

Division 3. Overlay Districts

Sec. 44-428. Catawba River Corridor (CRC-O).

Purpose:

- ◆ *The Catawba River and its banks, lakes, creeks, tributaries, etc. are the most obvious, important and valuable natural resources in the County. The river corridor must be maintained for the use, benefit and enjoyment of present and future residents of and visitors to the County.*
 - ◆ *The river is the source of water for the people, farmers, and manufacturers of the County. The river corridor contributes to the County's economy and general welfare through increased property values, aesthetic enrichment, and recreational opportunities. The river is the habitat for fish and wildlife and native plants.*
 - ◆ *The Catawba River corridor, consisting of the lakes, river and its banks as it runs through the County's jurisdiction, must be protected from pollution caused by erosion and sedimentation, agricultural and industrial runoff, and natural and manmade obstruction. This stewardship is essential for the preservation of the public health, safety, and welfare.*
- (a) *Plan consistency.* This Section implements the St. Stephens-Oxford, Sherrills Ford and Catawba Small Area Plans.
 - (b) *Boundaries.* The Catawba River Corridor Overlay District shall extend landward a distance of 500 feet from the high water elevation of Lakes Hickory and Lookout Shoals in addition to the Catawba River mainstem and 1000 feet landward from the high water elevation of Lake Norman.
 - (c) *Consistency with other regulations.* Development within the first 50 feet landward shall meet the requirements of the State's Catawba River Basin Riparian Buffer Rules (15A NCAC 2B.0243), as enforced by the NCDENR.
 - (d) *Minimum lot size requirement.* The minimum lot size in the Catawba River Corridor Overlay District shall be 40,000 square feet (R-40) on Lake Hickory, Lookout Shoals and the Catawba River mainstem and 30,000 square feet (R-30) on Lake Norman. Cluster developments are encouraged, and subject to the regulations in Sec. 44-544.
 - (e) *Minimum lot width requirement.* The minimum lot width requirement for waterfront lots in the Catawba River Corridor Overlay District is 100 feet as measured along the waterfront. For non-waterfront lots, the lot width requirement for the underlying zoning district shall apply.
 - (f) *Flag lot allowance.* A maximum of 3 flag lots are allowed along a state-maintained road or a new subdivision road provided that a minimum of 45 feet of road frontage is provided. The creation of more than 3 cumulative lots will require a road built to NCDOT standards and be subject to the major subdivision requirements in Article V.

Flag lots must meet the following dimensional criteria:

- (1) The length of the pole can not exceed 5 times the frontage width; and
 - (2) The square footage of the land area within the flag pole may be used in the calculation of the minimum lot size requirement.
- (g) *Non-residential and multi-family development stormwater design requirements.* Low impact development (LID) techniques shall be incorporated into the design of all non-residential and multi-family development within the Catawba River Corridor Overlay District. LID stormwater practices shall be designed based on the current best available practices and standards such as those provided by the Low Impact Development Center at www.lowimpactdevelopment.org. The county engineer shall review all stormwater plans.
- (h) Accessory structure setback. Accessory structures must be setback 30 feet from the rear property line at the lake or river front as measured from the high water elevation.

(Ord. No. 2008-17, 10/20/08)

Sec. 44-429. Floodplain Management Overlay (FPM-O)

Purpose: The flood hazard areas in the jurisdiction of Catawba County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

The purpose of this Chapter is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- ◆ *Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;*
- ◆ *Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;*
- ◆ *Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;*
- ◆ *Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and*
- ◆ *Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.*

The objectives of this Chapter are:

- ◆ *To protect human life, safety and health;*
- ◆ *To minimize expenditure of public money for costly flood control projects;*
- ◆ *To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- ◆ *To minimize prolonged business losses and interruptions;*

- ◆ *To minimize damage to public facilities and utilities, (i.e. water and gas mains; electric, telephone, cable and sewer lines; streets; and bridges) located in flood prone areas;*
- ◆ *To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and*
- ◆ *To ensure that potential homebuyers are aware that property is in a special flood hazard area.*

(Ord. No. 2007-14 7/9/2007)

Sec. 44-429.01. Statutory authorization.

The state has, in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A 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.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.02. Legal status provisions.

This Chapter in part comes forward by reenactment of some of the provisions of the flood damage prevention ordinance enacted on September 3, 1980, 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 are reserved and may be enforced. The enactment of this Article shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the County enacted on September 3, 1980, as amended, which are not reenacted in this Article are repealed.

The dates of the initial Flood Insurance Rate Maps for each municipal jurisdiction within Catawba County are as follows:

Brookford	December 18, 1979
Catawba	September 3, 1980
Claremont	March 3, 2003
Conover	September 3, 1980
Hickory	August 3, 1981
Long View	September 3, 1980
Maiden	September 3, 1980
Newton	September 3, 1980

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.03. Effect upon outstanding floodplain development permits.

Nothing contained in this Chapter shall require any change in the plans, construction, size or designated use of any development, or any part for which a floodplain development permit has

been granted by the planning director before the time of passage of this Chapter; provided, however, that if construction is not begun under such outstanding permit within a period of 6 months subsequent to the date of issuance of the outstanding permit, the construction or use shall be in conformity with the provisions of this Chapter.

Sec. 44-429.04. General provisions.

- (a) *Lands to which this Chapter applies.* This Chapter shall apply to all special flood hazard areas (SFHA) within the jurisdiction of Catawba County.
- (b) *Basis for establishing the special flood hazard areas.* The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM) for Catawba County dated September 5, 2007, which are adopted by reference and declared to be a part of this Chapter. The initial Flood Insurance Rat Maps are as follows for the jurisdictional areas at the initial date:

Catawba County Unincorporated Area, dated September 3, 1980
- (c) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities within special flood hazard areas as determined in Sec. 44-429.04(b).
- (d) *Compliance.* No structure or land shall be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Chapter and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this Chapter, all provisions shall be considered as minimum requirements:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the board of commissioners; and
 - (3) Deemed to neither limit nor repeal any other powers granted under state statutes.
- (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. Actual 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. This Chapter shall not create liability on the part of the County or by any officer or employee thereof for

any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.05. Definitions.

Unless specifically defined below, words or phrases used in 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.

Accessory structure (Appurtenant Structure) - a structure which 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. Pole barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) - an extension or increase in the floor area or height of a building or structure.

Appeal - a request from a review of the planning director's interpretation of any provision of this Chapter.

Area of shallow flooding - a designated AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from 1 to 3 feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard- see special flood hazard area (SFHA)

Basement - any area of the building having its floor subgrade (below ground level) on all sides.

Base flood - the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) - a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation."

Building see "Structure"

Chemical storage facility - a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; or storage of equipment or materials.

Disposal defined as in NCGS 130A-290(a)(6).

Elevated building - a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment - the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or manufactured home subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are affixed, including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads was completed before the initial effective date of the floodplain management regulations adopted by the community.

Flood or flooding - 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 or runoff of surface waters from any source.

Flood boundary and floodway map (FBFM) - an official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodway are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood hazard boundary map (FHBM) - an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the special flood hazard areas have been designated as zone A.

Flood insurance - the insurance coverage provided on the National Flood Insurance Program.

Flood insurance rate map (FIRM) - an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS) - an examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps (FBFM) if published.

Flood prone area- see Floodplain.

Floodplain or flood prone area - any land area susceptible to being inundated by water from any source.

Floodplain development permit - any type of permit that is required in conformance with the provisions of this Chapter, prior to the commencement of any development activity.

Floodplain management - the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations - this Chapter, building code, health regulations, special purpose Chapters of the County Code, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing - 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.

Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Flood zone - 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 - the top surface of an enclosed area in a building, including basement, for example, the top of slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Freeboard - the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effects of urbanization of the watershed. The Base Flood elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.

Functionally dependent facility - a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. This term does not include long-term storage, manufacture, sales or service facilities.

Hazardous waste management facility - 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 (HAG) - the highest natural elevation of the ground surface, prior to construction, next to the walls of the proposed structure.

Historic structure - any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a CLG Program.

Certified Local Government (CLG) Programs are approved by the U.S. Department of Interior in cooperation with the N.C. Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of map amendment (LOMA) - a letter provided by FEMA certifying the property is not in the floodplain.

Lowest adjacent grade (LAG) - the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building. For zones A and AO, use the natural grade elevation prior to construction.

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

Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision - a parcel, or contiguous parcels of land divided into 2 or more manufactured home lots for rent or sale. (Also see new manufactured home park.)

Market value - the building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (actual cash value), or adjusted tax assessed values.

Mean sea level - for the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum use as a reference for establishing varying elevations within the floodplain to which base flood elevations (BFE) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New construction - structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonconforming building or development - any legally existing building or development which fails to comply with the current provisions of this Chapter.

Non-encroachment area - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

Planning director - the individual appointed to administer and enforce the floodplain management regulations.

Post-FIRM - 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 - construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map.

Principally above ground - at least 51% of the actual cash value of the structure is above ground.

Public safety and/or nuisance - 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 (RV) - a vehicle, which is:

- (a) Built on a single chassis;

- (b) 400-square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towed by a light-duty truck; and
- (d) Not designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference level - the portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

Regulatory flood protection elevation - the elevation, in relation to mean sea level, to which the reference level of all structures and other development located within special flood hazard areas must be protected. Where base flood elevations (BFE) have been determined, this elevation shall be the BFE plus 2 feet of freeboard. Where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.

Remedy a violation - to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage yard - 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 facility - any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid waste disposal site - any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method, as defined in NCGS 130A-290(a)(36).

Special flood hazard area (SFHA) - the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in Sec. 44-429.04(b) of this Chapter.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure, including a manufactured home, on a site, such as pouring of slabs or footings,

installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units, or not part of the main structure. For a 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 - a walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground. For floodplain management purposes, “principally above ground” means other manmade facilities or infrastructure principally above ground.

Substantial damage - damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. (See also definition of substantial improvement.)

Substantial improvement - any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not include either:

- (a) 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
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance - a grant of relief from the requirements of this Chapter.

Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Floodplain Management Overlay District is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) - the height, in relation to mean sea level (existing grade in case of Zone AO), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse - a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 2007-14, 7/9/2007)

ADMINISTRATION AND ENFORCEMENT

Sec. 44-429.06. Designation of planning director.

The planning director is appointed to administer and implement the provisions of this Chapter.

Sec. 44-429.07. Floodplain development application, permit and certification requirements.

