design this application to include all pertinent information, including at a minimum a "mitigation plan" describing the desired mitigation option as discussed in previous sections and an effective demonstration that all reasonable efforts have been undertaken to fulfill the Undisturbed Open Space requirement on the particular site. An application for on-site mitigation shall show the location of the restored Undisturbed Open Space on the property and the location, type and size of all trees and ground cover to be planted as well as contain a warranty statement for the trees. An off-site mitigation application shall show the location and description including acreage, etc. of the property to be used for mitigation and contain a legally valid instrument demonstrating that the applicant has legal title to the property for transfer to the Town. A payment-in-lieu application shall at a minimum contain the location and description of the site to be mitigated and an approved appraisal by a licensed, independent real estate appraiser

b. PRE-APPROVED UNDISTURBED OPEN SPACE MITIGATION. The following is pre-approved for on-site mitigation and does not require the submittal of an application to the Storm Water Administrator; however, these mitigation areas shall be described on the storm water management permit application.

i. Residential, Commercial and Multifamily Uses: twenty five percent (25%) of the required Undisturbed Open Space area as described in § 155.805.D is preapproved for on-site mitigation provided the size of mitigation area is one hundred fifty percent (150%) of the disturbed area. Other forms of mitigation as described above must receive approval from the Storm Water Administrator.

ii. Industrial Uses: one hundred percent (100%) of the required Undisturbed Open Space area as described in § 155.805.D above is pre-approved for on-site mitigation with no increase in total required Undisturbed Open Space area. Other

forms of mitigation as described above must receive approval from the Storm Water Administrator.

5. UNDISTURBED OPEN SPACE DESIGNATION. All designated Undisturbed Open Space areas included as part of an approved mitigation must be recorded at the Register of Deeds Office as "Undisturbed Open Space" and any future disturbance of this area is strictly prohibited except for greenway trails with unlimited public access, Charlotte-Mecklenburg Utility lines and channel work/maintenance activities by Charlotte-Mecklenburg Storm Water Services. Other utility work may be allowed in the Undisturbed Open Space area provided it will not result in loss of Undisturbed Open Space as approved by the Town. **[formerly known as § 154.055]**

155.806. Maintenance [formerly § 154, Section VI]

A. DEDICATION OF BMPS, FACILITIES AND IMPROVEMENTS.

1. SINGLE FAMILY RESIDENTIAL BMPS ACCEPTED FOR MAINTENANCE. The Town shall accept maintenance responsibility (as specified in the Design Manual) of structural BMPs that are installed pursuant to the PCO following a warranty period of two (2) years from the date of as-built certification described in § 155.802.C.3, provided the BMP:

   a. Only serves a single family detached residential development or townhomes all of which have public street frontage;

   b. Is satisfactorily maintained during the two-year warranty period by the owner or designee;

   c. Meets all the requirements of the PCO and the Design Manual; and

   d. Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance, repair or reconstruction. The Storm Water Administrator must receive an application for transfer of maintenance responsibilities for the structural BMP along with the storm water management permit application. The Storm Water Administrator will develop and distribute this application as a component of the Administrative Manual (see § 155.802.B.4.d).

2. MAINTENANCE AND OPERATION OF BMPS. The owner of a structural BMP installed pursuant to the PCO and not covered under Sub§ 155.806.A.1 shall maintain and operate the BMP so as to preserve and continue its function in controlling storm water quality and quantity at the degree or amount of function for which the structural BMP was designed.

3. DAMAGE OR REMOVAL OF TREES. The following provisions apply to trees contained in permitted Undisturbed Open Space areas or in BMPs that are damaged or removed:

   a. For trees damaged or removed due to natural disasters, the owner shall be required to replace the trees in accordance with the undisturbed open space mitigation criteria described in § 155.805.E.3.a of the PCO within a timeframe specified by the Storm Water Administrator.

   b. For trees damaged or removed due to reasons other than (a) above, the owner shall be required to replace the trees in accordance with the undisturbed open space mitigation criteria described in § 155.805.E.3.a of the PCO within a timeframe specified by the Storm Water Administrator with the following exception, the trees shall be replaced at twice the specified density. In addition, the owner may be subject to fines as described in § 155.807, Violations and Enforcement.

4. ANNUAL MAINTENANCE INSPECTION AND REPORT. The person responsible for maintenance of any BMP installed pursuant to the PCO and not covered under § 155.806.A.1 shall submit to the Storm Water Administrator an inspection report from a qualified registered North Carolina professional engineer or landscape architect performing services only in their area of competence. All inspection reports shall be on forms supplied by the Storm Water Administrator that are contained in the Design Manual. An original inspection report shall be provided to the Storm Water Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification. **[formerly known as § 154.061]**

B. OPERATION AND MAINTENANCE AGREEMENT.

1. GENERAL. At the time that as-built plans are provided to the Storm Water Administrator as described in § 155.802.C.3 and prior to final approval of a project for compliance with the PCO, but in all cases prior to placing the BMPs in service, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. This maintenance agreement shall be recorded as specified in § 155.803.G. Failure to execute an operation and maintenance agreement within the time frame specified by the Storm Water Administrator may result in assessment of penalties as specified in § 155.807, Violations and Enforcement. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. At the discretion of the Storm Water Administrator, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the Town a right of entry in the event that the Storm Water Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the structural BMP. Standard operation and maintenance agreements for BMPs shall be developed by the Storm Water Administrator and made available in the Design Manual. The operation and maintenance agreement must be approved by the Storm Water Administrator prior to plan approval, and it shall be referenced on the final plat as described in § 155.803.G.

2. SPECIAL REQUIREMENT FOR HOMEOWNERS AND OTHER ASSOCIATIONS. For all structural BMPs required pursuant to the PCO not covered under § 155.806.A.1 and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include the provisions described in the Design Manual. **[formerly known as § 154.062]**

C. INSPECTION PROGRAM. Inspections and inspection programs by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs. If the owner or occupant of any property refuses to permit such inspection, the Storm Water Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Storm Water Administrator while carrying out his or her official duties. **[formerly known as § 154.063]**

D. PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE. The Town may require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in accordance with the provisions contained in the Administrative Manual. **[formerly known as § 154.064]**

E. RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES. The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of creation of the record and shall submit the same upon reasonable request to the Storm Water Administrator. **[formerly known as § 154.065]**

F. MAINTENANCE EASEMENT. Every structural BMP installed pursuant to the PCO shall be made accessible for adequate inspection, maintenance, reconstruction and repair by a maintenance easement. The easement shall conform to standards listed in the Administrative Manual, and be recorded as described in § 155.803.G and its terms shall specify who may make use of the easement and for what purposes. **[formerly known as § 154.066]**

155.807. Violations and Enforcement [formerly § 154, Section VII]

A. GENERAL.

1. AUTHORITY TO ENFORCE. The provisions of the PCO shall be enforced by the Storm Water Administrator, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Storm Water Administrator, it includes his or her designee as well as any authorized agent of Town.

2. VIOLATION UNLAWFUL. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by the PCO, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to the PCO, is unlawful and shall constitute a violation of the PCO.

3. EACH DAY A SEPARATE OFFENSE. Each day that a violation continues shall constitute a separate and distinct violation or offense.

4. RESPONSIBLE PERSONS/ENTITIES. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of the PCO, as well as any person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of the PCO, or fails to take appropriate action, so that a violation of the PCO results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this § 155.807. For the purposes of this article, responsible person(s) shall include but not be limited to:

   a. PERSON MAINTAINING CONDITION RESULTING IN OR CONSTITUTING VIOLATION. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of the PCO, or fails to take appropriate action, so that a violation of the PCO results or persists.

   b. RESPONSIBILITY FOR LAND OR USE OF LAND. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property. **[formerly known as § 154.071]**

B. INSPECTIONS AND INVESTIGATIONS

1. AUTHORITY TO INSPECT. The Storm Water Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with the PCO, or rules or orders adopted or issued pursuant to the PCO, and to determine whether the activity is being conducted in accordance with the PCO and the approved storm water management plan, Design Manual and Administrative Manual and whether the measures required in the plan are effective. No person shall willfully resist, delay, or obstruct the Storm Water Administrator while the Storm Water Administrator is inspecting or attempting to inspect an activity under the PCO.

2. NOTICE OF VIOLATION AND ORDER TO CORRECT. When the Storm Water Administrator finds that any building, structure, or land is in violation of the PCO, the Storm Water Administrator shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. The notice shall, if required, specify a date by which the responsible person/entity must comply with the PCO, and advise that the responsible person/entity is subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in § 155.807.C In determining the measures required and the time for achieving compliance, the Storm Water Administrator shall take into consideration the technology and quantity of work required, and shall set reasonable and attainable time limits. The Storm Water Administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Storm Water

Administrator may take appropriate action, as provided in § 155.807.C, Remedies and Penalties, to correct and abate the violation and to ensure compliance with the PCO. Violations of other Chapters of this Title are a separate issue.

3. EXTENSION OF TIME. A responsible person/entity who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Storm Water Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the responsible person/entity requesting the extension, the Storm Water Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding sixty (60) days. The Storm Water Administrator may grant thirty (30) day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the responsible person/entity violating the PCO. The Storm Water Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order. This provision does not automatically provide the same extension for violations of any other chapter of the Town Unified Development Ordinance.

4. PENALTIES ASSESSED CONCURRENT WITH NOTICE OF VIOLATION. Penalties may be assessed concurrently with a notice of violation for any of the following in which case the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt:

   a. Failure to submit a storm water management plan.

   b. Performing activities without an approved storm water management plan.

   c. Obstructing, hampering or interfering with an authorized representative who is in the process of carrying out official duties.

   d. A repeated violation for which a notice was previously given on the same project and to the same responsible person/entity responsible for the violation.

   e. Willful violation of the PCO.

   f. Failure to install or maintain best management practices per the approved plan.

5. AUTHORITY TO INVESTIGATE. The Storm Water Administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in the PCO, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No Person shall refuse entry or access to the Storm Water Administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any Person obstruct, hamper, or interfere with the Storm Water Administrator while in the process of carrying out official duties. The Storm Water Administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

6. ENFORCEMENT AFTER TIME TO CORRECT. After the time has expired to correct a violation, including any extension(s) if authorized by the Storm Water Administrator, the Storm Water Administrator shall determine if the violation is corrected. If the violation is not corrected, the Storm Water Administrator may act to impose one or more of the remedies and penalties authorized by § 155.807.C.

7. EMERGENCY ENFORCEMENT. If delay in correcting a violation would seriously threaten the effective enforcement of the PCO or pose an immediate danger to the public health, safety, or welfare, then the Storm Water Administrator may order the immediate cessation of a violation. Any Person so ordered shall cease any violation immediately. The Storm Water Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty specified in § 155.807.C. **[formerly known as § 154.072]**

C. REMEDIES AND PENALTIES. The remedies and penalties provided for violations of the PCO, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

1. REMEDIES.

a. WITHHOLDING OF CERTIFICATE OF OCCUPANCY. The Storm Water Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the storm water practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the described violations.

b. DISAPPROVAL OF SUBSEQUENT PERMITS AND DEVELOPMENT APPROVALS. As long as a violation of the PCO continues and remains uncorrected, the Storm Water Administrator or other authorized agent may withhold, and the Town of Matthews may disapprove, any request for permit or development approval or authorization provided for by the PCO or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

c. INJUNCTION, ABATEMENTS, ETC. The Storm Water Administrator, with the written authorization of the Matthews Town Manager may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the PCO. Any person violating the PCO shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

d. CORRECTION AS PUBLIC HEALTH NUISANCE, COSTS AS LIEN, ETC. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. 160A-193, the Storm Water Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

e. RESTORATION OF AREAS AFFECTED BY FAILURE TO COMPLY. By issuance of an order of restoration, the Storm Water Administrator may require a Person who engaged in a land development activity and failed to comply with the PCO to restore the waters and land affected by such failure so as to minimize the detrimental effects of the resulting pollution. This authority is in addition to any other civil penalty or injunctive relief authorized under the PCO.

2. CIVIL PENALTIES

a. VIOLATIONS OF ORDINANCE. A violation of any of the provisions of the PCO or rules or other orders adopted or issued pursuant to the PCO may subject the violator to a civil penalty. A civil penalty may be assessed from the date the violation occurs. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation except as provided in § 155.807.B.4 in which case the penalty is assessed concurrently with a notice of violation. Refusal to accept the notice or failure to notify the Storm Water Administrator of a change of address shall not relieve the violator's obligation to comply with the PCO or to pay such a penalty.

b. AMOUNT OF PENALTY. The maximum civil penalty for each violation of the PCO is twenty seven thousand five hundred dollars ($27,500.00). Each day of continuing violation shall constitute a separate violation. In determining the amount of the civil penalty, the Storm Water Administrator shall consider any relevant mitigating and aggravating factors including, but not limited to, the effect, if any, of the violation; the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator saved money through noncompliance; whether the violator took reasonable measures to comply with the PCO; whether the violation was committed willfully; whether the violator reported the violation to the Storm Water Administrator; and the prior record of the violator in complying or failing to comply with the PCO or any other post construction ordinance or law. The Storm Water Administrator is authorized to vary the amount of the *per diem* penalty based on criteria specified in the Administrative Manual and based on relevant

mitigating factors. Civil penalties collected pursuant to the PCO shall be credited to the Town general fund as non-tax revenue.

c. NOTICE OF ASSESSMENT OF CIVIL PENALTY. The Storm Water Administrator shall determine the amount of the civil penalty and shall notify the violator of the amount of the penalty and the reason for assessing the penalty. This notice of assessment of civil penalty shall be served by any means authorized under G.S. 1A-1, Rule 4 and shall direct the violator to either pay the assessment or file an appeal within thirty (30) days of receipt of the notice as specified in § 155.807.C.2.e.

d. FAILURE TO PAY CIVIL PENALTY ASSESSMENT. If a violator does not pay a civil penalty assessed by the Storm Water Administrator within thirty (30) days after it is due, or does not request a hearing as provided in § 155.807.C.2.e, the Storm Water Administrator shall request the initiation of a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County Superior Court or in any other court of competent jurisdiction. A civil action must be filed within three (3) years of the date the assessment was due. An assessment that is appealed is due at the conclusion of the administrative and judicial review of the assessment.

e. APPEAL OF REMEDY OR PENALTY. The issuance of an order of restoration and/or notice of assessment of a civil penalty by the Storm Water Administrator shall entitle the responsible party or entity to an appeal before the Storm Water Advisory Committee (SWAC) if such Person submits written demand for an appeal hearing to the Clerk of SWAC within thirty (30) days of the receipt of an order of restoration and/or notice of assessment of a civil penalty. The demand for an appeal shall be accompanied by a filing fee as established by SWAC. The appeal of an order of restoration and/or notice of assessment of a civil penalty shall be conducted as described in § 155.802.E.

3. CRIMINAL PENALTIES. Violation of the PCO may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law. **[formerly known as § 154.073]**

155.808. Definitions [formerly § 154, Section VIII]

A. USE OF DEFINITIONS. In the construction of the PCO, the definitions contained in this § 155.808 shall be observed and applied, unless other provisions of the PCO specifically indicate otherwise.

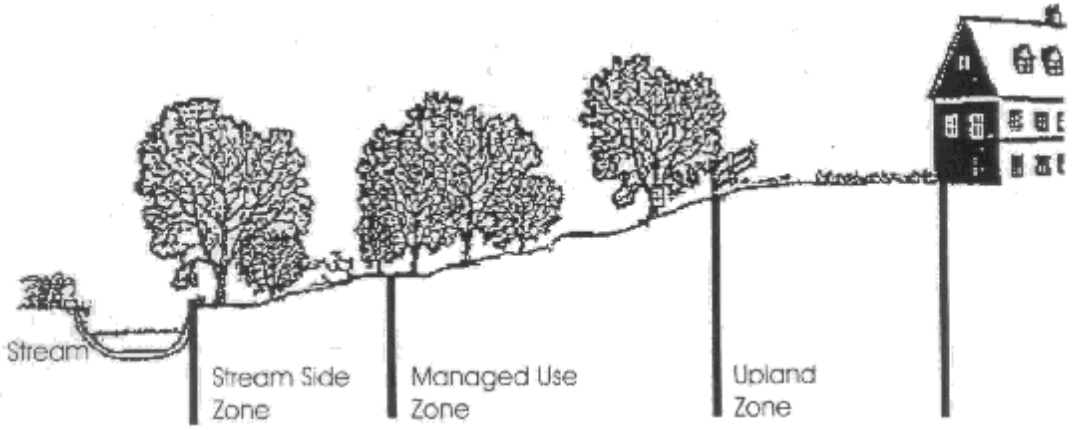
B. DEFINITIONS. The following words and terms when used in the interpretation and administration of the PCO shall have the meaning set forth below except where otherwise specifically indicated. **[formerly known as § 154.081]**

Administrative Manual – Shall mean a manual developed by the Storm Water Administrator and distributed to the public to provide information for the effective administration of the PCO, including but not limited to application requirements, submission schedule, fee schedule, maintenance agreements, criteria for mitigation approval, criteria for recordation of documents, inspection report forms, requirements for submittal of bonds, a copy of the PCO, and where to obtain the Design Manual.

Best Management Practices (BMPs) – Shall mean a structural management facility used singularly or in combination for storm water quality and quantity treatment to achieve water quality protection goals.

Buffer – Shall mean a natural or vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones – Shall mean in the Catawba District, streams draining greater than or equal to fifty (50) acres but less than three hundred (300) acres have a two (2) zone buffer including a stream side and upland zone. Buffers for streams draining greater than or equal to three hundred (300) acres have three (3) zones as shown below. The amount of disturbance allowed in the buffer differs in each zone. In the Yadkin District there are no zones, the entire buffer is undisturbed.



Buffer Widths – Shall mean viewed aerially, the stream buffer width is measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

Built-Upon Area (BUA) – Shall mean that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck or the water area of a swimming pool.

Commercial Development – Shall mean any development that is not residential development as defined below.

Design Manual – Shall mean the storm water design manual approved for use in the Town of Matthews by the North Carolina Department of Environment and Natural Resources and shall be at least as stringent as the storm water design manual approved for use in Phase II jurisdictions by the Department for the proper implementation of the requirements of the federal Phase II storm water program. All references to the Design Manual are to the latest published edition or revision.

Development – Shall mean new development created by the addition of built upon area to land void of built upon area as of the Effective Date of the Post Construction Regulations.

Disturbance – Shall mean any use of the land by any person or entity which results in a change in the natural cover or topography of the land.

Drainage Area – Shall mean that area of land that drains to a common point on a project site.

Effective Date of the PCO– Shall mean June 30, 2007.

Floodplain – Shall mean the low, periodically-flooded lands adjacent to streams. For land use planning purposes, the regulatory floodplain is usually viewed as all lands that would be inundated by the Regulatory Flood.

Grass Field – Shall mean land on which grasses and other herbaceous plants dominate and trees over six feet in height are sparse or so widely scattered that less than five percent (5%) of the land area is covered by a tree canopy.

Industrial Uses – Shall mean land used for industrial purposes only; commercial (or other non-industrial) businesses operating on industrially zoned property shall not be considered an industrial use.

Larger common plan of development or sale – Shall mean **a**ny contiguous area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to public notice or hearing, drawing, permit application, zoning request, or site design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Low Impact Development (LID) – Shall mean the integration of site ecology and environmental goals and requirements into all phases of urban planning and design from the individual residential lot level to the entire watershed.

Mitigation – Shall mean actions taken either on-site or off-site as allowed by the PCO to offset the impacts of a certain action.

Multifamily – Shall mean a group of two or more attached, duplex, triplex, quadruplex, or multi-family buildings, or a single building of more than two (2) units constructed on the same lot or parcel of land under single ownership, and planned and developed with a unified design of buildings and coordinated common open space and service areas.

Non-Point Source (NPS) Pollution – Shall mean forms of pollution caused by sediment, nutrients, organic and toxic substances originating from land use activities and carried to lakes and streams by surface runoff.

Owner – Shall mean the legal or beneficial owner of land, including but not limited to a fee owner, mortgagee or vendee in possession, receiver, executor, trustee, or long term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Person(s) – Shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Redevelopment – Shall mean rebuilding activities on land containing built upon area as of the effective date of the PCO and where any pre-existing impervious surface remains intact and is not removed during the rebuilding or redevelopment process.

Residential Development – Shall mean a development containing dwelling units with open yards on at least two sides where land is sold with each dwelling unit.

Storm Water Administrator – Shall mean the position or individual that has been designated by the Matthews Board of Commissioners to administer and enforce the PCO.

Storm Water Advisory Committee (SWAC) – Shall mean the Charlotte-Mecklenburg Storm Water Advisory Committee as established by joint resolutions of the Charlotte City Council, Mecklenburg County Board of Commissioners and the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill and Pineville, together with any amendments.

Storm Water Management Permit – Shall mean a permit required for all development and redevelopment unless exempt pursuant to the PCO, which demonstrates compliance with the PCO.

S.W.I.M. – Shall mean an acronym for the Surface Water Improvement and Management initiative by the Mecklenburg County Board of Commissioners for the purpose of restoring the quality and usability of Mecklenburg County's surface water resources. The S.W.I.M. initiative resulted in the adoption of county wide buffers on streams that are termed S.W.I.M. Buffers.

Top of Bank – Shall mean the landward edge of the stream channel during high water or bankfull conditions at the point where the water begins to overflow onto the floodplain.

Topsoil – Shall mean natural, fertile soil capable of sustaining vigorous plant growth that is of uniform composition throughout with an admixture of subsoil, has an acidity range of pH 5.5 - 7.0.