Application requirements. Application for a floodplain development permit shall be made to the planning director before any development activities located within special flood hazard areas. The following items must be presented to the planning director to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (1) 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;
 - (2) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in Sec. 44-429.04(b), or a statement that the entire lot is within the special flood hazard area;
 - (3) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Sec. 44-429.04(b);
 - (4) The boundary of the floodway(s) or non-encroachment area(s) as determined in Sec. 44-429.04(b);
 - (5) The Base Flood Elevation (BFE) where provided as set forth in Sec. 44-429.04(b), 44-429.10 or Sec. 44-429.16;
 - (6) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
- (b) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
 - (1) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

- (2) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
 - (3) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
 - (d) A foundation plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this Chapter are met. These details include but are not limited to:
 - (1) The proposed method of elevation, if applicable (for example, fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - (2) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Sec. 44-429.15(d)(3), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
 - (e) Usage details of any enclosed areas below the lowest floor.
 - (f) 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;
 - (g) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received. (h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Sec. 44-429.15(f) and (g) of this Chapter are met.
 - (i) 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.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.08. Permit requirements.

At a minimum, the floodplain development permit must include:

- (a) A description of the proposed development;
- (b) The special flood hazard area determination for the proposed development in accordance with available data specified in Sec. 44-429.04(b);

- (c) The regulatory flood protection elevation required for the reference level and all attendant utilities;
- (d) The regulatory flood protection elevation required for the protection of all public utilities;
- (e) All certification submittal requirements with timelines;
- (f) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable;
- (g) The flood openings requirements, if in Zone A, AO, AE or A1-30; and
- (h) Limitations of below BFE enclosure uses (if applicable), (i.e., parking, building access and limited storage only).

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.09. Certification requirements.

- (a) *Elevation certificates:*
 - (1) An elevation certificate (FEMA Form 81-31) or floodproofing certificate (FEMA Form 81-65) is required after the reference level is established. Within 7-calendar days of establishment of the reference level elevation, it is the duty of the permit holder to submit to the planning director, a certification of the elevation of the reference level, in relation to mean sea level. Elevation certification must be prepared and certified by, or under the direct supervision of, a registered land surveyor or professional engineer. Any work done within the 7-day calendar period, and prior to submission of the certification, is at the permit holder's risk. The planning director shall review the certificate data submitted. Deficiencies detected by such review must be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (2) A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. The permit holder has the duty to submit to the planning director a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The planning director shall review the certificate data submitted. Deficiencies must be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.
- (b) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with

supporting data, an operational plan, and an inspection and maintenance plan, is required prior to the actual start of any new construction. The permit holder has the duty to submit to the planning director a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification must be prepared and certified by, or under the direct supervision of, a professional engineer or architect. The planning director shall review the certificate data, operational plan, and the inspection and maintenance plan submitted by the permit holder. Deficiencies detected by such review must be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

- (c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provision of Sec. 44-429.15(c)(2).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified 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 showing the location of the proposed watercourse alteration or relocation must all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) above:
 - (1) Recreational Vehicles meeting requirements of Section 44-429.15(f)(1);
 - (2) Temporary Structures meeting requirements of Section 44-429.15(g); and
 - (3) Accessory Structures less than 150 square feet meeting requirements of Section 44-429.15(h).

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.10. Duties and responsibilities of the planning director.

At a minimum, the planning director is responsible for the following:

- (a) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this Chapter have been satisfied;
- (b) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received. (c) Notify 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 submit evidence of such notification to FEMA;

- (d) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
- (e) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Sec. 44-429.16 are met;
- (f) Obtain actual elevation (in relation to mean sea level) of the reference level, (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Sec. 44-429.09;
- (g) Obtain actual elevation (in relation to mean sea level) to which the new or substantially improved structures and all utilities have been floodproofed in accordance with the provisions of Sec. 44-429.09;
- (h) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Sec. 44-429.09;
- (i) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Sec. 44-429.09 and Sec. 44-429.15(b);
- (j) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary has 30 days to appeal the interpretation as provided in this Article;
- (k) When BFE data has not been provided in accordance with Sec. 44-429.04(b), obtain, review and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to Sec. 44-429.16(b)(2), in order to administer the provisions of this Chapter;
- (l) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with Sec. 44-429.04(b), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this Chapter
- (m) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel or structure in a special flood hazard area is above the BFE, advise the owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;

- (n) Permanently maintain all records that pertain to the administration of this Chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;
- (o) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the planning director 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 Chapter and the terms of the permit. In exercising this power, the planning director has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;
- (p) Issue stop-work orders as required. Whenever a building or part of a building is being constructed, reconstructed, altered, or repaired in violation of this Chapter, the planning director may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stopped, and the condition(s) under which the work may be resumed. Violation of a stop -work order constitutes a misdemeanor;
- (q) Revoke floodplain development permits as required. The planning director may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked;
- (r) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The planning director 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;
- (s) Follow through with corrective procedures of Sec. 44-429.11;
- (t) Review, provide input, and make recommendations for variance requests;
- (u) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and/or other official flood maps/studies adopted under Sec. 44-429.04(b) of this Chapter, including any revisions thereto including Letters of Map Change, issued by the state and/or FEMA. Notify the state and FEMA of mapping needs;
- (v) Coordinate revisions to FIS reports and FIRM, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.11. Corrective procedures.

- (a) *Violations to be corrected.* When the planning director finds violations of applicable state and local laws, he must notify the owner or occupant of the building of the violation. The owner or occupant must each immediately remedy each of the violations of law cited in such notification.
- (b) *Actions in event of failure to take corrective actions.* If the owner of a building or property fails to take prompt corrective action, the planning director shall give the owner written notice, by certified or registered mail, to the owner's last known address or by personal service, stating:
 - (1) That the building or property is in violation of the floodplain management regulations;
 - (2) That a hearing will be held before the planning director at a designated place and time, not later than 10 days after the date of the notice, at which time the owner is entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) That following the hearing, the planning director may issue an order to alter, vacate, or demolish the building, remove fill as applicable.
- (c) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the planning director shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the planning director finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.
- (d) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the board of adjustment by giving notice of appeal in writing to the secretary of the board of adjustment within 10 days following issuance of the final order. In the absence of an appeal, the order of the planning director 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.
- (e) *Failure to comply with orders.* If the owner 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 pursuant to this Chapter, he or she shall be guilty of a misdemeanor and shall be punished in accordance with the law.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.12. Variance procedures.

- (a) The board of adjustment shall act as the appellate board and hear and decide requests for variances from the requirements of this Chapter.
- (b) Any person aggrieved by the decision of the board of adjustment may appeal such decision to the court, as provided in NCGS Chapter 7A.
- (c) Variances may be issued for:
 - (1) 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;
 - (2) Functionally dependent facilities if determined to meet the definition as stated in Sec. 44-429.05, provided provisions of Sec. 44-429.12(i)(2), (3), and (5) 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; and
 - (3) Any other type of development, provided it meets the requirements of this Chapter.
- (d) In passing upon such applications, the board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in this Chapter along with the following:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity of the facility of a waterfront location as defined in Sec. 44-429.05 of this Chapter as a functionally dependent facility, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
 - (11) Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (e) A written report addressing each of the above factors must be submitted with the application for a variance.
 - (f) Upon consideration of the factors listed above and the purposes of this Chapter, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Chapter.
 - (g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
 - (h) The planning director shall maintain the records of all appeal actions and report any variances to FEMA and the state upon request.
 - (i) 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 Chapters;
 - (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge;
 - (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 development permit approval
 - (5) 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, additional threats to public safety or extraordinary public expense; create a nuisance, cause fraud on or

victimization of the public, or conflict with existing local laws or Chapters.

- (j) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following are met:
- (1) The use serves a critical need in the community;
 - (2) No feasible location exists for the use outside the special flood hazard area;
 - (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation;
 - (4) The use complies with all other applicable federal, state and local laws; and
 - (5) The County has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

(Ord. No. 2007-14 7/9/2007)

Sec. 44-429.13. 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 variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall be charged with a misdemeanor. Each day a violation continues shall be considered a separate and distinct offense. Nothing contained within this Chapter shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.

PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 44-429.14. General standards.

In all areas of special flood hazard the following are required:

- (a) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
- (b) All new construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage;
- (c) All new construction or substantial improvements must be constructed by methods and practices that minimize flood damages;

- (d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities must be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches;
- (e) All new and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems;
- (f) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (g) On-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding;
- (h) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this Chapter, must meet the requirements of new construction as contained in this Chapter;
- (i) Nothing in this Chapter prevents the repair, reconstruction, or replacement of a building or structure existing on September 3, 1980, the effective date of the original ordinance, and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that the repair, reconstruction, or replacement meets all of the other requirements of this Chapter;
- (j) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in special flood hazard areas, except by variance as specified in Sec. 44-429.12(j). 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 or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Sec. 44-429.09;
- (k) All subdivision and other development proposals must be consistent with the need to minimize flood damage;
- (l) All subdivision and other development proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (m) All subdivision and other development proposals must have adequate drainage provided to reduce exposure to flood hazards; and

- (n) All subdivision proposals and other development proposals must have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (o) 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.
- (p) 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.

(Ord. No. 2007-14 7/9/2007)

Sec. 44-429.15. Specific standards.

All special flood hazard areas where BFE data has been provided, as set forth in Sec. 44-429.04 (b) or Sec. 44-429.16, the following provisions, in addition to the provisions of Sec. 44-429.14, are required.