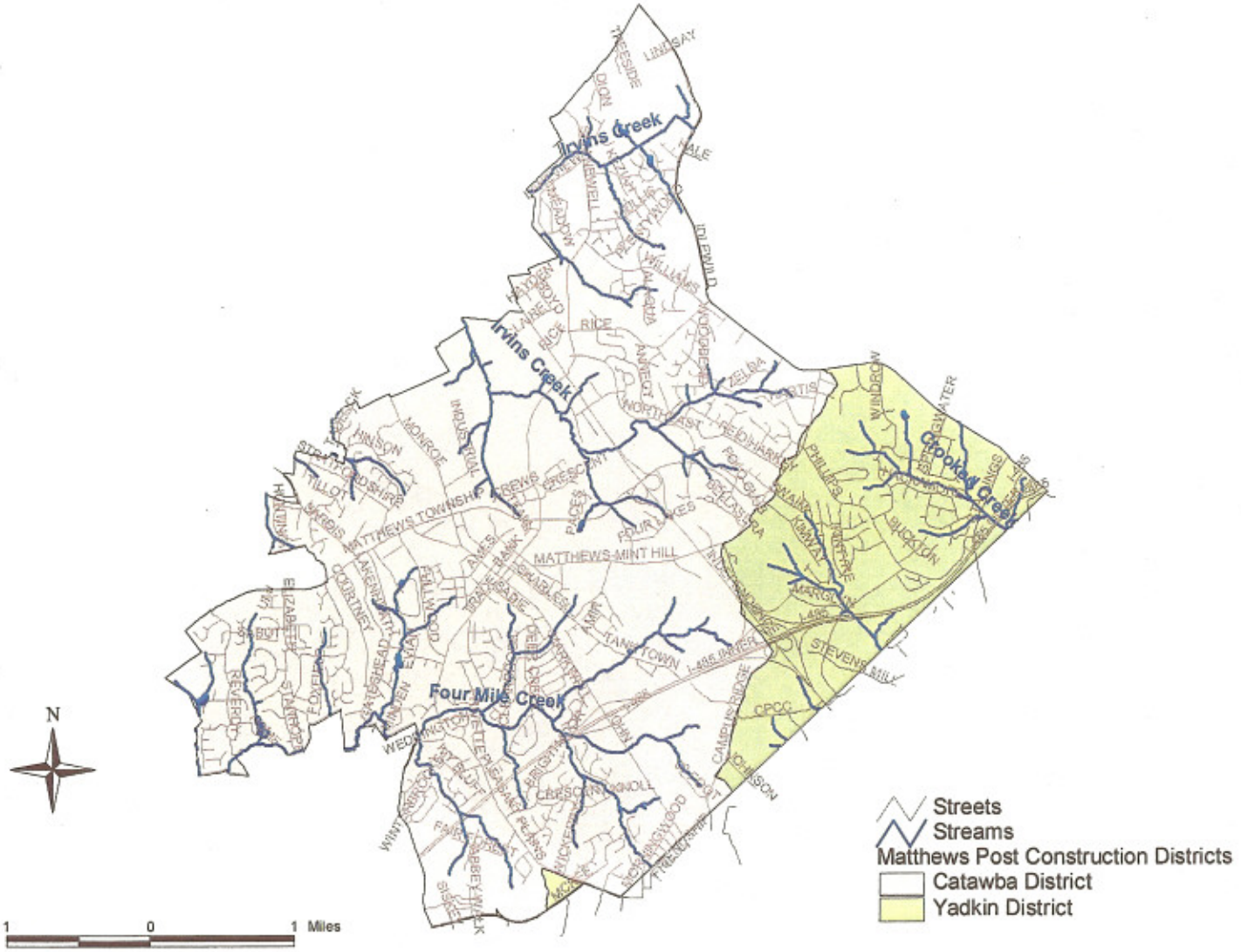
Total Phosphorus (TP) – Shall mean a nutrient that is essential to the growth of organisms but when it occurs in high enough concentrations it can negatively impact water quality conditions. Total phosphorus includes both dissolved and suspended forms of reactive phosphorus, acid-hydrolyzable phosphorus and organic phosphorus as measured by Standard Method 4500-P.

Total Suspended Solids (TSS) – Shall mean total suspended matter in water which includes particles collected on a filter with a pore size of two (2) microns as measured by Standard Method 2540-D, which is commonly expressed as a concentration in terms of milligrams per liter (mg/l) or parts per million (ppm).

Townhomes – Shall mean attached dwellings where a lot is created for each unit.

Undisturbed Open Space – Shall mean land that consists of natural areas containing trees and other natural shrubs consisting of either undisturbed areas or disturbed areas that have been replanted in accordance with the criteria established in the PCO. (Ord. No. 1559, passed 5-14-07; eff. 6-30-07; Ord. 2025A, passed 6-9-14)

Town of Matthews Post-Construction Storm Water Ordinance Map



Chapter 9. Floodplain Regulations

155.901. General Provisions.

A. TITLE. The regulations set out in this Chapter 9 shall be known and may be cited as the "floodplain regulations o f Matthews, North Carolina" or "the floodplain regulations." **[formerly known as § 151.01]**

B. AUTHORITY. The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. **[formerly known as § 151.02]**

C. FINDINGS OF FACT.

1. The flood hazard areas of Matthews and Matthews land use jurisdiction are subject to periodic inundation which results in loss of life, increased health and safety hazards, destruction of property, and disruption of commerce and governmental services. Inundation from flood waters results in public expenditures for flood protection, flood disaster relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are created by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, flood-proofed or otherwise unprotected from flood damages. **[formerly known as § 151.03]**

D. PURPOSE. It is the purpose of the floodplain regulations to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and

5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. **[formerly known as § 151.04]**

E. OBJECTIVES.

1. The regulations of the Special Flood Hazard Areas herein set forth are intended to protect areas of designated floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Town as provided in the comprehensive plans as such are adopted and amended from time to time.

2. The specific intent in establishing Special Flood Hazard Areas composed of floodways and flood fringe areas includes the following:

   a. To control uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;

   b. To protect human life and health;

   c. To minimize the expenditure of public money for costly flood-control projects;

   d. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

   e. To permit certain uses which can be appropriately located in flood hazard areas and to assure such permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;

   f. To minimize prolonged business interruptions;

   g. To protect existing drainage courses that carry abnormal flows of stormwater in periods of heavy precipitations;

   h. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in Floodplains;

   i. To meet the needs of the streams to carry flood waters and protect the creek channels and Floodplains from encroachment so that flood heights and flood damage will not be increased;

   j. To inform existing and potential property owners that property is in a Special Flood Hazard Area as well as the associated flood risks and development restrictions;

   k. To minimize future flood losses by depicting Community Flood Fringe Areas on the Flood Insurance Rate Maps;

   l. To help maintain a stable tax base by providing for the sound use and development of flood prone areas.

3. This ordinance is intended to permit only that development within the floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the Special Flood Hazard Area as shown on the Flood Insurance Rate Maps (FIRM) including FEMA and/or locally approved revisions to data shown on the FIRMs. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which such property is located. Any use not permitted by the zoning regulations shall not be permitted in the Special Flood Hazard Area, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this ordinance. **[formerly known as § 151.05]**

F. DEFINITIONS. Unless specifically defined in this Chapter, words or phrases used in this Chapter 9 shall apply the definitions provided in Chapter 1 of this Title, or when not defined in Chapter 1 they shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this Chapter 9, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. **[formerly § 151.06]**

Accessory Structure – shall mean a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures.

Addition (to an existing building) – shall mean an extension or increase in the floor area or height of a building or structure.

Appeal – shall mean a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Basement – shall mean any area of the building having its floor subgrade (below ground level) on all sides.

Building – shall mean any structure built for support, shelter or enclosure for any occupancy or storage.

Chemical Storage Facility – shall mean a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Community Base Flood – shall mean the flood determined using future land use conditions having a one percent chance of being equaled or exceeded in any given year.

Community Base Flood Elevation – shall mean the elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table, having a one percent chance of being equaled or exceeded, determined using future land use conditions.

Community Conditional Letter of Map Revisions (CoCLOMR) – shall mean a letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the Community Encroachment Lines, and/or the location of the Community Flood Fringe Line, and/or Community Base Flood Elevations.

Community Encroachment Area – shall mean the channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood without cumulatively increasing the water surface elevation more than one-tenth foot (0.1'). (See attachments.)

Community Encroachment Lines – shall mean the lateral limits of the Community Encroachment Area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this ordinance. (See attachments).

Community Flood Fringe Area – shall mean the land area located between the Community Encroachment Line and the Community Flood Fringe Line as defined herein. (See attachments).

Community Flood Fringe Line – shall mean the line that depicts the outer limits of the Community Flood Fringe Area (outer limits of the Community Special Flood Hazard Area).

Community Letter of Map Revision (CoLOMR) – shall mean a letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, which changes the location of the Community Encroachment Lines and/or the Community Flood Fringe Lines.

Community Special Flood Hazard Area – shall mean the land subject to a one - percent or greater chance of flooding in any given year from a Community Base Flood. It includes the FEMA Floodway, Community Encroachment Area, FEMA Flood Fringe Area, and the Community Flood Fringe Area. (See attachments).

Conditional Letter of Map Revision (CLOMR) – shall mean FEMA's comments on whether a project, if built as proposed, would meet the minimum NFIP standards.

Critical Facility – shall mean a building used to house a function that is vulnerable or essential to the community. Uses include but are not limited to: child and adult daycare facilities, nursing homes, schools, hospitals, fire, police and medic facilities and other uses as deemed by the Floodplain Administrator.

Development – shall mean any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or storage of equipment or materials.

Disposal – shall mean as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Dry Public Street – shall mean a public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation.

Dry land Access – shall mean a gravel, paved or concrete access route, at least twelve feet (12') wide, which is above the Community Base Flood Elevation and connects a habitable building to a dry public street.

Elevated Building – shall mean a non-basement building built to have the lowest floor elevated above the ground level by solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Encroachment – shall mean the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an encroachment.

Existing Manufactured Home Park or Manufactured Home Subdivision – shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) was completed before February 4, 1991.

FEMA – shall mean the Federal Emergency Management Agency.

FEMA Base Flood – shall mean the flood determined using land use conditions at the time of the study having a one percent chance of being equaled or exceeded in any given year.

FEMA Base Flood Elevation (BFE) – shall mean the elevation shown on the Flood Insurance Rate Map and Flood Insurance Study Profile that indicates the water surface elevation resulting from a FEMA Base Flood that has a one percent chance of equaling or exceeding that level in any given year.

FEMA Flood Fringe Area – shall mean the land area located between the FEMA Floodway Lines and the line depicting the maximum elevation subject to inundation by the FEMA Base Flood as defined herein (see attachments).

FEMA Flood Fringe Line – shall mean the line on a map that depicts the outer limits of the FEMA Flood Fringe Area.

FEMA Floodway – shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA Base Flood, without cumulatively increasing the water surface elevation more than one-half foot (0.5').

FEMA Floodway Lines – shall mean the lateral limits of the FEMA Floodway. (see attachments).

FEMA Special Flood Hazard Area – shall mean the land subject to a one percent or greater chance of flooding in any given year from a FEMA Base Flood. It includes the FEMA Floodway, Community Encroachment Area, and the FEMA Flood Fringe Area. (see attachments).

Flood or Flooding – shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of run-off of surface waters from any source.

Flood Insurance Rate Map (FIRM) – shall mean an official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated the Special Flood Hazard Area and the risk premium zones applicable to the community. The date of Matthews' original FIRM is February 4, 2004 and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

Flood Insurance Study – shall mean an examination, evaluation, and determination of Special Flood Hazard Areas, corresponding water surface elevations, flood insurance risk zones, and other flood data in a community. The study includes a Flood Insurance Study report, and/or Flood Insurance Rate Maps (FIRMs).

Floodplain – shall mean the land subject to inundation by the Community Base Flood and is encompassed by the Community Special Flood Hazard Area.

Floodplain Development Permit – shall mean either an Individual Floodplain Development Permit or a General Floodplain Development Permit issued for development in the floodplain per the requirements of §151.16 of this chapter.

Floodproofing – shall mean any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood Protection Elevation – shall mean the elevation to which all structures located within the Community Special Flood Hazard Area must be elevated (or flood-proofed if nonresidential). Within areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the Community Base Flood Elevation plus one foot (1') of freeboard. In areas where no BFE has been established, all structures and other Development must be elevated (or flood-proofed if non-residential), to two feet (2') above the highest adjacent grade.

Floodwall – shall mean a wall built along a shore or bank to protect an area from flooding.

Floodway – shall mean either the FEMA Floodway or the Community Encroachment Area.

Flood Zone – shall mean a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floor – *(see **Lowest Floor**)*

Freeboard – shall mean the height added to the Community Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Community Base Flood Elevation (BFE) plus the freeboard establishes the "Flood Protection Elevation".

Functionally Dependent Facility – shall mean a facility that cannot be used for its intended purpose, unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

General Floodplain Development Permit – shall mean a permit issued for certain types of Development in the Floodplain per §151.16.

Habitable Building – shall mean a structure designed primarily for, or used for human habitation. This includes, but is not limited to, houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures (see definition above).

Hazardous Waste Management Facility – shall mean a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS Article 9 of Chapter 130A.

Highest Adjacent Grade – shall mean the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic Structure – shall mean any structure that is listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

Individual Floodplain Development Permit – shall mean a permit for Development in the Floodplain that involves activities not listed in §151.16 (B) (1) and may not qualify for a General Floodplain Development Permit.

Letter of Map Revision (LOMR) – shall mean an official amendment to the currently effective FEMA FIRM based on as-built conditions. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

Letter of Map Amendment (LOMA) – shall mean a letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

Letter of Map Revision based on Fill (LOMR-F) – shall mean a letter from FEMA that officially removes a property from the FEMA Special Flood Hazard Area (SFHA) as a result of placing fill on the property.