- (a) *Residential construction.* New construction and substantial improvement of any residential structure, including manufactured homes, shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Sec. 44-429.05 of this Chapter.
- (b) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or nonresidential structure, must have the referenced level including basement, elevated no lower than the regulatory flood protection elevation, as defined in Sec. 44-429.05 of this Chapter. Structures located in A, AO, AE and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the required flood protection 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 effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 44-429.19(b). A registered professional engineer or architect must certify that the standards of this subsection are satisfied. Such certification must be provided to the official as set forth in Sec. 44-429.09, along with operational and maintenance plans.
- (c) *Manufactured homes.*
 - (1) New and replacement manufactured homes must be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Sec. 44-429.05 of this Chapter.
 - (2) Manufactured homes must be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement

either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the commissioner of insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis must be supported by reinforced piers or an engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

- (3) All enclosures or skirting shall be in accordance with Sec. 44-429.15(d).
 - (4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan must be filed and approved by the planning director and the local emergency management coordinator.
- (d) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the regulatory protection elevation:
- (1) Cannot be designed or used for human habitation, but may only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area must be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of the enclosed area must not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (2) Must be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and
 - (3) Must include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria;
 - a. A minimum of 2 flood openings on different sides of each enclosed area subject to flooding;
 - b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;
 - c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d. The bottom of all required openings can be no higher than one foot above the adjacent grade;

- e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, do not require flood openings. Masonry or wood underpinning, regardless of structural status, are considered to be an enclosure and requires openings as outlined above.
- (e) *Additions/improvements.*
- (1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (2) 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 for new construction.
 - (3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (f) *Recreational vehicles.* Recreational vehicles must either:
- (1) Be on site for fewer than 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
 - (2) Meet the requirements for new construction.
- (g) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit, for a temporary structure, applicants must submit to the planning director a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information must be submitted in writing for review and written approval:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed 3 months, renewable up to one year;
 - (2) The name, address and phone number of the individual responsible for the removal of the temporary structure;
 - (3) The time-frame prior to the event during which a structure will be removed (for example, a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (4) A copy of the contract or other suitable instrument with entity responsible for physical removal of the structure; and
 - (5) The designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.
- (h) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria must be met:
- (1) Accessory structures cannot be used for human habitation, (including work, sleeping, living, cooking or restroom areas);
 - (2) Accessory structures cannot be temperature-controlled;
 - (3) Accessory structures must be designed to have low flood-damage potential;
 - (4) Accessory structures must be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (5) Accessory structures must be firmly anchored in accordance with the provisions of Sec. 44-429.14(a);
 - (6) All service facilities, such as electrical, must be installed in accordance with the provisions of Sec. 44-429.14(d);
 - (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces must be provided below regulatory flood protection elevation in conformance with the provisions of Sec. 44-429.15(d)(3); and
 - (8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with the provisions of Sec. 44-429.09.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.16. Standards for floodplains without established base flood elevations.

Within the Special Flood Hazard areas designated as approximate zone A and established in Sec. 44-429.04(b) where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Sec. 44-429.14, apply:

- (a) No encroachments, including fill, new construction, substantial improvements, or new development, are permitted within a distance of 20 feet from each side from the top of each bank or 5 times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) The BFE used in determining the regulatory flood protection elevation must be determined based on the following criteria:
 - (1) When BFE data is available from other sources, all new construction and substantial improvements within such areas must comply with all applicable provisions of this Chapter and must be elevated or floodproofed in accordance with standards in Sec. 44-429.14 and Sec.44-429.15.
 - (2) When floodway data is available from a federal, state, or other source, all new development within floodway areas shall also comply with the requirements of Sec. 44-429.15 and Sec. 44-429.18.
 - (3) All subdivision, manufactured home park and other development proposals located within special flood hazard areas must provide BFE data if development is greater than 5 acres or has more than 50 lots/manufactured home sites. The BFE data must be adopted by reference in accordance with Sec. 44-429.04(b) and utilized in implementing this Chapter.
 - (4) When BFE data is not available from a federal, state, or other source as outlined above, the reference level must be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation as defined in Sec. 44-429.05. Requirements of Sec. 44-429.15 shall also apply.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.17. Standards for riverine floodplains with BFE but without established floodways or non-encroachment areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (a) Standards outlined in Sec. 44-429.14 and Sec. 44-429.15.
- (b) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.18. Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in Sec. 44-429.04(b). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sec. 44-429.14, and Sec. 44-429.15 shall apply to all development within such areas:

- (a) No encroachments, including fill, new construction, substantial improvements and other developments, are to be permitted unless:
 - (1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the planning director prior to issuance of floodplain development permit, or
 - (2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (b) If Sec. 44-429.18(a) is satisfied, all development must comply with all applicable provisions of this Chapter.
- (c) No manufactured homes are permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (1) The anchoring and the elevation standards of Sec. 44-429.15(c); and
 - (2) The no encroachment standards of Sec. 44-429.16(a) are met.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-429.19. Standards for areas of shallow flooding (AO zones).

Located within the special flood hazard areas established in Sec. 44-429.04(b) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sec. 44-429.14 and Sec.

44-429.15, all new construction and substantial improvements of all structures must meet the following requirements:

- (a) The reference level must be elevated at least as high as the depth number specified on the FIRM in feet, plus a freeboard of 2 feet, above the highest adjacent grade; or at least 2 feet above the highest adjacent grade plus a freeboard of 2 feet if no depth number is specified.
- (b) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as listed above so that the structure, together with attendant utility and sanitary facilities, below that level must be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as in accordance with Sec. 44-429.09 and Sec. 44-429.15(b).
- (c) Adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. 2007-14, 7/9/2007)

Sec. 44-430. Mixed-Use Corridor (MUC-O).

Purpose: This district's standards relate to building form, design, signage, landscaping, parking, access management, and appearance. This district may be used to accomplish one or more of the following public purposes:

- ◆ *Provide a mixed-use corridor with connections to a Village District;*
- ◆ *Provide a walkable mixed-use area that is inviting to pedestrians and convenient for the traveling public;*
- ◆ *Establish higher development standards along major road corridors in the County;*
- ◆ *Provide a mixture of commercial, office and residential uses; and*
- ◆ *Establish building form and architectural standards compatible with the historical character of the area.*

Sec. 44-430.01 Plan Consistency.

The MUC-O district is established to implement the following small area plan land use categories:

- (a) Sherrills Ford Village-Mixed Use, Hwy. 150 Corridor Commercial & Office/Institutional and Regional Commercial/Mixed Use Center designations;
- (b) St. Stephens/Oxford Highway Commercial & Office/Institutional Corridor and Mixed-Use Corridor designations; and
- (c) Mountain View Highway Corridor Commercial & Office/Institutional designation.

(Ord. No. 2008-01, 1/22/2008)

Sec. 44-430.02. Boundaries.

Where any uncertainty exists with respect to the boundary of any district as shown on the zoning map, the district is deemed to extend from the edge of the right-of-way of the corridor road as designated in this Section. Where additional uncertainty exists, the regulations under Sec. 44-402 shall apply. If the Chapter does not indicate otherwise, both sides of the road are considered a corridor road. For purposes of this section, the following road segments are designated as corridor roads:

- (a) NC Hwy. 150:
 - (1) From the Catawba River to the Lincoln County line, with exception of a section from the Seaboard Coast railroad right-of-way, located west of Slanting Bridge Road (SR 1844), extending west to the bridge of the Mountain Creek arm of Lake Norman. The district extends 500 feet from the edge of the right-of-way on both sides of Highway 150 and is referred to as the “Hwy. 150 Corridor”; and
 - (2) The regional commercial/mixed use center at the intersection of Hwy 150 and Hwy 16 as designated in the Sherrills Ford Small Area Plan.
- (b) NC Hwy. 16:
 - (1) Hwy. 16 North from the planning jurisdiction of the City of Conover to 1000 feet north of the intersection of C & B Farm Road (SR 1487) extending 1000 feet from the edge of the right-of-way on both sides of Hwy. 16, referred to as the “Greater Rock Barn Economic Development District.”
 - (2) Hwy. 16 South extending 500 feet from the edge of the right-of-way on both sides of Hwy. 16 at the following rural commercial nodes designated in the small area plans:
 - a. Smyre Farm Road (SR 1884) and Bethany Church Road (SR 1804);
 - b. Balls Creek Road (SR 1810) and Providence Mill Road (SR 1810); and
 - c. Buffalo Shoals Road (SR 1003)referred to as the “Hwy. 16 South Commercial Node District.”
- (c) Rock Barn Road (SR 1709) from the planning jurisdiction of the City of Conover to 3500 feet north of the intersection of St. Johns Church Road (SR 1712) extending 1000 feet from the edge of the right-of-way on both sides of Rock Barn Road, referred to as the “Greater Rock Barn Economic Development District.”
- (d) Springs Road (SR 1453) from the planning jurisdiction of the City of Hickory to the intersection of County Home Road (SR 1484) extending 500 feet from the edge of the right-of-way on both sides of Springs Road, referred to as the “Springs Road Corridor.”

- (e) NC Highway 127 from the planning jurisdiction of the City of Hickory to the intersection of Mountain Grove Road (SR 1128) extending 500 feet from the edge of the right-of-way on both sides of Hwy. 127, referred to as the “Hwy. 127 Corridor.”

Right-of-way, as referenced above, is defined as the land within the legally defined property whose title vests in the state and is designated or intended for highway purposes.

(Ord. No. 2008-01, 1/22/2008)

Sec. 44-430.03. Applicability.

This Section applies to all land designated as the MUC-O on the zoning map.

- (a) Except as provided in Subsection (4) below, the MUC-O district applies to the extent that there is any inconsistency between the MUC-O district and the underlying general or special use district.
- (b) This Section applies to any of the following activities within the MUC-O district:
 - (1) Any change of use;
 - (2) Any minor or major expansion to an existing commercial structure as noted in Table 44-430.03-1;
 - (3) Any development of vacant tracts that occurs after the effective date of this Section; and
 - (4) Any subdivision of land.
- (c) This Section does not apply to existing single-family, site-built or manufactured homes or duplexes that are used for residential purposes. Additions to such structures or accessory uses are permitted subject to the zoning requirements of the district and Sec. 44-404. Existing single-family, site-built or manufactured homes and duplexes that are partially or fully destroyed may be rebuilt or repaired as a matter of right as allowed in Sec. 44-705(b). If a tract of land is vacant at the time this Chapter is adopted, a single-family home may be constructed on the property as a matter of right subject to other applicable zoning regulations contained within this Chapter.
- (d) The applicant may propose actions, designs, or solutions (hereinafter “alternative standards”) that are not literally in accord with this Section but that embody its spirit. Alternative standards may be approved provided that they comply with the spirit of the regulations in the particular case, and that the public purposes of this Section are satisfied to an equivalent or greater degree.
- (e) Compliance with this Chapter is required in accordance with Table 44-430.03-1.

Table 44-430.03-1. Compliance table, MUC-O District.

C = Compliance with all applicable standards required
R = Retrofit to the extent practical as determined by the planning director. An appeal of the planning director's decision shall follow the process detailed in Sec. 44-305.

Existing building expansion (minor): Expansion to buildings less than or equal to 25% of the current leasable/heated area.

Existing building expansion (major): Expansion to buildings greater than 25% of the current leasable/heated area.

	Site standards	Building design standards/site appearance	Driveway connection/access management	Streetscape landscaping	Buffering and screening	Landscaping of parking areas	Parking	Pedestrian design	Site lighting	Signs
Parking area expansion (minor 12-24 spaces)	N/A	N/A	R	R	R	R	R	R	R	N/A
Parking area expansion (major 25 or more spaces)	N/A	N/A	R	R	C	C (for new spaces only)	C	R	C	N/A
Change of use	R	R	R	R	R	R	R	R	R	R
Existing building expansion (minor)	R	R	R	R	R	R	R	R	R	R
Existing building expansion (major)	C	C	R	R	C	C	C	C	C	C
New building construction undeveloped site (including outparcels)	C	C	C	C	C	C	C	C	C	C

Sec. 44-430.04. Site plan required.