Levee – shall mean a manmade structure, usually an earthen embankment, floodwall or a combination of both that is designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System – shall mean a flood protection system which consists of levee(s) and/or floodwall(s) and associated structures, such as closure and drainage devices.

Lowest Adjacent Grade (LAG) – shall mean the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor – shall mean the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a

basement area, is not considered a building's Lowest Floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Manufactured Home – hall mean a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision – shall mean a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Market Value – shall mean the value of a building, excluding land value, that is determined by an appraiser certified in North Carolina using the cost approach method. Use of the "income capitalization approach" is not acceptable. Market value must be determined based on the building condition prior to Start of Construction (for proposed improvements) or before damage occurred (for damage repair). The value of the land and site improvements (landscaping, driveways, detached accessory structures, etc.) is not included. The values of the use and occupancy (business income) are not included. The Floodplain Administrator may use the tax value of the building in lieu of other methods described.

Market value may also mean the actual cash value (ACV) of a building minus depreciation. Actual cash value is the cost to replace a building on the same parcel with a new building of like-kind quality, minus depreciation due to age, use, and neglect. ACV does not consider loss in value mainly due to outmoded design or location factors. Depreciation accounts for the physical condition of a structure. Depreciation does not take into account functional obsolescence or factors that are external to the structure.

Mean Sea Level – shall mean the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with the "North American Vertical Datum of 1988 (NAVD 88)."

New Construction – shall mean construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of two (2) external walls and has a total cost equal to or exceeding fifty-percent (50%) of the market value of the structure before the "start of construction" of the improvement. For flood insurance purposes, New Construction also means structures for which the start of construction commenced on or after February 4, 1991 and includes subsequent improvements to such structures (see definition of Flood Insurance Rate Map).

New Manufactured Home Park or Subdivision – hall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after February 4, 1991.

Nonconforming Building or Use – shall mean any legally existing building or use which fails to comply with the provisions of this chapter.

Non-solid Fence – shall mean a fence with at least seventy five percent (75%) open area and with vertical supports each no more than twenty five 25 square inches in cross sectional area.

North American Vertical Datum (NAVD) – shall mean as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used then use the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion. *(See Flood Insurance Administration (FIA)-20 part 1, 8).*

Open House Forum – shall mean a public meeting held by the owner of a proposed levee and the Director of Mecklenburg County Storm Water Services, or his designee. The purpose of the Open House Forum is to provide an opportunity for discussion between the owner that has submitted an application for the construction of a levee, nearby property owners, and other interested parties.

Post-FIRM – shall mean construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM – shall mean a Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

Preliminary Flood Insurance Rate Map (PFIRM) – shall mean a map or maps released by the Federal Emergency Management Agency (FEMA) for public comment prior to the Effective Date of the FIRM as established by FEMA. The map may be in both digital and printed format and shows Community and FEMA Special Flood Hazard Areas,

Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the Effective Date.

Preliminary Flood Insurance Study (PFIS) – shall mean a narrative report released by the Federal Emergency Management Agency for public comment prior to the Effective Date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the Effective Date.

Principally Above Ground – shall mean at least fifty one percent (51%) of the actual cash value of the structure is above ground.

Project – shall mean a development activity that is physically separate, functionally independent and not constructed at the same time as another development activity.

Public Safety and/or Nuisance – shall mean anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle – shall mean a vehicle which is: *1)* built on a single chassis; *2)* four hundred (400) square feet or less when measured at the largest horizontal projection; *3)* designed to be self-propelled or permanently towable by a car or light duty truck; and, *4)* designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Reference Level – shall mean the portion of a structure or other development that must be compared to the flood protection elevation to determine regulatory compliance of such structure. Within Special Flood Hazard Areas designated as zones A1-A30, AE, A, A99, AO, or AH, the reference level is the top of the lowest floor.

Remedy a Violation – shall mean to bring the structure or other development into compliance with this ordinance or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive Loss – shall mean flood-related damages sustained by a structure on two (2) separate occasions during any ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the Market Value of the structure before the damage occurred.

Riverine – shall mean relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard – shall mean any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Site – shall mean as defined in NCGS130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Solid Waste Disposal Facility – shall mean any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Special Flood Hazard Area – shall mean the FEMA Special Flood Hazard Area.

Start of Construction – shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring a slab or footing, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not parts of the main structure. For Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure – shall mean a walled and roofed building, a manufactured home, a gas or liquid storage tank, that is principally above ground.

Substantial Damage – shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to the condition before damage occurred would equal or exceed fifty percent (50%) of the market value of the structure before the damages occurred. Substantial Damage also means flood-related damages sustained by a structure on two (2) separate occasions during a ten (10) year period beginning after October 11, 1999, for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred. See definition of "Substantial Improvement."

Substantial Improvement – shall mean any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost equals or exceeds fifty percent (50%) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either any correction of existing violations of State or Community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. *Substantial Improvement* also refers to any repair, reconstruction, or improvement to a structure on two separate occasions during a ten (10) year period for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred or the Substantial Improvement began. The Floodplain Administrator may determine if separate actions constitute a single project (§151.29 (A) (13)). For the purposes of this definition, *"Substantial Improvement"* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Technically Measurable – shall mean an activity and/or condition that can be modeled within the stated or commonly known accuracy of the FEMA approved hydraulic models or other engineering computations, and may have an impact on base flood elevations. The Floodplain Administrator will determine if a proposed activity and/or condition meets the Technically Measurable definition.

Variance – shall mean a grant of relief to a person from the requirements of this chapter.

Violation – shall mean the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in § 155.904 and § 155.905 is presumed to be in violation, until such time as the documentation is provided.

Watercourse – shall mean a lake, river, creek, stream, channel or other topographic feature on or over which waters flow at least periodically; includes, specifically designated areas in which substantial flood damage may occur.

Water Surface Elevation (WSE) – shall mean the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

155.902. General Provisions.

A. JURISDICTION. This Chapter shall apply to all lands in the land use jurisdiction of the Town within the area shown on the Flood Insurance Rate Maps (FIRM) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the Community Special Flood Hazard Areas or land adjacent to the Community Special Flood Hazard Areas if it is affected by the work that is taking place. **[formerly known as § 151.07]**

B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS. The FEMA and Community Flood Hazard Areas are those identified in the effective Flood Insurance Study (FIS) for Mecklenburg County dated February 19, 2014, and its accompanying Flood Insurance Rate Maps (FIRM), and local or FEMA approved revisions to the FIRM and/or FIS which are adopted by reference and declared to be a part of this Chapter. (Am. Ord. 1994, passed 2-10-14)

In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas of the Town of Matthews at the initial date of February 4, 2004 and Mecklenburg County Unincorporated Area, dated June 1, 1981. **[formerly known as § 151.08]**

C. FLOODPLAIN DEVELOPMENT PERMIT REQUIRED. A floodplain development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities. The *Floodplain*

Regulations Technical Guidance Document may be used for illustrative purposes to assist in determining the applicable type of floodplain development permit required. **[formerly known as § 151.09]**

D. COMPLIANCE. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. **[formerly known as § 151.10]**

E. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this ordinance imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of laws or ordinances, or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this Chapter shall control. **[formerly known as § 151.11]**

F. INTERPRETATIONS. In the interpretation and applications of the Floodplain Regulations, all provisions shall be considered as minimum requirements; liberally construed to meet the purposes and objectives of this regulation as stated in § 155.901.D and § 155.901.E; and deemed neither to limit nor repeal any other powers granted under state statutes. **[formerly known as § 151.12]**

G. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. The Floodplain Regulations shall not create liability on the part of the Town of Matthews, Mecklenburg County, or on any agent, officer or employee thereof for any flood damages that result from reliance on this chapter or by any administrative decision lawfully made hereunder. **[formerly known as § 151.13]**

H. PENALTIES FOR VIOLATION. Violation of the provisions of this Chapter or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of floodplain development permits, variances or special exceptions, shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement, or other similar equitable relief. **[formerly known as § 151.14]**

155.903. Administration and Enforcement.

A. FLOODPLAIN DEVELOPMENT PERMITS AND CERTIFICATION REQUIREMENTS. **[formerly known as § 151.16]**

1. A Floodplain Development Permit is required for any development within the Community Special Flood Hazard Area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a Technical Guidance Document to help explain the application of the provisions of this chapter, specifically the Floodplain Development Permit provisions, through the use of charts and related written materials. The Technical Guidance Document shall not be a part of this chapter, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this chapter, the provisions of this chapter shall control.

2. Floodplain Development Permits fall into one of two types: General Floodplain Development Permits (GFDP) and Individual Floodplain Development Permits (IFDP). If the proposed development activities meet the requirements of the General Floodplain Development Permit, an Individual Floodplain Development Permit is not required.

   a. GENERAL FLOODPLAIN DEVELOPMENT (GFDP) PERMIT. The intent of the General Floodplain Development Permit (GFDP) is to allow uses or activities in the Community Special Flood Hazard Area (including the FEMA Floodway and Community Encroachment Area) which inherently will not increase FEMA and/or Community Base Flood Elevations. The following uses and activities are permitted under a GFDP, without the need for an Individual Floodplain Development Permit, flood study or variance, as long as they result in no Technically Measurable increases in FEMA and/or Community Base Flood Elevations.

i. General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping, mulch twelve inches (12") or less in depth, and other similar activities;

ii. Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities, etc.), sign poles, non-solid fences, and other similar activities.

iii. On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (major and minor system), and other similar activities. The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of these activities.

iv. Interior renovations with a value of less than ten thousand dollars ($10,000.00), to a structure with its lowest floor not meeting the requirements of § 155.905.B.1.a or § 155.905.B.1.b.

v. Interior renovations of any value, to a structure with its Lowest Floor meeting the requirements of § 155.905.B.1.a or § 155.905.B.1.b.

b. INDIVIDUAL FLOODPLAIN DEVELOPMENT (IDFP) PERMITS. Individual Floodplain Development Permits are required for all other projects that do not meet the requirements of a General Floodplain Development Permit. Application for an Individual Floodplain Development Permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within the Community Special Flood Hazard Area. Requirements for submittal are available from the Floodplain Administrator.

c. CERTIFICATION REQUIREMENTS. Final As-Built Elevation Certificate (FEMA Form 81-31) (for either residential or non-residential buildings) or Flood-proofing Certificate (FEMA Form 81-65) is required after construction is completed and prior to the issuance of a Certificate of Occupancy or a Temporary Certificate of Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation or flood-proofed elevation of the reference level and all attendant utilities. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

i. For proposed development in the Community or FEMA Special Flood Hazard Area but located outside of the Community Encroachment Area and the FEMA Floodway, a certification from a registered land surveyor or professional engineer that states that no fill material or other development was placed within the FEMA Floodway or Community Encroachment Area of any watercourse, will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

ii. For proposed development within the Community Encroachment Area or the FEMA Floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy. This is in addition to a no-rise/no-impact study or CLOMR that may be required as specified in § 9-102 (a)(6).

iii. If a manufactured home is placed within the Floodplain and the elevation of the chassis is thirty six inches (36") or higher above adjacent grade, an engineered foundation certification is required.

d. CERTIFICATION EXEMPTIONS. The following structures, if located within the Floodplain, are exempt from the elevation/flood-proofing certification requirements specified in § 155.903.B.1 and § 155.903.B.2:

i. Recreational vehicles meeting requirements of § 155.905.B.1.i.;

ii. Temporary structures meeting requirements of § 155.905.B.1.j; and

iii. Accessory structures less than one hundred fifty (150) square feet meeting requirements of § 155.905.B.1.k.

e. PERMIT APPLICATION REQUIREMENTS.