Any person wishing to develop a lot or parcel in the MUC-O is encouraged to have at least 5 acres incorporated into an integrated site plan. A site plan for parcels less than 5 acres that existed prior to the adoption of the MUC-O District may be accepted by the planning director if a determination is made that practical difficulties exist and all opportunities have been exhausted. In addition, the site plan may be considered provided that the development standards in the MUC-O district are met to the extent feasible. A separate zoning site plan must be submitted showing applicable Chapter requirements. An architectural plan must also be submitted indicating compliance with the applicable building design and site standards.

Sec. 44-430.05.

Uses.

- (a) Uses allowed in the MUC-O District are those that would typically occupy smaller scale commercial/retail/office type uses where the general public would utilize specific goods and services.
- (b) The uses allowed in the RC, HC, and O-I districts as shown in Table 44-403-1 - Use Matrix are permitted in the MUC-O District, with the exception of Subsection (c) below. In addition, multi-family development is permitted to the extent that it is a portion of a mixed-use project and does not comprise more than 50% of the gross square footage of the overall development. A family subdivision, as defined in this Chapter, is allowed provided that no more than 2 driveway cuts and/or rights-of-ways are created which connect to the corridor road. Where the tract of land has 1000 feet or more of corridor road frontage, a family subdivision will be allowed with up to 3 driveway cuts and/or rights of way connecting to the corridor road.
- (c) The following uses are prohibited in the MUC-O District (excluding land areas in the Highway Commercial (HC) nodes along Hwy. 16 South as referenced in Sec. 44-430.02(b)(2). The Highway 16 South nodes allow all permitted uses listed in Table 44-403-1 under the HC category.

Table 44-430.05-1. Prohibited principal uses in MUC-O District.

The following list of prohibited principal uses are applicable to the MUC-O district with exception of the land areas in the Highway Commercial (HC) nodes along Hwy. 16 South as referenced in Sec. 44-430.02(b)(2). The Highway 16 South nodes allow all permitted uses listed in Table 44-403-1 under the HC category.

Amusement park/arcade (outdoor)	Dragstrips or racetracks	Open storage
Armory	Equipment rental, heavy	Pawnshop
Auto storage or salvage yards	Farm supplies	Roadside stand, commercial
Batting cage (outdoor)	Greenhouse, commercial	Sanitarium and mental institution
Boardinghouse, rooming house	Industrial supplies and equipment	Subdivision of land for non-family, single-family residential uses
Bus terminal	Lumber and building materials sales	Wholesale distribution
Campgrounds	Manufactured/modular home sales	Wood waste grinding operations (industrial)
Cemetery, human public	Miniature golf (outdoor)	Zoo
Cemetery, pet	Movie theater (drive-in)	
Circus, carnival and fair (permanent)	Municipal garage	

(Ord. No. 2008-01, 1/22/2008; Ord. No. 2008-17, 10/20/08)

- (d) The following uses are permitted with supplemental standards as shown in Subsections (1) through (5) below.

Table 44-430.05-2. Permitted principal uses in MUC-O with supplemental regulations.

Auto, truck, boat, recreation vehicle and motorcycle sales or rentals	Golf driving range	Nightclub
Billiard or pool hall	Mini-warehouse	Par-three golf
Carwash (free standing)	Motor vehicle repair, major	Rental of light equipment and supplies
Dry storage facilities	Motor vehicle repair, minor	

(Ord. No. 2008-17, 10/20/08)

- (1) Auto, truck, boat, light equipment, recreation vehicle and motorcycle sales or rentals, motor vehicle repair (major and minor) or dry storage facilities.
- a. All display/inventory must be located in an enclosed building, utilizing window display; or

- b. All frontages of the site must be screened with ornamental fencing, a minimum of 6 feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
- c. Landscaping requirements of Article V must be met. In addition, landscaping must be installed along the entire frontages to achieve 50% opacity within 2 to 3 years, at a 6-foot height, both in plan (aerial) view and elevation (street level) view;
 - 1. Plant species must be a minimum of 75% evergreen; and
 - 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - 3. A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50% opacity from the top of the berm, to the height of 6 feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75% evergreen and a minimum 3-gallon in size and 2 feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.
- d. No stacking of items or materials outdoors is permitted;
- e. All display, inventory, structures, parking areas, and other improvements must be setback a minimum 50 feet from the right-of-way;
- f. Vehicle service entrances must be rear entry, or in the rear or side yard for a corner lot on the lower classified street; and
- g. Dry storage facilities must meet the requirements of Sec. 44-618 and cannot have open sides or bays visible from any rights-of way. All storage must be within the facility.

(2) Golf driving range, par-three golf.

- a. Fairways and driving ranges and nets must be setback a minimum of 150 feet from the rights-of way.
- b. All frontages of the site must be screened with ornamental fencing, a minimum of 6 feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
- c. Landscaping requirements of Article V must be met. In addition, landscaping must be installed on frontages to achieve 50% opacity within 2 to 3 years, at a 6-foot height, both in plan (aerial) view and elevation (street level) view;

1. Plant species must be a minimum of 75% evergreen; and
 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 3. A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50% opacity from the top of the berm, to the height of 6 feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75% evergreen and a minimum 3-gallon in size and 2 feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.
- (3) Carwash (free standing).
- a. All frontages of the site must be screened with ornamental fencing, a minimum of 6 feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and
 - b. Landscaping requirements of Article V must be met. In addition, landscaping must be installed on frontages to achieve 50% opacity within 2 to 3 years, at a 6-foot height, both in plan (aerial) view and elevation (street level) view;
 1. Plant species must be a minimum of 75% evergreen; and
 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 3. A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50% opacity from the top of the berm, to the height of 6 feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75% evergreen and a minimum 3-gallon in size and 2 feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.
- (4) Mini-warehouse.
- a. All supplemental standards of Sec. 44-619 must be met;
 - b. All frontages of the site must be screened with ornamental fencing, a minimum of 6 feet high, bracketed by stone or brick columns, with a maximum separation of 18 feet apart. The fence cannot be located in the front setback. Fencing is not required in front of the office, when the office abuts the setback or the fencing line; and

- c. Landscaping requirements of Article V must be met. In addition, landscaping must be installed on frontages to achieve 50% opacity within 2 to 3 years, at a 6-foot height, both in plan (aerial) view and elevation (street level) view;
 - 1. Plant species must be a minimum of 75% evergreen; and
 - 2. A mixture of species and a variety of shapes and forms must be utilized throughout the frontage landscaping; or
 - 3. A maintained, earthen-mound or berm may be installed with vegetation, to achieve 50% opacity from the top of the berm, to the height of 6 feet, both in plan (aerial) view and elevation (street level) view. Plants must be a minimum of 75% evergreen and a minimum 3-gallon in size and 2 feet in height at the time of planting. The berm must have a minimum base width of 12 feet. This mound or berm cannot impound storm water runoff or direct runoff to adjacent properties.
- (5) Billiard or pool hall, nightclub.

Neon or florescent colored signs cannot be displayed on the exterior of the building, in windows or doors visible from the rights-of way.

(Ord. No. 2008-17, 10/20/08)

Sec. 44-430.06. Site standards.

- (a) *Scope.* The standards and regulations in this section should be adhered to for all development in the MUC-O District. The general provisions include:
 - (1) *Long-range plans.* The development must conform to all long-range plans concerning such issues as road building and utility extensions.
 - (2) *General site design.* In general, the site design must attempt to reduce cut and fill; protect groundwater resources; avoid unnecessary paved surfaces; provide adequate access and promote visual attractiveness.
 - (3) *Suitable sites.* The site must be suitable for development in the manner proposed without hazards to persons or property, on or off the site, free from the probability of flooding, erosion, subsidence or slipping of the soil, or other dangers. Conditions of soil, groundwater level, drainage and topography shall all be appropriate to both the kind and pattern of use intended.
 - (4) *Unified site planning.* If appropriate to the form of development, lands included in the MUC-O may be divided by streets, alleys, rights-of-way or easements, but must be so located, dimensioned and arranged as to permit unified planning and development and to meet all requirements in connection and to provide necessary protection against adverse relationships between uses in the district and uses in surrounding areas.

- (b) *Preservation.* Protecting environmentally sensitive land, open space and historical sites should be given high priority in site design. More specifically the following must be preserved whenever feasible:
- (1) *Wetlands.* Wetlands as defined through field inspection by the U.S. Army Corps of Engineers;
 - (2) *Floodplains.* Lands in the floodplain as identified on FEMA flood hazard maps;
 - (3) *Steep slopes.* Slopes in excess of 20% over intervals of 10 feet or more; and
 - (4) Historic sites.
- (c) *Dimensional requirements for lots within a site plan.* Subdivision of land in the MUC-O District requires review and approval of a site plan. Individual lots in the MUC-O District must conform to Table 44-430.06-1.

Table 44-430.06-1. Dimensional standards, MUC-O District.

Minimum lot size	20,000 square feet
Minimum lot width	100 feet
Building setbacks, measured as the minimum distance measured from the edge of the street right-of-way and/or nearest property line to be as follows:	
Front setback on internal streets	10 feet
Side setback (principal structures)	6 feet, or 0 feet for attached buildings
Rear setback (principal structures)	20 feet or 30 feet if adjacent to a residential use or district
Setback required from corridor road	35 feet
Accessory structures, side/rear setback	0 feet
Encroachments	Canopies and awnings may encroach into the front setback up to 8 feet

Figure 44-430.06-1. Dimensional standards, MUC-O district



Sec. 44-430.07. Building design standards/site standards.

These standards provide building designs that accommodate diversity in style and building materials striving to define a distinct character while maintaining a high quality of development standards. Buildings are oriented to maximize the convenience of pedestrian walkability. These standards further provide development patterns that avoid the excessive linear expansive rooflines of strip plazas.

- (a) *Building size.* For buildings exceeding an aggregate square footage of 50,000, a planned development special district rezoning is required in accordance with Sec. 44-443. Individual buildings within the MUC-O cannot exceed 65,000 square feet of gross floor area. An exception to building size may be considered, during the rezoning process, for a village center or a planned development special district.
- (b) *Street line preservation.*

- (1) Where a major or minor thoroughfare is planned to be built or widened and initial roadway design and right-of-way locations have been completed and funded in the current State Transportation Improvement Program (STIP), all building setbacks must be measured from the expanded right-of-way for these improvements. All parking, landscape and buffering installations must be located outside of the expanded right-of-way.
 - (2) Future roads or road improvements that are shown on the urban area transportation plan or the County's thoroughfare plan must be indicated on any subdivision plat, site plan, or zoning authorization permit applications. Buildings, structures, parking, landscape and buffering installations must be located outside the proposed right of way or pavement edge of such improvements where these locations are indicated on the urban area transportation plan or the County's thoroughfare plan.
- (c) *Type of construction.* The following standards must be met for building construction in the MUC-O.
- (1) Building front. Ribbed paneling consisting of vinyl or metal, as the primary building material, or unpainted cinder blocks are prohibited as the building material for the front of a building facing a public right-of-way. Metal and vinyl, of a ribbed panel design, may be used as accent materials, as part of the façade face comprising no more than 25%. For the purposes of this Subsection, buildings located on corner lots are only considered to have one front.
 - (2) Façade(s) visible from a publically dedicated or private right-of-way. Building façade(s) consisting of ribbed vinyl or metal, as the primary building material, or unpainted cinder blocks are prohibited as the building material along the portion(s) of the building which are visible from private or public rights-of-way. Metal and vinyl, of a ribbed panel design, may be used as accent materials, as part of the façade face comprising no more than 25%. An exception to allow any building material can be made where a solid vegetative screen exists or is installed which shields that portion of the façade(s) from private or public rights-of-way, as determined by the planning director.
 - (3) Façade(s) not visible from a publically dedicated or private right-of-way. Sides not visible from public rights-of-way may use ribbed paneling, painted cinder blocks or other materials.
 - (4) Roofs may be of a standing seam metal material, but ribbed metal is not allowed. Roof colors must be of a neutral tone, such as beige, brown, grey or subtle natural colors such as forest green or black. An exception to the color requirement may be approved by the Planning director.
 - (5) *Type of building materials encouraged.* Examples of building materials which are encouraged include masonry, wood, fibrocement product, such as hardiboard, textured vinyl and stucco and other new and innovative

materials as they become available in the marketplace. Green roofs and Leadership in Energy and Environmental Design (LEED) construction or equivalent standards are encouraged.

- (6) Existing buildings that are listed in the National Register of Historic Places are exempt from these standards where they are in conflict with the Secretary of Interior guidelines.
 - (7) Building shapes are not restricted as long as they meet all other requirements, including building and fire codes.
- (d) *Roof pitch.* Roof pitches less than 3/12 and flat roofs will require a parapet wall. A pitched roof must be profiled by eaves a minimum of 6 inches from the building face or with a gutter. Convenience store canopies cannot have a consistently flat roof. The pitch of the canopy and exterior materials must resemble the roof of the principal structure.

(Ord. No. 2008-17, 10/20/08)

Figure 44-430.07-1 Convenience store canopy with roof form that resembles principal structure.



- (e) *Front facade treatment.* Front facades include facades abutting public or private street rights-of-way, excluding rear elevation facades. Architectural elements like windows and doors, bulkheads, masonry piers, transoms, cornice lines, window hoods, awnings, canopies, and other similar details must be used on all facades fronting public or private street rights-of-way. Building wall offsets, including projections, recesses, changes in floor level, must be used in order to: relieve the visual effect of a single, long blank wall. These features are all designed to encourage a pedestrian friendly environment, add variety and provide interest.
- (1) For buildings greater than 75,000 square feet, where the front facade including the main entrance is greater than 60 feet in length, at least 33% of the length must contain recesses and projections of 4 feet or more from the primary building line.

- (2) The first floor of all building facades, fronting the public or private street rights-of-way, regardless of building size must be designed to complement architectural aesthetics by:
 - a. Limiting blank walls to no more than 40 feet in length for buildings 75,000 square feet or less;
 - b. Limiting blank walls to no more than 60 feet in length for buildings greater than 75,000 square feet; and
 - c. Including glass windows or doors, false window panels/treatments, awning, murals or framed openings comprising at least 20% of the wall area.
- (3) Roofline offsets should be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- (4) Building facades having public access shall be separated at least every 400 feet by either a street or pedestrian amenity such as park benches, gazebos, water features, etc.
- (5) Ventilation grates or emergency exit doors at the first floor level in the building facade, which are oriented to any public street, must be decorative.

Figure 44.430.07-2 Pedestrian friendly design features.



- (f) Building entrances.
 - (1) The main customer entrance for a building must face public or private streets.
 - (2) All sides of a principal building that directly face an abutting public street must include at least one customer entrance.
 - (3) Customer entrances must include at least 3 of the following:
 - ◆ canopies or porticos;

- ◆ roof overhangs;
 - ◆ recesses/projections;
 - ◆ arcades;
 - ◆ raised corniced parapets over the door;
 - ◆ peaked roof forms;
 - ◆ arches;
 - ◆ outdoor patios;
 - ◆ display windows;
 - ◆ architectural details such as tile work and moldings which are integrated into the building structure and design; or
 - ◆ integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- (4) Service entrances for shipping and receiving must not be visible from a public street.
- (g) *Site appearance.* The site design and overall appearance should achieve proportionality and connectivity with adjacent sites to the extent possible while recognizing that individual businesses and uses developed within the corridor are separate and have unique characteristics.
- (h) *Underground utilities.* All on-site utilities (electrical, telephone, etc.) must be located underground unless technical restrictions exist for doing so. Provisions must be made to significantly reduce the visual blight of any aboveground utilities.
- (i) *Paving materials.* Permitted paving materials for crosswalks, sidewalks, and similar pedestrian pathways include brick, concrete (aggregate exposed finish), cement pavers, brick pavers or materials that are similar in appearance and durability. Breaking pavement patterns is to establish pedestrian spaces, which can be more easily recognized by the motoring public thus increasing a high level of safety for both parties.
- (j) *Outside display/storage.* Outside display or storage of inorganic product must be screened from any state maintained road in accordance with Sec. 44-523(f)(2) and Sec. 44-523(f)(3). Product can be displayed under a roof overhang area without screening; however, a defined unobstructed walkway of 5-feet must be maintained along the entire frontage of the building.

(Ord. No. 2008-01, 1/22/2008)

Sec. 44-430.08. Multi-family residential use and design standards.

- (a) Multi-family development is allowed only if it is a portion of a mixed-use development and does not comprise the majority of the development. Multi-family development can include apartments, townhomes, rowhouses, or duplexes.

- (b) The multi-family development must be connected by vehicular and pedestrian ways to the mixed use commercial and/or office uses.
- (c) To encourage uniformity along a street, consistent setbacks for residential units apply.
- (d) Front-loaded garages, where constructed for multi-family developments, should be at least 10 feet behind the primary plane of the front facade of the residential structure.
- (e) On-street parking for multi-family development is allowed and is encouraged to be located adjacent to public open spaces and parks.
- (f) Sidewalks, for multi-family developments, must be provided on one side of residential streets with a minimum 5-foot width.

Sec. 44-430.09. Driveway connection/access management.

- (a) *Driveway connection/access management.* The minimum distance between a new driveway and an existing state road intersection must conform to the requirements in Table 44-430.09-1 below. Where the NCDOT Policy on Street and Driveway Access to North Carolina Highways conflicts with these regulations, the stricter of the standards applies. The minimum distance between four-way intersections on a corridor road is 1,500 feet.

Table 44-430.09-1. Driveway connections/access management, MUC-0 District.

Frontage (feet)	Number of Driveways Allowed	Minimum Spacing (feet)
Less than 500	1	N/A
501-999	2	400
More than 1000	3	400

Figure 44-430.09-1 Driveway connections/access management, MUC-O district.



- (b) *Internal street separation.* Internal streets shall be separated by a minimum of 200 feet.
- (c) *Off-site traffic improvements.* The requirements of Sec. 44-446.09(d) apply to the MUC-O District.
- (d) *Shared access.* The requirements found in Sec. 44-446.09(e) apply to the MUC-O District.
- (e) *Connected interior driveways/parking.* The requirements found in Sec. 44-446.09(f) apply to the MUC-O District.
- (f) *Channelization.* Channelization improvements must be installed where significant turning conflicts are involved with the new development. “Channelization” means the separation of conflicting traffic movements into well-defined paths of travel by traffic islands or significant pavement markings.
- (g) *Signalization.* Only after all other traffic improvements have been explored may signalizations be installed.
- (h) *Street design.* All streets must be designed and paved to meet NCDOT standards. Streets can be designated as either public or private. Neighborhood streets must be designed for a maximum 30 mph speed limit.
- (i) *Cul-de-sac length.* Cul-de-sac street segments (street portion between intersections), designed to be so permanently, shall not be longer than 500 feet to

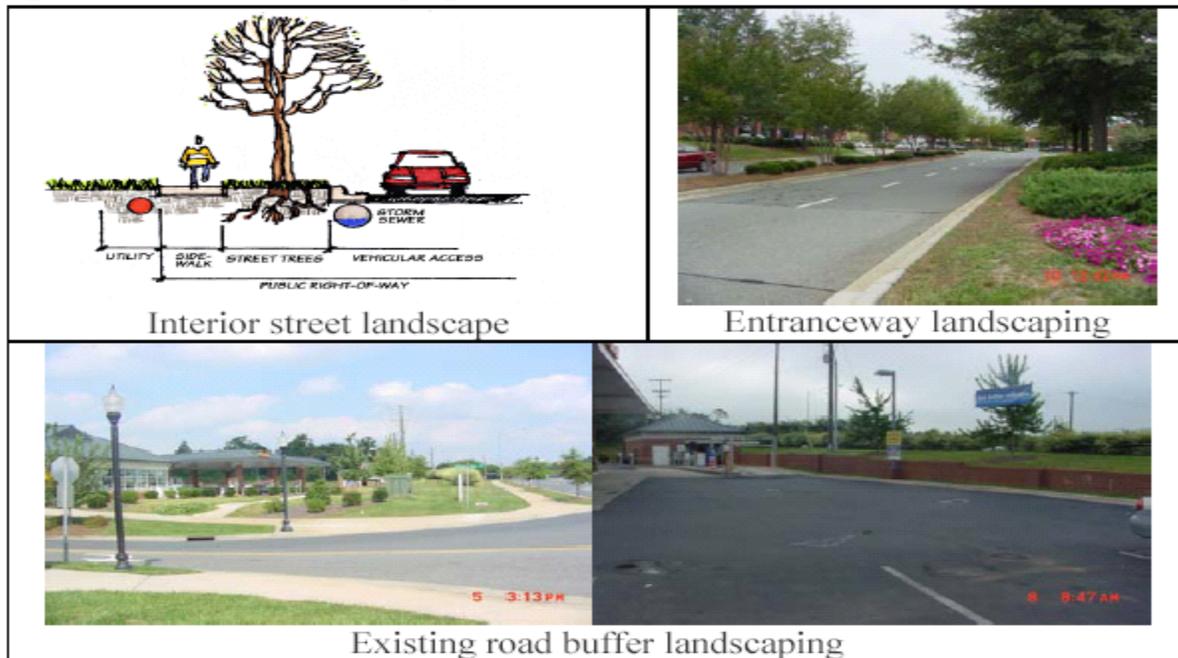
the beginning of the turning point. Exceptions can be made in cases where unusual land configuration, topography or interconnectivity dictates otherwise, as determined by the approval authority.