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

- The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- The location of the Community Flood Fringe Line, Community Encroachment Line, FEMA Flood Fringe Line and FEMA Floodway Line as shown on the FIRM or other flood map, or a statement that the entire lot is within the Special Flood Hazard Area;
- Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
- The FEMA Base Flood Elevation (BFE) and Community Base Flood Elevation (CBFE) and Flood Protection Elevation (FPE);
- The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
- The certification of the plot plan by a registered land surveyor or professional engineer as deemed necessary by the Floodplain Administrator.

ii. Proposed elevation, and method thereof, of all development within a Community or FEMA Special Flood Hazard Area including but not limited to:

- Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
- Elevation in relation to mean sea level to which any non-residential structure in Zone AE, will be flood-proofed; and
- Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed;

iii. If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data and an inspection and operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

iv. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

- The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
- Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in Community Special Flood Hazard Area
- Usage details of any enclosed areas below the lowest floor.
- Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

- Documentation for proper placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of § 155.905.B.1.i and § 155.905.B.1.j are met
- A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

f. PERMIT REQUIREMENTS. The Floodplain Development Permit shall include, but not be limited to:

i. A description of the development to be permitted under the floodplain development permit.

ii. The Special Flood Hazard Area determination for the proposed development

iii. The Flood Protection Elevation required for the reference level and all attendant utilities.

iv. The Flood Protection Elevation required for the protection of all public utilities.

v. All certification submittal requirements with timelines.

vi. A statement that no fill material or other development shall encroach into the Community Encroachment Area or FEMA Floodway area of any watercourse, as applicable.

vii. The flood openings requirements in accordance with § 155.905.B.1.d.

B. CORRECTIVE PROCEDURES. **[FORMERLY KNOWN AS § 151.18]**

1. VIOLATIONS TO BE CORRECTED. When the Floodplain Administrator finds violations of applicable state and local laws and notifies the property owner or building occupant of the violation, the owner or occupant shall immediately remedy each violation of law cited in the notice.

2. ACTIONS IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION. If the owner or occupant of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give written notice, by certified or registered mail to the last known address or by personal service that:

a. The building or property is in violation of the Floodplain Regulations;

b. A hearing will be held before the Floodplain Administrator at a designated place and time, not later than twenty (20) calendar days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

c. Following the hearing, the Floodplain Administrator may issue such order to alter, vacate or demolish the building, or to remove fill or other unauthorized encroachment, as appears appropriate.

3. ORDER TO TAKE CORRECTIVE ACTION. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Floodplain Regulations, he shall issue an order in writing to the owner or occupant, requiring the owner or occupant to remedy the violation within such period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. If the Floodplain Administrator determines that there is imminent danger to public health, safety or welfare or other property, he may order that immediate corrective action be taken, and if no corrective action is taken as ordered, the Floodplain Administrator, with the written authorization of the Town Manager, shall have the authority to enter upon the property to perform the work necessary to correct the condition and the owner or occupant shall be responsible for the actual costs incurred.

4. APPEAL. Any owner or occupant who has received an order to take corrective action may appeal the order to the Town Zoning Board of Adjustment (hereinafter referred to as the "Board of Adjustment" or "Board") as provided in § 155.904.B. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order.

5. FAILURE TO COMPLY WITH ORDER. If the owner or occupant of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Adjustment following an appeal, he/she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in § 155.902.H.

155.904. Appeals and Variances.

A. INITIATION AND FILING OF APPEAL.

1. An appeal of an order, decision, determination or interpretation made by the Floodplain Administrator may be initiated by any person aggrieved by any officer, department, board or bureau of the Town.

2. A notice of appeal in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, within twenty (20) days of the order, decision, determination or interpretation and must be accompanied by a nonrefundable filing fee as established by the Town Council. Failure to timely file such notice and fee will constitute a waiver of any rights to appeal under this section and the Board of Adjustment shall have no jurisdiction to hear the appeal.**[formerly known as § 151.20]**

B. STANDARDS AND HEARING PROCEDURE.

1. The Board of Adjustment will conduct the hearing on an appeal of an order, decision, determination or interpretation of these regulations in accordance with its normal hearing procedures as set out in Chapter 2 of this Title.

2. At the conclusion of the hearing, the Board of Adjustment may reverse or modify the order, decision, determination or interpretation under appeal upon finding an error in the application of these regulations on the part of the Floodplain Administrator who rendered the decision, determination or interpretation. In modifying the decision, determination or interpretation, the Board will have all the powers of the officer from whom the appeal is taken. **[formerly known as § 151.21]**

C. INITIATION AND FILING OF VARIANCE PETITION.

1. A petition for variance may be initiated only by the owner of the affected property, or an agent authorized in writing to act on the owner's behalf.

2. A petition for a variance from these regulations in the form prescribed by the Board of Adjustment must be filed with the Board's Clerk, with a copy to the Floodplain Administrator, and be accompanied by a nonrefundable filing fee as established by the Town Board of Commissioners. **[formerly known as § 151.22]**

D. FACTORS FOR CONSIDERATION AND DETERMINATION OF COMPLETENESS.

1. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and:

   a. The danger that materials allowed to be placed in the floodway as a result of the variance may be swept onto other lands to the injury of others during a Community Base Flood;

   b. The danger to life and property due to flooding or erosion damage from a Community Base Flood;

   c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage during the Community Base Flood;

   d. Importance of the services provided by the proposed facility to the community;

   e. Necessity to the facility of a waterfront location, where applicable;

   f. Availability of alternative locations, not subject to flooding or erosion damage during a Community Base Flood, for the proposed use;

   g. Compatibility of the proposed use with existing and anticipated development;

   h. Relationship of the proposed use to the Mecklenburg County Floodplain Management Guidance Document, Mecklenburg County Flood Hazard Mitigation Plans, the Mecklenburg County and/or Matthews Greenway Plans, and any other adopted land use plans for that area;

   i. Safety of access to the property in times of a Community Base Flood for ordinary and emergency vehicles;

   j. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters during a Community Base Flood expected at the site; and

   k. Costs of providing governmental services during and after flood events, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.

2. A written report addressing each of the above factors shall be submitted with the application for a variance.

3. Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

4. Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

5. Functionally dependent facilities if determined to meet the definition as stated in § 155.901.F, provided provisions of § 155.906 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

6. Any other type of development, provided it meets the requirements of this Section. **[formerly known as § 151.23]**

E. CONDITIONS FOR VARIANCES.

1. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

2. Variances shall not be issued within any designated Floodway if the variance would result in any increase in flood levels during the Community and/or FEMA Base Flood discharge unless the requirements of § 155.905.B.1.f are met.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued prior to approval of a Floodplain Development Permit. **[formerly known as § 151.24]**

F. STANDARDS FOR GRANTING VARIANCES.

1. Variances shall only be issued upon:

   a. A showing of good and sufficient cause;

   b. A determination that failure to grant the variance would result in exceptional hardship; and

   c. A determination that the granting of a variance will not result in increased flood heights (unless the requirements of § 155.905.B.1.f are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

2. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance. **[formerly known as § 151.25]**

G. MISCELLANEOUS CONDITIONS.

1. In addition to consideration of the items in § 155.904.E.1, if dry land access cannot be obtained, a variance to the requirement for dry land access may be granted by the Board of Adjustment upon consideration of the following conditions:

   a. A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed habitable building to a dry public street.

   b. The existence of a site plan prepared by a licensed land surveyor or professional engineer indicating that the proposed access to habitable buildings on the property poses the least risk from flooding.

2. In addition to consideration of the items in § 155.904.E.1, a variance may be issued by the Board of Adjustment for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following criteria are met:

   a. The use serves a critical need in the community.

   b. No feasible location exists for the use outside the Special Flood Hazard Areas.

   c. The lowest floor of any structure is elevated above the Community Base Flood Elevation or is designed and sealed by a professional engineer or a registered architect to be watertight with walls

substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

d. There will be no storage of materials or tanks which could flood within the Special Flood Hazard Area unless they are contained in a structure as defined in § 155.904.H.2.c.

e. The use complies with all other applicable laws and regulations.

f. The Town of Matthews has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance. **[formerly known as § 151.26]**

H. NOTIFICATION AND RECORDKEEPING.

1. Any applicant to whom a variance from the FEMA Base Flood Elevation is granted shall be given written notice specifying the difference between the FEMA Base Flood Elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

2. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the State of North Carolina upon request **[formerly known as § 151.27]**

I. APPEAL FROM BOARD OF ADJUSTMENT.

1. Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a Floodplain Development Permit shall have thirty (30) days to file an appeal to Mecklenburg County Superior Court, as provided in NCGS. 143-215.57 (c).

2. Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a variance, shall have thirty (30) days from the receipt of the Board's decision to file a petition for review in the nature of *certiorari* in Mecklenburg County Superior Court. **[formerly known as § 151.28]**

155.905. Provisions for Flood Hazard Reduction.

A. GENERAL STANDARDS.

1. In all Special Flood Hazard Areas, the following provisions are required:

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

b. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

c. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

d. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

e. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed, designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric wiring, and outlets/switches;

f. All new and replacement water supply systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system;

g. New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system and discharges from the systems into floodwaters;

h. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

i. Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this chapter shall meet the requirements of "New Construction" as contained in this Chapter;

j. Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance, in Special Flood Hazard Area. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated above the Community Base Flood Elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;

k. Any new critical facility must be located outside of the five hundred (500) year two tenths percent (0.2%) flood fringe area and elevated at least one foot (1') above the five hundred (500) year two tenths percent (0.2%) flood elevation or the Community Base Flood Elevation whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator;

l. SUBDIVISIONS. All development proposals submitted for review and approval in accordance with the Town Unified Development Ordinance shall also comply with the following provisions:

i. Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;

ii. Construct all new streets located in a Community Special Flood Hazard Area in accordance with the applicable provisions of the Unified Development Ordinance;

iii. Design and construct adequate drainage to reduce exposure to flood hazards; and

iv. Take such other appropriate measures needed to minimize flood damage.

m. For the purpose of determining substantial improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.

n. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

o. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply. **[formerly known as § 151.29]**

B. SPECIFIC STANDARDS.

1. Unless a variance is granted by the Town Board of Adjustment, no new construction, substantial improvements or other development requiring an Individual Floodplain Development Permit per § 155.903.B.1.d, is allowed within the Community and FEMA Special Flood Hazard Area, except where necessary for public infrastructure including but not limited to streets, utilities, greenways and sidewalks. These uses must be approved by the Floodplain Administrator. Review and implementation of SWIM buffer regulations shall be concurrent and coordinated with the provisions of this chapter, so that both are satisfied. In all Community and FEMA Special Flood Hazard Areas where development is allowed by variance the following provisions will apply:

a. RESIDENTIAL CONSTRUCTION.

i. New construction or substantial improvement of any residential structure shall have the lowest floor elevated at least one foot above the Community Base Flood Elevation.

ii. Non-substantial Improvements Notice. Renovations/rehabilitations costing between twenty five percent (25%) and fifty percent (50%) of the market value of the existing building and said building having the lowest floor below the Flood Protection Elevation,

will require the property owner to record a Notice of Floodplain Improvements (provided in the Technical Guidance Document) with the Mecklenburg County Register of Deeds Office prior to the issuance of a building permit.

b. NONRESIDENTIAL CONSTRUCTION. New construction or substantial improvement of any commercial, industrial or nonresidential structure shall meet the requirements for residential construction in § 155.905.B.1.a, or the structure may be flood-proofed in lieu of elevation, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in § 155.903.B.2.c.

c. NEW BUILDINGS REMOVED FROM THE FEMA SPECIAL FLOOD HAZARD AREA BY FILL. When new buildings have been constructed on land that has been removed from the FEMA Special Flood Hazard Area by the placement of fill, they must have the lowest floor (including basement) elevated at least one foot above the Community Base Flood Elevation.

d. ELEVATED BUILDINGS. New construction or substantial improvement of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the Community Base Flood Elevation shall meet the requirements of § 155.905.B.1, and shall be designed to preclude finished living space and shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. The walls shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

i. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

- Provide a minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
- The bottom of all openings shall be no higher than one foot (1') above adjacent grade at the opening;
- Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions;
- Openings must be on different sides of the enclosed area if possible; and
- If the building has more than one enclosed area, each must have openings.

ii. FOUNDATION ENCLOSURES:

- Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore such skirting does not require hydrostatic openings as outlined above.
- Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this ordinance.

iii. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door),or entry to the living area (stairway or elevator).

iv. Shall not be partitioned or finished into separate rooms, except to enclose storage areas.

v. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

e. DRY LAND ACCESS. Access to habitable buildings during a flood event is extremely hazardous. Dry land access must be provided to new or substantially improved habitable buildings according to the following criteria:

i. Dry land access is required if any portion of either the habitable building or vehicular access route, connecting the habitable building to a public street, is within the Floodplain.