- (j) *Block length.* Block lengths cannot exceed 1000 feet. Exceptions can be made in cases where unusual land configuration, topography or interconnectivity dictates otherwise, as determined by the approval authority.
- (k) *Curbing.* Interior streets must be curbed. The standard 2-foot 6-inch curb and gutter section is preferred; however, concrete valley gutter is an allowable type.

Sec. 44-430.10. Streetscape landscaping.

- (a) *Existing road buffer and interior street landscaping.* All public interior streets and development fronting along corridor roads must provide the following along all street frontages:
 - (1) A 3 to 5-foot landscape strip between the curb and sidewalk, subject to NCDOT approval.
 - (2) A minimum 5-foot wide sidewalk on both sides of street for mixed-use development, subject to Sec. 44-518 and NCDOT approval.
 - (3) A 10-foot (minimum) landscape strip behind the right-of-way (within the front setback).
 - (4) Street trees must be planted adjacent to the sidewalk and must meet the following.
 - a. An average of one shade tree is required for every 40 linear feet of lot frontage on each side of the street, or where overhead lines are present, street trees of low growing varieties must be planted an average of one tree for every 30 feet of street frontage on each side of the street. Trees should be spaced approximately equal distance.
 - b. Each tree, at the time of installation, shall have a clear trunk height of at least 5 feet and a minimum caliper of 2 inches. The tree must be a minimum 15-gallon container size or balled and burlapped at time of planting. An appropriate mulch bed must be provided around the tree.
 - c. In the absence of overhead lines in the planting area, the shade tree should achieve a mature height of over 20 feet and a mature spread of at least 15 feet.
 - d. All trees planted within the right-of-way shall require approval by NCDOT through an encroachment agreement.
- (b) *Entranceways.* Multi-tenant, multi-parcel or multi-building developments must install a median-type entranceway at all entrances on major or minor thoroughfares, subject to NCDOT approval. The median must be grassed and landscaped with shrubbery and small decorative trees.

Figure 44-430.10-1. Landscaping, MUC-O district.



(Ord. No. 2008-17, 10/20/08)

Sec. 44-430.11. Buffering and screening.

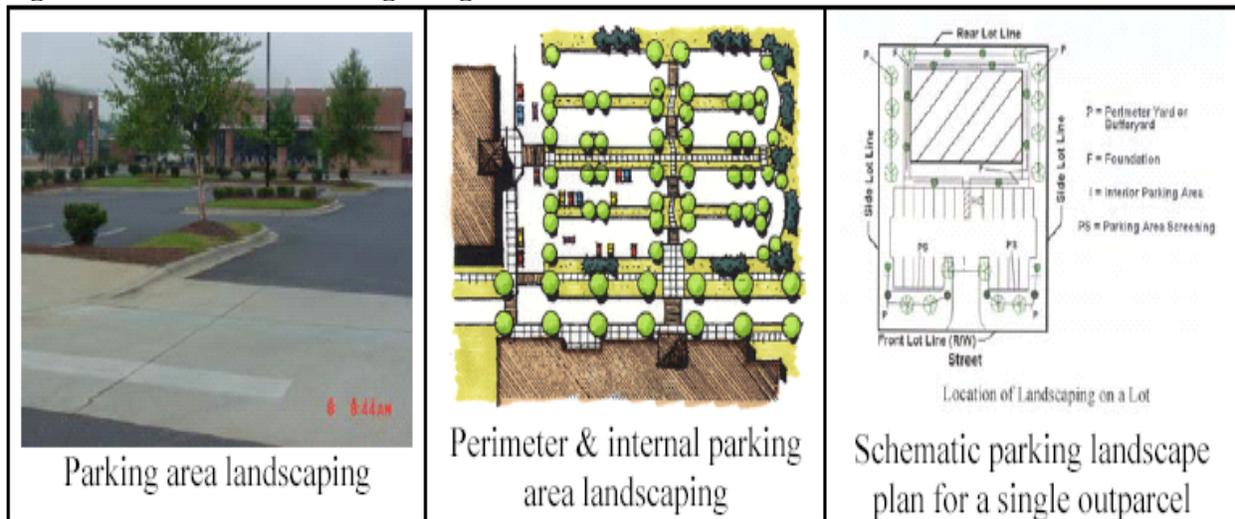
- (a) *Residential buffers.* When the district directly abuts a residential zoning district, a landscaped buffer meeting the requirements found in Sec. 44-523(f) is required.
- (b) *Water body buffers.* When natural bodies of water are on site, the requirements found in Sec. 44-446.10(i) apply.
- (c) *Solid waste screening.* Solid waste or trash handling areas must be screened from adjacent properties and from public view, including rights-of-way, by an enclosure constructed of materials compatible with the materials on the front building wall of the principal building. All areas must have a solid and closeable gate.

Figure 44-430.11-1 Solid waste screening.



- (d) *Mechanical equipment screening.* All mechanical equipment, such as air conditioners or pumps, must be screened from view of all streets, public places and neighboring properties, through the use of features such as berms, fences, building walls, false facades, or dense landscaping. Chain link fencing cannot be used. Mechanical equipment on rooftops must be screened from the view of the street with parapets, designed features and other materials compatible with the building and suitable for screening.
- (e) *Maintenance area screening.* All loading and service areas must be screened from view of all streets and adjoining properties of less intensive use with a buffer meeting the requirements of Sec. 44-523(f). If the loading area abuts the perimeter buffering, the loading area is not required to be screened.
- (f) *Foundation plantings.* The pedestrian entranceway and/or surface parking facilities must be separated from the exterior wall of any principal structure by a landscape buffer. The landscaped buffer strip must be at least 5 feet in width along the building foundation. An exception to this requirement is allowed where the building square footage exceeds 75,000 and where raised 15-gallon planters containing evergreen shrubs/trees are provided on both sides of all pedestrian ingress and egress locations.
- (g) *Construction cleanup, maintenance, and landscaping of disturbed land.* During the construction of a project, the requirements found in Sec. 44-446-10(a), (b) and (c) apply.
- (h) Parking areas, including perimeter and internal areas, must be landscaped in conformance with Sec. 44-523(d) and (e).

Figure 44-430.11-2. Parking design.



(Ord. No. 2008-01, 1/22/2008)

Sec. 44-430.12. Parking.

The requirements found in Article V, Division 5 apply to off-street parking. An exception to the number of parking space requirements may be considered for parking within a planned development special district during the rezoning process based upon documented industry standards or market studies. The following requirements also apply:

- (a) Generally.
 - (1) Parking is discouraged in the area between the road and the front or side of a principal building or structure. If parking is proposed within this area, the parking area landscaping requirements in Sec. 44-523(d) and (e) must be met.
 - (2) *On-street parking permitted.* The number of required off street parking spaces is reduced by the number of on street parking spaces permitted along the lot frontage of the proposed development.
- (b) *Off-street loading.* Off-street loading must be screened as provided in Sec. 44-526. No space designated as a required off-street parking space, for the general public, can be used as off-street loading space or maneuvering room for vehicles being loaded or unloaded.
- (c) *Interior parking.*
 - (1) When a parking lot is located in front of a building, a pedestrian walkway must connect a customer entrance to the public street.
 - (2) Shared parking lots can be located in the interior sections of multiple-building developments provided screening, buffering, landscaping, pedestrian amenities and setbacks are followed.

- (d) *Connected parking areas.* Properties within the MUC-O shall connect interior parking and driveways. Where adjacent property is vacant, sufficient provisions to connect to the properties shall be submitted.
- (e) *Commercial vehicle parking.* Only one parked commercial vehicle can be visible from streets.
- (f) *Bicycle parking.* A multi-building development should include an area for parking bicycles.

Figure 44-430.12-1. Parking options.



(Ord. No. 2008-01, 1/22/2008)

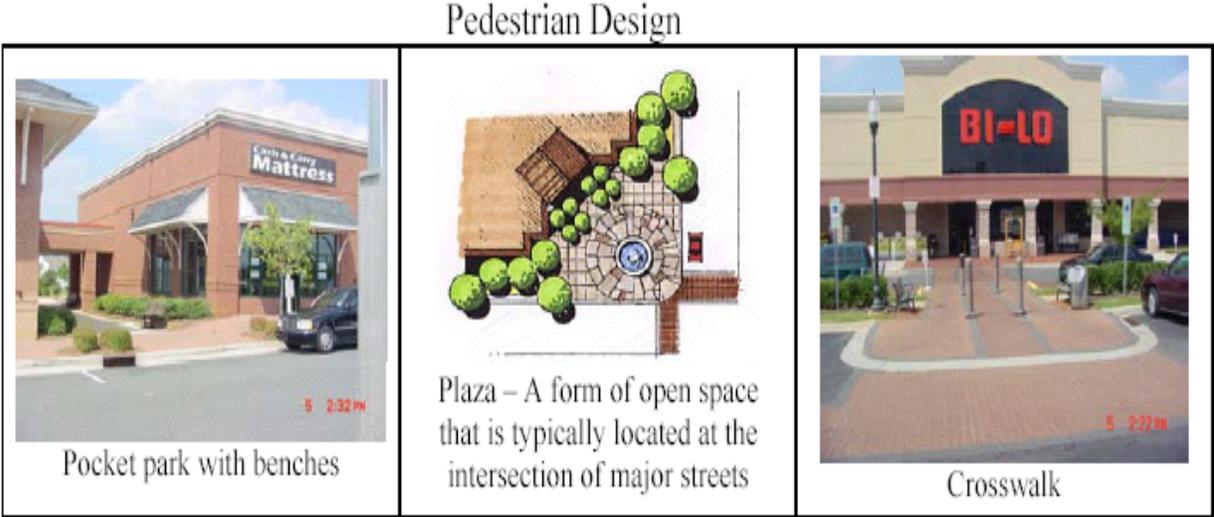
Sec. 44-430.13. Pedestrian design.

These standards are designed to provide a unified and well-organized arrangement of buildings, service areas, parking, pedestrian and landscaped common areas (including pocket parks), maximum comfort and convenience of visitors and employees. Commercial buildings are grouped in relation to parking areas such that, after visitors arriving by automobile enter the walkway system, establishments can be visited conveniently with a minimum of conflicts with vehicles. Pedestrian design enhancements are required in order to create an efficient and functional environment as well as promoting a sense of place.

- (a) *Pedestrian design requirements.* For multi-tenant/building/parcel projects, the site plan must include provisions for pedestrian-scale amenities, which may include benches, picnic tables, pocket parks, courtyards, plazas, water attractions and trash receptacles. An area must be reserved for pedestrian use and/or open

space and be improved and maintained accordingly. Such areas may include covered malls for general pedestrian use, exterior walkways/crosswalks, outdoor seating areas where the facilities are available for common use by employees and visitors. Required buffer areas and setbacks as well as improved deck and roof areas may be used to meet this requirement.

Figure 44-430.13-1. Pedestrian amenities.



- (b) *Heavy traffic generators.* Convenience stores, fast food restaurants and similar uses, if provided, must be located so that operations do not block pedestrian or traffic flows in other parts of the development.
- (c) *Location of loading zones and maintenance areas.* Loading zones where customers pick up goods must be located and arranged to prevent interference with pedestrian movement within the development. Facilities and access routes for shopping center deliveries, servicing, and maintenance must be located and arranged to prevent interference with pedestrian traffic in the center.
- (d) *Pedestrian travel.* All buildings or building clusters within the development must be connected with linkages other than roads (sidewalks, bikeways and walking paths). When feasible, as determined by the planning director, linkages must be provided between adjacent existing developments and/or continue to the site parcel line to provide access to adjacent future developments. Pedestrian access may be provided at any suitable locations within the district but, where practicable, be separated from vehicular access points in order to reduce congestion, marginal friction and hazards, except where signalization is used in such a manner as to control pedestrian and vehicular movements safely.

Sec. 44-430.14. Lighting.

This Section provides direction in controlling light spillage and glare so as not to adversely affect motorists, pedestrians, and land uses of adjacent properties. Lighting intensities should be

controlled to ensure that light and glare are not directed at adjacent properties, neighboring areas, and motorists. The following general provisions apply:

- (a) Generally.
 - (1) Light fixtures (not attached to buildings) must be affixed to a pole, which may be of metal, fiberglass, or concrete. Wooden poles are not permitted.
 - (2) All fixtures must be either semi-cutoff or full-cutoff fixtures only.
 - (3) The maximum height of the light source (light bulb), detached from a building, is 20 feet. An exception to the light height requirement may be considered for light fixtures up to 35 feet within a planned development special district during the rezoning process.
 - (4) No fixture can be located in close proximity to residentially zoned property which would contribute to light spillage upon the residential property.
- (b) *Outdoor illumination of building, landscaping and signs.* The following provisions apply to the outdoor illumination of buildings, landscaping and signs:
 - (1) Floodlights, spotlights or any other similar lighting cannot be used to illuminate buildings or other site features unless they are an integral architectural element that is designated on the development plan. Floodlights or other type of lighting attached to light poles that illuminate the site and/or building(s) are prohibited. When approved, exterior lighting should be integrated with the architectural character of the building.
 - (2) The unshielded outdoor illumination of any building or landscaping is prohibited. To avoid light spillage, only semi-cutoff, cutoff, or full cutoff fixtures can be used.
 - (3) Lighting fixtures used to illuminate a sign must either be by directed ground lighting sign or mounted on the top of the sign and be shielded from the sight of passing motorists.
- (c) *Lighting for convenience store aprons and canopies.* In addition to the provisions of Subsections (a) and (b) above, the following provisions apply:
 - (1) The lighting fixture bulbs must be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than 85 degrees from vertical.
 - (2) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
 - (3) Lights shall not be mounted on the top or sides (facia) of the canopy, and the sides of the canopy cannot be externally illuminated.

- (4) The lighting for new facilities (pump islands and under canopies) cannot exceed the average horizontal illumination of 10 foot-candles at grade level.

Figure 44-430.14-1. Lighting.



- (d) Prohibited lighting and fixtures. The following are prohibited:
 - (1) Vertical burn lamps, and similar lighting fixtures.
 - (2) Canopies and awnings used for building accents which have internal illumination.
 - (3) Flashing, colored or obtrusive lighting.
 - (4) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment.
 - (5) The operation of searchlights for advertising purposes.
 - (6) Black lights and neon lights (including argon and similar rare gas fixtures), except for signage.

(Ord. No. 2008-01, 1/22/2008)

Sec. 44-430.15. Signs.

The following requirements apply to all signage.

- (a) *Generally.* All signs delineated on a detailed site plan must conform to the requirements in Article V, Division 7, except where the requirements included in this Subsection are more restrictive. The following also apply:
 - (1) No freestanding on-site sign larger than 6 square feet may be located closer than 100 feet from another similar or larger sign.

- (2) All signs must be located to avoid impeding the view of motorists or pedestrians.
 - (3) No signs can be located in any street right-of-way. Signs may be placed in the landscaped buffer areas.
 - (4) An exception to the standards in Subsection (b)(1) and (2) below may be considered for signs within a planned development special district during the rezoning process.
- (b) *Permitted signs.* The following signs are permitted:
- (1) One freestanding sign, having no more than 2 sign surface areas, may be erected. The signs may not exceed 50 square feet per side for back-to-back signs and may not be over 16 feet in height.
 - (2) One wall sign or awning sign is permitted for individual establishments or buildings within the project for each wall exposed to adjoining streets. The sign must be mounted on the building and not extend above its lower roofline. The sign cannot exceed 10% of the area of the specific business wall involved, up to a maximum of 50 square feet, whichever is less.
 - (3) Signs directing traffic are permitted but cannot exceed 5 square feet per side.
 - (4) In addition to one freestanding sign, one static fascia canopy sign is permitted on sides visible from the public right-of-way. Each canopy sign may have a maximum area equal to 25% of the canopy fascia surface, up to a maximum height of 2 feet.
- (c) *Prohibited permanent signs.* The following are prohibited as permanent signs but may be used in association with grand openings or other special events for a period of not to exceed 30 days:
- (1) Portable signs.
 - (2) Roof signs.
 - (3) Mechanical movement signs.
 - (4) Posters, streamers, or similar devices used to attract attention to the site, advertise a product or communicate a message.
 - (5) Windblown signs (banners, balloons, streamers, etc.).

Figure 44-430.15-1. Signs.



(Ord. No. 2008-01, 1/22/2008) (Ord. No. 2008-17, 10/20/08)

Sec. 44-431. Historic Districts (HD-O).– Reserved.

Sec. 44-432. Doublewide Manufactured Home (DWMH-O).

Purpose: This Section establishes a class A doublewide or multi-section overlay district to provide opportunities for the siting of affordable housing, implement small area plan policies regarding the location of manufactured homes and to comply with the requirements of NCGS 153A-341.1.

Class A-doublewide/multi-section manufactured homes are subject to the requirements of this Section. All class A doublewide and multi-section manufactured homes must meet the following appearance criteria:

- (a) *Length-width ratio.* The main portion of the building must have a length not exceeding 4 times the building width.
- (b) *Roof construction and pitch.* The pitch of the main roof of the building must have a minimum rise of 2 1/2 feet for each 12 feet of horizontal run. The roof must be finished with a type of shingle that is commonly used in standard residential construction or standing seam painted metal. A retrofitted standing seam roof or shingle roof must be designed by a professional engineer and must be made a part of the load bearing walls of the existing structure.
- (c) *Exterior finish.* The exterior siding must consist predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or hardiboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (d) *Placement of homes.* Dwelling units must be sited with the front running parallel to the street providing access to the site. On corner lots the property owner may chose which frontage to face the home. On cul-de-sacs, the dwelling unit must be sited with the front of the home being parallel to the street access.

- (e) *Tongue removal.* The towing tongue must be removed upon final placement of the unit.
- (f) *Underskirting and permanent steps.* Underskirting and permanent steps must be provided as follows:
 - (1) Class A manufactured homes in overlay districts must be permanently placed on a brick, concrete block or other masonry foundation. The foundation must be continuous and unpierced except for ventilation as required by the state regulations for manufactured/mobile homes.
 - (2) All doublewide and multi-section manufactured homes which are placed on rental lots, where the home and lot are in separate ownership, must have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning include, but are not limited to, the following list: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning must be installed in accordance with the manufacturers' specifications.
 - (3) All doublewide and multi-section manufactured homes must have either a deck or porch with steps. This structure must be located in front of the home. The deck or porch must be a minimum of 36 square feet. All steps, decks, porches and entrances must be installed and constructed in accordance with the standards set by the state regulations for manufactured/mobile homes or, when applicable, the building code.

Sec. 44-433.

Mountain Protection (MP-O).

Purpose:

- ◆ *Mountains are the predominant natural landmarks in the County. These landforms provide identification and orientation to residents and visitors alike. Rising as they do abruptly from the surrounding piedmont landscape, they are readily identifiable symbols of the County.*
- ◆ *Their steep slopes, profuse vegetation, erodible soils, and poor soil percolation characteristics pose severe problems for development. Normal development techniques, following the ordinary development regulations in this Chapter, the subdivision regulations and related regulations, are likely to endanger the native flora and fauna on the mountains, cause severe disruptions adjacent to and downstream from the mountains, impair the physical integrity of the mountains' surface and impinge adversely upon their landmark status.*
- ◆ *The intent of the mountain protection district (MP-O) regulations is to avoid these hazards, while preserving the unique status which the mountains hold in the County and permitting reasonable continuing use to be made of the land within the MP-O.*
- ◆ *Architectural guidelines help reduce the visual prominence of buildings on the mountain sides so that the natural character of the mountains are still apparent.*