If dry land access cannot be obtained, a variance to the requirement for dry land access may be granted by the Board of Adjustment. Plans and details for the dry land access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator.

ii. The following are exempt from the dry land access requirement:

- Substantial improvement to an existing habitable building where the property does not have any access to a dry public street.
- Construction of a new habitable building where both the habitable building and the access route connecting it to a public street, are located entirely outside the Community Encroachment Area and where the property does not have any access to a dry public street. Under this exemption, access from the habitable building to the public street must connect to the highest point of the public street adjacent to the property; be constructed of gravel, pavement or concrete and be at least twelve feet (12') wide; and be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

f. FEMA FLOODWAY AND COMMUNITY ENCROACHMENT AREA. The FEMA Floodway and the Community Encroachment Area are very hazardous areas due to the velocity of floodwaters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within each of these designated areas:

i. COMMUNITY ENCROACHMENT AREA. No encroachments, requiring an Individual Floodplain Development Permit, including fill, new construction, substantial improvements and other development shall be permitted within the Community Encroachment Area unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such encroachment would not result in increased flood heights of greater than one tenth feet (0.10') during the occurrence of a Community Base Flood. Such certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than one tenth feet (0.10') in the Community Base Flood Elevation will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A Certificate of Occupancy will not be issued without the above stated Community Letter of Map Revision. Projects impacting existing habitable buildings that increase the Community Base Flood Elevation more than 0.00 feet will not be allowed without a variance.

ii. FEMA FLOODWAY. No encroachments requiring an Individual Floodplain Development Permit, including fill, new construction, substantial improvements and other development shall be permitted within the FEMA Floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that such encroachment would not result in any (0.00 feet) increase in the FEMA Base Flood Elevations during the occurrence of a FEMA Base Flood and no increase in the Community Base Flood Elevations during the occurrence of the Community Base Flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA Base Flood Elevation or an increase in the FEMA Floodway width during the occurrence of the FEMA Base Flood will require notification of impacted property owners, and a Conditional Letter of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter of Map Revision issued. A Certificate of Occupancy will not be issued without the above stated Conditional Letter of Map Revision. Any change which would cause a rise in the Community Base Flood Elevation or an increase in the width of the Community Encroachment Area during the occurrence of the Community Base Flood will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR). Projects

which cause a rise of greater than 0.00 feet in the FEMA Base Flood Elevation and impact an existing habitable building will not be allowed.

iii. No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of § 155.905.B.1.h are met.

iv. TEMPORARY ENCROACHMENTS. Certain temporary encroachments into the Community Encroachment Area and/or the FEMA Floodway may be exempt from meeting the requirements of § 155.905.B.1.f. Examples of temporary encroachments include but are not limited to: sediment control devices including basins and/or check dam diversions, temporary stream crossings, haul roads/construction entrances, storage of equipment, and soil stockpiling. The following conditions must be met to qualify for the exemption:

- The proposed encroachment shall not be in place more than three months and is renewable for up to one year with written approval from the Floodplain Administrator. Temporary sediment control devices may be kept in place longer than one year if required by the appropriate regulatory agency; and
- Supporting documentation, including hydrologic and/or hydraulic analyses (if required by the Floodplain Administrator) must be submitted by a registered engineer indicating that the proposed project will not impact any existing habitable building or overtop any roadway surfaces.
- The temporary encroachment will require an Individual Floodplain Development Permit unless it is included in another IFDP.

g. ADDITIONS/IMPROVEMENTS.

i. Additions and/or improvements to noncompliant portions of pre-FIRM structures where the addition and/or improvements in combination with any interior modifications to the existing structure *i)* are not a substantial improvement, then the addition and/or improvements must be designed to minimize flood damages, not have an enclosed area lower than that of the existing structure, be constructed of flood resistant materials, and must not be any more non-conforming than the existing structure; *ii)* are a substantial improvement, then both the existing structure and the addition and/or improvements must comply with the standards of § 155.905.B.1.a.

ii. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall require only the addition to comply with the standards of § 155.905.B.1.a.

iii. Additions and/or improvements to post-FIRM structures where the addition and/or improvements in combination with any interior modifications to the existing structure *i)* are not a substantial improvement, then the addition and/or improvements only must comply with the standards for new construction; *ii)* are a substantial improvement, then both the existing structure and the addition and/or improvements must comply with the standards of § 155.905.B.1.a.

iv. Customary maintenance and/or repair are not considered additions and/or improvements.

h. MANUFACTURED HOMES:

i. New and replaced manufactured homes shall be elevated such that the lowest floor of the manufactured home is elevated at least one foot (1') above the Community Base Flood Elevation.

ii. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement, either by certified engineered foundation system, or in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by raising the chassis at least thirty six inches (36") or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation

elements of at least equivalent strength. When the elevation of the chassis is above thirty six inches (36") in height an engineering certification is required.

iii. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the Special Flood Hazard Area. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

iv. All enclosures or skirting below the lowest floor shall meet the requirements of § 155.905.B.1.d.

i. RECREATIONAL VEHICLES. Recreational vehicles shall either *i)* be on site for fewer than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or *(ii)* Meet all the requirements for New Construction.

j. TEMPORARY STRUCTURES. Prior to issuance of a Floodplain Development Permit for a temporary structure the following requirements must be met:

i. All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

- A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one (1) year;
- The name, address, and phone number of the individual responsible for the removal of the structure;
- The time frame prior to the event at which a structure will be removed;
- A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and
- Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed.

ii. The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

k. ACCESSORY STRUCTURE. When accessory structures (sheds, detached garages, etc.), are to be placed in the Floodplain the following criteria shall be met:

i. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

ii. Accessory structures shall be designed to have a low flood damage potential;

iii. Accessory structures shall be firmly anchored in accordance with § 155.905.A.1.a;

iv. Service facilities such as electrical and heating equipment shall be elevated in accordance with § 155.905.A.1.e;

v. Accessory structures shall have hydrostatic openings in accordance with § 155.905.B.1.d.

vi. Accessory structures less than one hundred fifty (150) square feet do not require an elevation or flood proofing certificate.

vii. Accessory structures shall not be temperature-controlled

l. PARKING AREAS. All parking areas for new or substantially improved non-single family habitable buildings must be at an elevation such that water depths would be less than six inches (6") deep in any parking space during the occurrence of a Community Base Flood. **[formerly known as § 151.30]**

C. LEVEES. In all Community and FEMA Special Flood Hazard Areas where Community and FEMA Base Flood Elevation data have been provided, the following provisions for levees are required as set forth in § 155.905.C.2.

1. GENERAL LEVEE REQUIREMENTS.

a. Levees will be treated as development in the Floodplain and are subject to all applicable sections of this Chapter.

b. Levees shall not be constructed solely to protect vacant property from flooding.

c. With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, levees require the approval of the Director of Mecklenburg County Storm Water Services, or his designee, regardless of their location within the Community Special Flood Hazard Area (entire Floodplain).

d. With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the levee and the Director of Mecklenburg County Storm Water Services (the "Director"), or his designee, shall conduct an open house forum prior to consideration of approval. The open house forum initiates a thirty (30) day comment period for the Director or his designee to receive comments from the public.

e. Owners of land adjacent to a proposed levee shall be notified of the open house forum and be provided an opportunity to submit written comments during the thirty (30) day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed levee.

f. After the end of the thirty (30) day comment period, but no more than sixty (60) days from the end of the comment period, the Director shall approve or disapprove the application or request more information from the owner of the levee. If the Director determines that the additional information is sufficiently significant, the director may offer an additional thirty (30) day comment period to all parties involved. Consistent with § 155.904, the Director's decision may be appealed to the Matthews Board of Adjustment.

g. Regardless of whether the proposed levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the levee.

2. LEVEE PERMITTING REQUIREMENTS. Prior to the issuance of a Floodplain Development Permit for construction of a proposed levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

a. Plans and/or specifications showing the location of the proposed levee is as far away from the adjacent creek as reasonably possible;

b. A copy of the written approval for the levee received from the Director of Mecklenburg County Storm Water Services;

c. Verification of notification to owners of land adjacent to the proposed levee (those within five hundred feet (500') of the property lines of the parcel on which the proposed levee is to be located or within a distance equal to the length of the proposed levee, whichever is greater). Notification is also to include properties that are in the Community Special Flood Hazard Area and within the hydraulic modeling limits as described below;

d. Copies of all written comments received from property owners referenced above;

e. If the levee is proposed to be located within the Community Encroachment Area, a hydrologic and hydraulic analysis must be provided by a registered professional engineer and performed in accordance with standard engineering practice. In addition to the requirements of § 155.905.B.1.f. the analysis shall also:

i. show no increase in water surface elevations on any existing habitable building using the current and future discharges for the ten (10), twenty five (25), fifty (50), and one hundred (100) year frequency flows;

ii. account for all feasible future levees in the area as deemed appropriate by the Floodplain Administrator;

f. A copy of the contract with the entity responsible for construction of the proposed levee;

g. A copy of the maintenance plan for the levee which has been certified by a professional engineer, which shall include a description of the process by which the levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the levee.

3. Levees constructed on an individual single family residential parcel are exempt from the requirements of §§ 155.905.C.1.(a-f), and 2.(a-g). **[formerly known as § 151.31]**

155.906. Legal Status Provisions.

A. LEGAL STATUS PROVISIONS.

1. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOODWAY REGULATIONS. These regulations in part come forward by reenactment of some of the provisions of the Floodway Regulations enacted February 4, 1991 (Ordinance 650) as amended, and it is not the intention to repeal but rather to reenact and continue to enforce without interruption such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance enacted on February 4, 1991, as amended, which are not reenacted herein, are repealed. The date of the initial Flood Damage Prevention Ordinance for Mecklenburg County is December 4, 1972.

2. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

a. Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator before the time of passage of this Floodplain Regulation ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of two (2) years subsequent to passage of this Chapter or any revision thereto, such permit shall become void and construction or use shall be in conformity with the provisions of this Chapter.

b. Any application(s) for a Floodplain Development Permit received prior to the Effective Date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

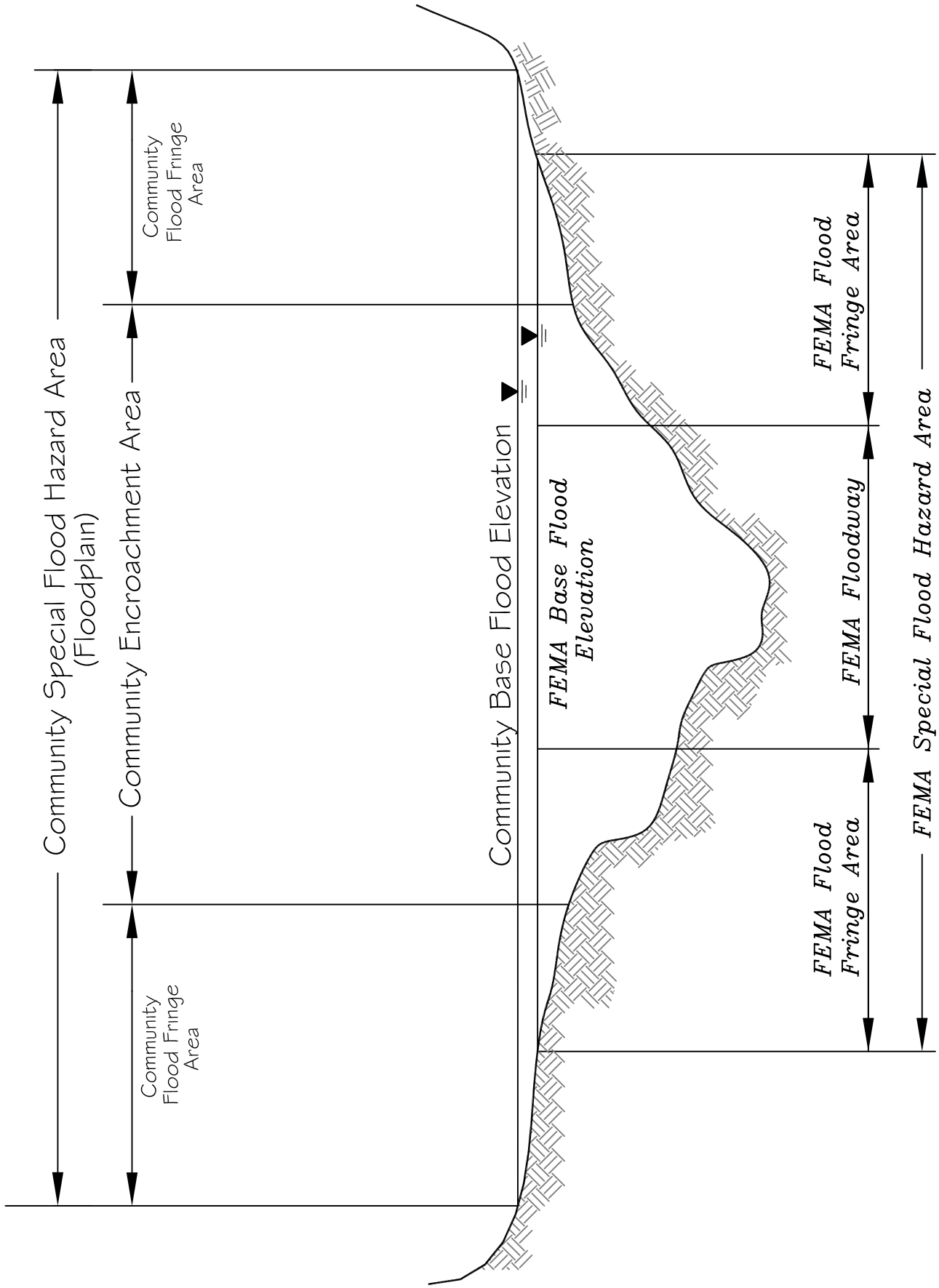
3. EXPIRATION OF FLOODPLAIN DEVELOPMENT PERMITS ISSUED AFTER FLOODPLAIN REGULATION ADOPTION.

a. Individual Floodplain Development Permits issued pursuant to this ordinance expire two (2) years after the date of issuance unless *i)* the work has commenced within two (2) years after the date of issuance, or *ii)* the issuance of the permit is legally challenged in which case the permit is valid for two (2) years after the challenge has been resolved.

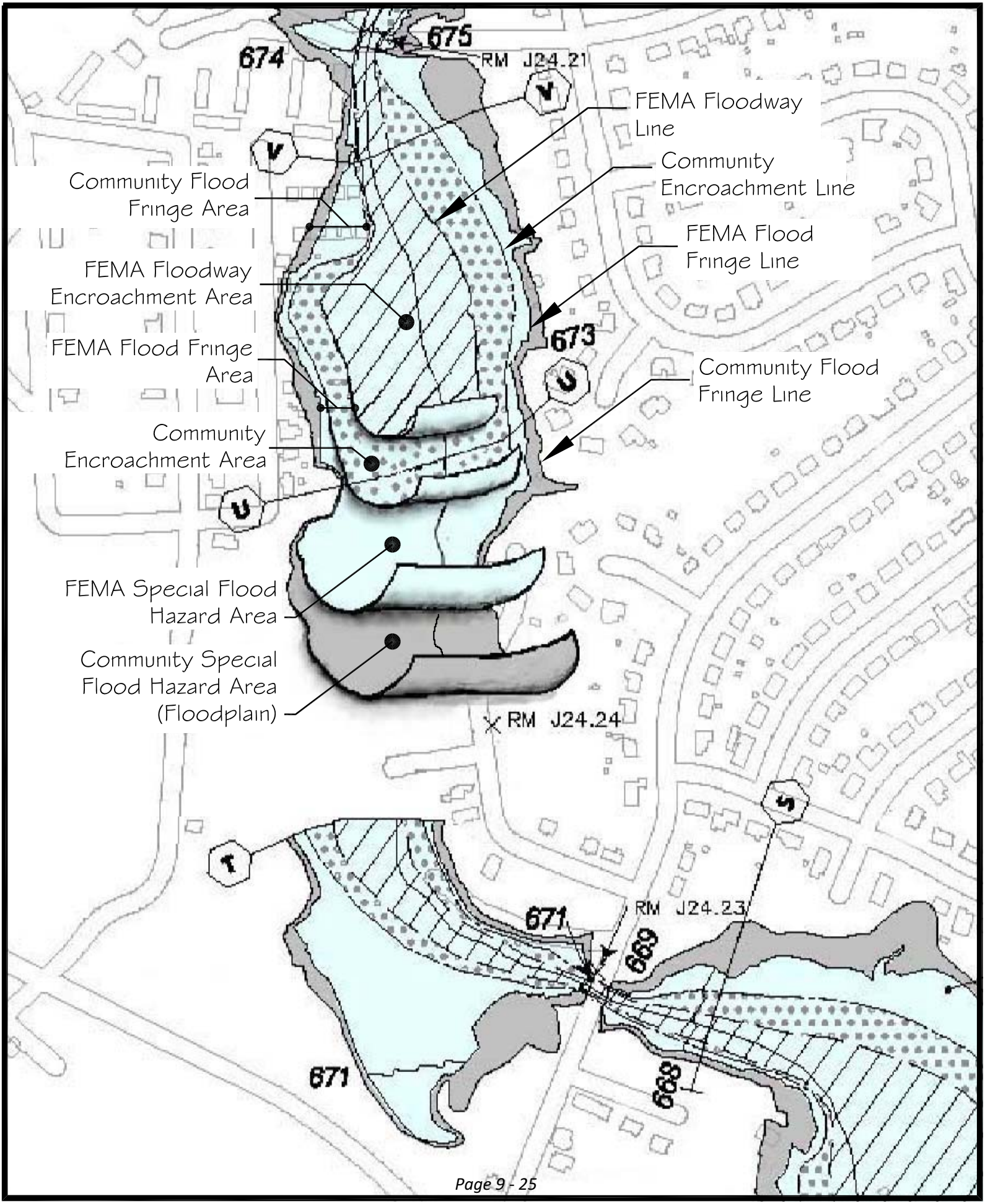
b. Any incomplete application(s) for an Individual Floodplain Development Permit will be valid only for ninety (90) days after the Floodplain Administrator has requested additional information from the applicant or his agent. If ninety (90) days after the owner or his agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator. **[formerly known as § 151.32]**

B. SEVERABILITY. If any section, clause, sentence, or phrase of the Floodplain Regulations Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Floodplain Regulations Ordinance. **[formerly known as § 151.33]** (Ord. No. 1664; passed 1-12-09)

Attachment A



Attachment B



Chapter 10. Housing Code

155.1001. General Provisions. [formerly §149]

A. PURPOSE.

1. Pursuant to NCGS 160A-441, it is declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the Town.

2. In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes of North Carolina, it is the purpose of this Chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by NCGS 160A-444. **[formerly known as § 149.01]**

155.1002. Definitions.

A. Unless specifically defined in this Chapter, words or phrases used in this Chapter 10 shall apply the definitions provided in Chapter 1 of this Title, or when not defined in Chapter 1 they shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application. The following words, terms and phrases, when used in this Chapter 10, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Basement – Shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Cellar – Shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated – Shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this Chapter, at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the Inspector.

Dilapidated – Shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this ordinance at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the Inspector.

Dwelling – Shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as defined shall not be regarded as a dwelling.

Dwelling unit – Shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination – Shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

Garbage – Shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room – Shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Infestation – Shall mean the presence, within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Inspector – Shall mean the Director of the Mecklenburg County Code Enforcement Division or his designee.

Multiple dwelling – Shall mean any dwelling containing more than two dwelling units.

Occupant – Shall mean any person over one (1) year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

Operator – Shall mean any person who has charge, care or control of a building, or any part of a building, in which dwelling units or rooming units are let.

Owner – Shall mean any person who alone or jointly, or severally with others:

(1) shall have fee simple title to any dwelling or dwelling unit, and every mortgagee, and owner and holder of a deed of trust and the trustee of record; with or without accompanying actual possession of said dwelling or dwelling unit; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Chapter, and of rules and regulations adopted within it, to the same extent as if he were the owner.

Parties in Interest – Means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession of such dwelling.

Plumbing – Shall mean and include all of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public Authority – Shall mean the governing body of the Town or any officer who is in charge of any department or branch of the government of the Town or of Mecklenburg County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the Town.

Rooming unit – Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rooming house – Shall mean any dwelling, or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rubbish – Shall mean combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

Supplied – Shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

Temporary housing – Shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty consecutive days.

Town – Shall mean the Town of Matthews, located in Mecklenburg County, North Carolina.

Unfit for human habitation – Shall mean that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this Chapter.

B. MEANING OF CERTAIN WORDS. Whenever words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part." **[formerly known as § 149.02]**

155.1003. Minimum Standards.

A. MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS. Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this § 155.1003. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this § 155.1003. **[formerly known as §149.03]**

B. MINIMUM STANDARDS FOR STRUCTURAL CONDITIONS.

1. Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not excessively list, lean or buckle and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.
2. Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
3. Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load bearing characteristics.
4. Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.
5. Adequate facilities for egress in case of fire or panic shall be provided.
6. Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.
7. The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather-proof and watertight.
8. There shall be no chimneys or parts thereof which are in danger of falling, or in such condition or location as to constitute a fire hazard.
9. There shall be no use of the ground for floors, or wood floors on the ground. **[formerly known as § 149.04]**

C. MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

1. PLUMBING SYSTEM.
   a. Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.
   b. Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to an approved potable water supply.
   c. All plumbing fixtures shall be maintained in a state of good repair and in good working order.
   d. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

2. HEATING SYSTEM. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either a) or b) below.

   a. CENTRAL AND ELECTRIC HEATING SYSTEMS. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of sixty eight degrees (68º) Fahrenheit measured at a point three feet (3') above the floor and two feet (2') from exterior walls during ordinary winter conditions (Ord.1308, passed 8-25-03)

   b. OTHER HEATING FACILITIES. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents and such heating appliances may be connected or located so as to heat all habitable rooms with a minimum temperature of 68-degrees Fahrenheit measured three feet (3') above the floor and two feet (2') from exterior walls during ordinary winter conditions. (Ord.1308, passed 8-25-03)

3. ELECTRICAL SYSTEM.

   a. Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two (2) floor or wall-type electric convenience receptacles, connected in such manner as determined by the National Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one (1) supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three (3) floor or wall-type electric convenience receptacles.

   b. Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

   c. All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, without hazard to property or person. **[formerly known as § 149.05]**

D. MINIMUM STANDARDS FOR VENTILATION.

1. GENERAL. Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors for adequate ventilation. At least one (1) window in every habitable room shall be of such size and location to allow egress by an average adult in the event of fire or other emergency.

2. HABITABLE ROOMS. Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty five percent (45%) of the minimum window area size or minimum skylight type window size as required, or shall have other approved, equivalent ventilation.

3. BATHROOM AND WATER CLOSET ROOMS. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system. **[formerly known as § 149.06]**

E. MINIMUM STANDARDS FOR SPACE, USE AND LOCATION.

1. ROOM SIZES. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the current version of the NC State Building Code or the building code in effect at the time of the construction, whichever is less restrictive. Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy five (75) square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over, and at least thirty five (35) square feet of floor area for each occupant under twelve (12) years of age. (Ord.1308, passed 8-25-03)

2. CEILING HEIGHT. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven feet (7'). (Ord.1308, passed 8-25-03)

3. FLOOR AREA CALCULATION. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet (4.5') shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

4. CELLAR. No cellar shall be used for living purposes.

5. BASEMENTS. No basement shall be used for living purposes unless:

   a. The floor and walls are substantially watertight;

   b. The total window standards, total openable window area, and ceiling height are equal to those required for habitable rooms;

   c. The required minimum window standards of every habitable room are entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or access way. **[formerly known as § 149.07]**

F. MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

1. EXTERIOR FOUNDATION, WALLS, AND ROOFS. Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed on it. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

2. INTERIOR FLOORS, WALLS, AND CEILINGS. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed on it.

3. WINDOWS AND DOORS. Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.

4. STAIRS, PORCHES, AND APPURTENANCES. Every outside and inside stair, porch, and any appurtenance shall be safe to use and capable of supporting the load that normal use may cause to be placed on it; and shall be kept in sound condition and good repair.

5. BATHROOM SURFACES. Toilet, bath and shower spaces. bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a nonabsorbent surface. Such nonabsorbent surfaces must extend at least six feet (6') above the floor. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition. (Ord.1308, passed 8-25-03)

6. SUPPLIED FACILITIES. Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

7. DRAINAGE. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

8. NOXIOUS WEEDS. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

9. EGRESS. Every dwelling unit shall be provided with adequate means of egress as required by the current version of the NC State Residential Building Code or the building code in effect at the time of construction, whichever is less restrictive. All interior egress doors and a minimum of one (1) exterior egress door shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort. (Ord.1308, passed 8-25-03)

10. SMOKE ALARMS. Every dwelling and dwelling unit shall have smoke alarms installed and maintained according to the NC State Residential Building Code. (Ord. 1308, passed 8-25-03)

11. CARBON MONOXIDE ALARMS. Every dwelling and dwelling unit shall have carbon monoxide alarms installed and maintained according to the Mecklenburg County Carbon Monoxide Alarm Ordinance.(Ord.1308, passed 8-25-03) **[formerly known as § 149.08]**

G. MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

1. RODENT CONTROL. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

2. INFESTATION. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests in or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

3. RUBBISH STORAGE AND DISPOSAL. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances or any Health Department regulations, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

4. GARBAGE STORAGE AND DISPOSAL. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can. **[formerly known as § 149.09]**

H. MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS. All of the provisions of this ordinance, and all of the minimum standards and requirements of this Chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

1. WATER CLOSET, HAND LAVATORY, AND BATH FACILITIES. At least one (1) water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or uninhabitable basement.

2. MINIMUM FLOOR AREA FOR SLEEPING PURPOSES. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty five (35) square feet of floor area for each occupant under twelve (12) years of age.

3. SANITARY CONDITIONS. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

4. SANITARY FACILITIES. Every water closet, flush urinal, lavatory basin, and bathtub or shower required by § 155.1003.H.1. shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room. **[formerly known as § 149.10]**

155.1004. Responsibilities of the Owners and Occupants.

A. PUBLIC AREAS. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises .

B. CLEANLINESS. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises which he occupies and controls.

C. RUBBISH AND GARBAGE. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

D. SUPPLIED PLUMBING FIXTURES. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

E. CARE OF FACILITIES, Equipment and Structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. **[formerly known as § 149.11]**

155.1005. Mecklenburg County Code Enforcement Administration and Enforcement.

A. DUTIES OF MECKLENBURG COUNTY CODE ENFORCEMENT DIVISION (THE BUILDING INSPECTOR). The Mecklenburg County Code Enforcement division that enforces the NC State Residential Building Code, which may be referred to as "the Building Inspector" is designated in § 155.212 to enforce the provisions of this Chapter. It shall be the duty of the Building Inspector:

1. To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this Chapter with respect to such dwellings or dwelling units;
2. To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
3. To keep a record of the results of inspections made under this Chapter and an inventory of those dwellings that do not meet the minimum standards of fitness; and
4. To perform such other duties as may be prescribed. (Ord.1308, passed 8-25-03) **[formerly known as § 149.12]**

B. POWERS OF THE BUILDING INSPECTOR. The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Chapter, including the following:

1. To continually investigate the dwelling conditions in the Town in order to determine which dwellings are unfit for human habitation;
2. To administer oaths and affirmations, examine witnesses and receive evidence;
3. To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
4. To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this Chapter. **[formerly known as §149.13]**

C. INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS. For the purpose of making inspections, the Building Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge, shall give the inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times and with one week notice for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Chapter or with any lawful order issued pursuant to the provisions of this Chapter. **[formerly known as § 149.14]**

D. ADMINISTRATIVE PROCEDURE.

1. PRELIMINARY INVESTIGATION; NOTICE; HEARING. Whenever a petition is filed with the Building Inspector by a Public Authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Building Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Building Inspector at a specific place, not less than ten (10) days nor more than thirty (30) days after the serving of said complaint. The owner and any party in interest shall have the right to file an answer to the

complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Building Inspector.

2. PROCEDURE AFTER HEARING. After such notice and hearing, the Building Inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated. If the Building Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner an order directing and requiring the owner to repair, alter, and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this Chapter within a reasonable specified period of time. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made. Upon completion of required improvements, a new certificate of occupancy must be issued prior to subsequent leasing or sale of dwelling to a third party. Hardship cases may be handled by the Building Inspector, recommending time or minimum requirement waivers to the Town's Board of Adjustment, which body shall act on such recommendation. If the Building Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance, or else vacate and remove or demolish the same within a reasonable specified period of time.

3. FAILURE TO COMPLY WITH ORDER.

a. *IN PERSONAM* REMEDY. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Building Inspector to repair, alter, or improve the same within the specified time, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Building Inspector to vacate and close, and remove or demolish the same within the specified time, the Building Inspector shall submit to the Town Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Building Inspector, as authorized by NCGS 160A-446(g).

b. *IN REM* REMEDY. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Building Inspector within the specified time, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph D.1., the Building Inspector shall submit to the Board of Commissioners an ordinance ordering the Building Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the Building Inspector, and pending such removal or demolition, to placard such dwelling as provided by NCGS 160A-443 and § 155.1005.F. of this Chapter.

c. ORDER BY THE BOARD OF COMMISSIONERS.Whenever the Inspector has issued an order ordering a dwelling to be repaired to comply with the minimum standards of fitness established by this Chapter, or an order ordering a dwelling to be either repaired or vacated, demolished and removed under the provisions outlined at § 155.1005, and the owner does not complete the listed repairs but has the dwelling vacated and closed for a period of one year, then the Board of Commissioners shall find that the owner has abandoned the intent and purpose to repair or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals, and welfare of the Town and surrounding neighborhood in that the dwelling would continue to deteriorate, would create fire and safety hazards, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in that area, and would render unavailable a dwelling which might otherwise have provided safe and secure housing for a household in need of such dwelling. In such circumstances, after the expiration of the one-year period, the Board of Commissioners may enact an ordinance and serve such ordinance upon the owner, requiring that the owner either:

i. Repair or demolish and remove the dwelling within ninety (90) days, if repair necessary to render the dwelling fit for human habitation would cost less than fifty percent (50%) of the present value of the dwelling; or

ii. Demolish and remove the dwelling within ninety (90) days, if the repair necessary to render the dwelling fit for human habitation would cost in excess of fifty percent (50%) of the present value of the dwelling.

Such order shall be recorded in the office of the Mecklenburg County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance within the ninety (90) day time limit, then the Inspector shall cause such dwelling to be repaired or demolished and removed pursuant to the ordinance.

4. APPEALS FROM ORDERS OF BUILDING INSPECTOR. An appeal from any decision or order of the Building Inspector may be taken by any aggrieved person. Any appeal from the Building Inspector shall be taken within ten (10) days from the rendering of the decision or service of the order, and shall be taken by filing with the Building Inspector and with Planning Office for the Town's Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Building Inspector shall transmit to the Planning Office all the paper constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Building Inspector refusing to allow the aggrieved person to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Building Inspector requiring the aggrieved person to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board of Adjustment, unless the Building Inspector certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished to the appellant), a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) days written notice to the Building Inspector, by a court of record upon petition made pursuant to NCGS 160A-446(f) and subsection 5 below of this Section. The Board of Adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board of Adjustment may reverse or affirm, wholly or partly, or modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have the powers of the Building Inspector, but the concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to reverse or modify any decision or order of the Building Inspector. The Board of Adjustment shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of this Chapter to the necessities of the case to the end that the spirit of the Chapter shall be observed, public safety and welfare secured, and substantial justice done.

5. Every decision of the Board of Adjustment shall be subject to review by proceedings in the nature of *certiorari* instituted within fifteen (15) days of the decision of the Board of Adjustment, but not otherwise, as provided in NCGS 160A-446(e). In addition, any person aggrieved by an order issued by the Building Inspector or a decision rendered by the Board of Adjustment shall also have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Building Inspector pending a final disposition of the case, as provided by NCGS 160A-446(f). **[formerly known as §149.15]**

E. METHODS OF SERVICE OF COMPLAINTS AND ORDERS**.** Complaints or orders issued by the Building Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, and the Building Inspector makes an affidavit to that effect, then the serving of the complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper of general circulation in the county, the second publication being not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing. **[formerly known as § 149.16]**

F. *IN REM* ACTION BY INSPECTOR; PLACARDING**.** After failure of an owner of a dwelling or dwelling unit to comply with an order of the Building Inspector issued pursuant to the provisions of this Chapter, and upon adoption by the Town Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by NCGS 160A-443 (4) and (5) and § 155.1005.D of this Chapter, the Building Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this Chapter,

or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor. Each such ordinance shall be recorded in the office of the Mecklenburg County Register of Deeds, and shall be indexed in the name of the property owner in the grantor index, as provided by NCGS 160A-443(5). **[formerly known as §149.17]**

G. COSTS; A LIEN ON THE PREMISES. As provided by NCGS 160A-443(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Building Inspector pursuant to §155.1005.F. shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as the lien for special assessments provided by Article 10, Chapter 160A of the General Statutes. **[formerly known as § 149.18]**

H. ALTERNATIVE REMEDIES. Neither this Chapter nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this Chapter by criminal process as authorized by NCGS 14-4 and § 155.1005.I., and the enforcement of any remedy shall not prevent the enforcement of any other remedy or remedies or other ordinances or laws. **[formerly known as § 149.19] [formerly known as § 149.20; covered at § 155.208.C.5]**

I. CONFLICT WITH OTHER PROVISIONS. In the event any provision, standard, or requirement of this Chapter is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town shall prevail. **[formerly known as § 149.21]**

155.1006. Violation; Penalties.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Building Inspector duly made and served as provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 155.1005.D., to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense. The violation of any provision of this ordinance shall constitute a misdemeanor, as provided by NCGS 14-4. In addition to the remedy specified in this and in other sections of this Chapter, the provisions of this Chapter may also be enforced by the Town by injunction and order or abatement or by any other equitable remedy issuing from a court of competent jurisdiction, as specified in NCGS 160A-175. (Ord. 1121, passed 6-26-00; Ord. 2025A, passed 6-9-14) **[formerly known as § 149.22]**