- (a) *Plan consistency.* This district implements the mountain area protection policies of the Balls Creek, Sherrills Ford and Mountain View Small Area Plans.
- (b) *Boundaries.* The boundaries of the MP-O district are defined as the land area above the 1100-foot contour on Baker Mountain and Anderson Mountain as identified on the U.S.G.S. topographic maps.
- (c) *Permitted uses.* The following uses are permitted by right within the MP-O, except in areas where the underlying district prohibits these uses:
 - (1) Hobby farms.
 - (2) Dwelling units, single-family or two-family.
 - (3) Home occupations.
 - (4) Customary accessory uses.
 - (5) Public parks.
- (d) *Prohibited uses.* Manufactured homes are prohibited in the MP-O district.
- (e) *Average density.* The average density allowed in the MP-O district is one unit per 2 acres. To minimize impacts to environmentally sensitive areas, cluster subdivision designs are strongly encouraged. Under the cluster subdivision design, density from higher slope categories would be transferred to the least sensitive and lower slope category on the tract. Cluster subdivisions are subject to the standards in Sec. 44-544.
- (f) *Development standards.* In addition to the subdivision standards in Article V, the design of developments in the MP-O district must incorporate the following:
 - (1) A contour map which includes a scale and contour interval on the site plan to determine the average slope of the tract of land in its natural state and the proposed road network and lots;
 - (2) The preservation and minimization of impacts to naturally significant sites when feasible;
 - (3) The preservation of significant existing trees and other significant existing vegetation on the site. Nothing prohibits the clearing of vegetation for firebreaks within developments in the MP-O;
 - (4) The integration with and preservation of existing site topography, including, but not limited to, such characteristics as steep slopes, existing drainage features, rock outcroppings, ridgelines and scenic topographic features;
 - (5) The preservation of significant habitat areas, as identified in Catawba County's Natural Heritage Inventory, where practically feasible;
 - (6) If the development abuts a publicly owned natural area or conserved land, the project must be compatible with the management of the natural area or

conserved land. In order to achieve this, the development plan must include measures, such as increased setbacks or open space, to provide a transition between the development and the publicly owned natural area or conservation land; and

- (7) Good grading design for safety and aesthetics must, unless impractical as determined by the subdivision review board, include the following:
 - a. Roadways follow natural contours instead of being cut through landforms.
 - b. Utilization of landform or contour measures to produce cut-and-fill slopes compatible with the existing land character. Continuous unbroken graded slope surfaces that are visible from offsite are discouraged.
 - c. Graded slopes contoured by varying slope increments.
 - d. Varied housing pad elevations above street level to avoid appearance of monotonous, flat, level pads.
 - e. Single-loaded streets (streets with lots and building pads on one side only) are encouraged on steep terrain so grading can be reduced.
 - f. Building envelopes shall be noted on the subdivision plat for both horizontal and vertical boundaries for future construction. Also the limits for clearing of vegetation within this building envelope shall be noted.

(g) *Residential designs standards.* The following design standards apply to all new residential development in the MP-O in order to maintain the natural, rural aesthetic characteristics of the area:

- (1) Structures should be designed to conform to and be built into the natural terrain and not be located at the crest of a ridge. Different types of foundations, such as pier and beam, step or slab are encouraged to limit excavation and filling.
- (2) Dominant exterior building colors should be chosen to blend in with the natural surroundings and should not stand out when seen through wooded areas. All shades of white or cream are prohibited from being used as the primary exterior color on any structure.
- (3) Exterior building materials shall primarily consist of natural elements such as stone, logs, wood shingles, wood lapped siding, vertical board and batten or rough textured stucco. Roofing materials must blend in harmoniously with the natural tree canopy.
- (4) Exterior lighting on individual lots must be muted, fully shielded and directed to avoid illuminating entire structures, creating glare on the night sky, and attracting attention to particular areas for reasons other than security.

- (5) The maximum permitted height of structures is 30 feet above the average finished grade elevation adjacent to the structure. The average finished grade elevation is calculated by summing the height of the structure at the point of the highest adjacent grade and at the point of the lowest adjacent grade and dividing by 2.
- (6) Disturbance of natural vegetation around any building footprint is limited to 30 feet, unless practical reasons necessitate additional clearing, such as for a septic tank drainfield. This separation allows for a defensible space for minimizing the risk of wildfire damage to the structure.
- (7) The use of fire “smart” vegetation species and techniques, as identified by the state forest service, is encouraged for use in the residential landscape to minimize the vulnerability of the structure to fire.

Sec. 44-434. Watershed Protection District (WP-O).

Purpose:

- ◆ *Surface waters of the state and County are a precious but delicate natural resource. They are life sustaining for humans, animals, and vegetation both directly and as a source of recharge for the underground aquifers. They provide an essential link in almost all natural processes, provide opportunities for recreation and refreshment, supply industrial needs for process and cooling water, generate power, and contribute immeasurably to scenic beauty.*
- ◆ *Most important, surface waters provide raw water for domestic consumption and fire protection to scores of communities in the state, including several in the County and its surrounding jurisdictions.*
- ◆ *For the protection of the public health, safety, and general welfare, it is essential that the integrity of these surface waters be protected from pollution, so that the well-being of present and future residents and visitors to the County and surrounding jurisdictions be assured, the costs of furnishing potable water be minimized, and the quality and quantity of surface water be protected.*
- ◆ *The intent of the watershed protection district (WP-O) is to provide regulations, which, will limit the exposure of watersheds, under the jurisdiction of the County and used as sources of supply for public water systems, to pollution. The sources of such pollution include leachate from septic tank nitrification fields; stormwater runoff; accidental spillage from residential, commercial and industrial operations.*
- ◆ *These occurrences can contribute biological contamination, turbidity from soil erosion and sedimentation, nutrient enhancement, and heavy metal pollution, all of which endanger the water supplies of communities dependent on these watersheds for life-giving and life-sustaining water.*
- ◆ *This section is enacted pursuant to NCGS 153A-121 and NCGS 143-211 - 143-215.74I.*

Sec. 44-434.01. Boundaries.

- (a) The boundaries of the watershed protection district (WP-O) encompassing the watersheds within the County's jurisdiction are shown as overlay districts on the official zoning map and are adopted as part of this Chapter. Where watershed boundaries follow topographic boundaries and the official zoning map does not

accurately represent the actual topographic boundary, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries does not lie within the watershed area.

- (b) The watershed protection overlay district shall, as appropriate, impose greater restrictions, require higher development standards, prohibit certain uses and require additional approvals as stated in this Section.

Sec. 44-434.02. Existing development and exceptions to applicability.

- (a) Existing development, as defined in this Section, is exempt from the requirements of this district. The term existing development is defined as those projects that are built or those projects that at a minimum have established a vested right under state law as of the effective date of this Section (January 1, 1994) based on at least one of the following criteria:
 - (1) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;
 - (2) Having an outstanding valid building permit as authorized by NCGS 153A-344.1; or
 - (3) Having an approved site-specific or phased development plan as authorized by NCGS 153A-344.1.
- (b) A preexisting lot of record owned prior to the effective date of the County's Watershed Protection Ordinance (January 1, 1994), regardless of whether a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this Section, provided the property is zoned for this use and it meets the underlying zoning requirements.
- (c) Expansions to structures, other than single-family, classified as existing development must meet the requirements of this Section; however, the built-upon area of the existing development is not required to be included in the density calculations.
- (d) Any existing nonresidential or multi-family (3 or more dwelling units) structure or built-upon area not in conformance with the density or built-upon restrictions of this Section that has been damaged or removed may be repaired and/or reconstructed provided it meets the following conditions:
 - (1) The repair or reconstruction is in compliance with Article VII, Nonconformities.
 - (2) Repair or reconstruction is initiated within 12 months and completed within 2 years of such damage; and
 - (3) The total amount of built-upon area may be increased according to the built-upon restrictions as allowed for existing development.

- (e) Uses existing on January 1, 1994, but which would not be permitted to be established in the watershed protection district in which they are located, may continue subject to Article 7, Nonconformities, except as follows:
 - (1) When such nonconforming use of land has been changed to an allowed use, it cannot revert to any prohibited use.
 - (2) Expansions may be allowed subject to the built-upon restrictions as allowed for existing development.
- (f) If the requirements of this Section conflict with other portions of this Chapter, the more restrictive of each particular item apply.

Sec. 44-434.03. Definitions.

The definitions found in this Section apply specifically to this Section and are intended to supplement the definitions found in the Appendix. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Balance of watershed (BW) - the land area outside of the critical area which contributes surface drainage to a WS-II or WS-III watershed.

Best management practice (BMP) - a structural or nonstructural management-based practice used singularly or in combination to reduce non-point-source inputs to receiving waters in order to achieve water quality protection goals.

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

Built-upon area includes that portion of a development project that is covered by impervious or partially impervious cover, including building, pavement, gravel areas such as roads, parking lots, paths, recreation facilities such as tennis courts, and the like. Note: wooden slatted decks and the water area of a swimming pool are considered pervious.

Cluster development - the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential subdivisions and multi-family developments. For purposes of this Chapter, planned unit developments and mixed use developments are considered cluster developments.

Existing lot of record - a lot which is part of a subdivision, a plat of which has been recorded in the office of the register of deeds prior to January 1, 1994, in accordance with the subdivision regulations in effect at the time of recordation, or a lot described by metes and bounds, the description of which has been so recorded prior to July 31, 1982.

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

Nonresidential development - all development other than residential development, agriculture and forestry.

Protected area (PA) - the area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within 5 miles upstream of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed, whichever comes first; or within 10 miles of and draining to a water intake located in a stream or river or to the ridgeline of the watershed, whichever comes first.

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

Single-family residential - any development where no building contains more than one dwelling unit, every dwelling unit is on a separate lot and where no lot contains more than one dwelling unit except for approved accessory dwelling units.

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

Variance, major, - a variance that results in any one or more of the following:

- (a) The relaxation, by a factor of more than 10%, of any management requirement under the low density option; or
- (b) The relaxation, by a factor of more than 5%, of the buffer, density or built-upon area requirement under the high-density option; or
- (c) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

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

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

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

Watershed - the entire land area contributing surface drainage to a specific point, such as the water supply intake.

Sec. 44-434.04. WS-II watershed area--water quality critical area (WS-II-WQCA).

In order to maintain a low intensity land use development pattern, single-family residential uses are allowed on a lot with a minimum area of 80,000 square feet. All other residential and nonresidential development are allowed at a maximum 6% built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

- (a) Density and built-upon limits.
 - (1) For single-family residential development, the minimum lot area shall not be less than 80,000 square feet, except when approved as a cluster subdivision according to Sec. 44-544.
 - (2) All other residential and nonresidential development cannot exceed 6% built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.
- (b) *Uses allowed.* The following uses are permitted:
 - (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil & Water Conservation Commission.
 - (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this Subsection.
 - (3) Residential development.
 - (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

Sec. 44-434.05. WS-II watershed area--balance of watershed (WS-II-BW).

In order to maintain a low intensity land use development pattern, single-family residential uses are allowed on a lot with a minimum area of 40,000 square feet. All other residential and

nonresidential development are allowed at a maximum of 12% built-upon area; in addition, nonresidential uses may occupy 10% of the balance of watershed area outside the water quality critical area, with a 70% built-upon area when approved as a 10/70 bonus permit according to Sec. 44-434.10. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area is at least 40,000 square feet, except when approved as a cluster subdivision according to Sec. 44-544.
- (2) All other residential and nonresidential development cannot exceed 12% built-upon area on a project-by-project basis, except that up to 10% of the balance of watershed may be developed for nonresidential uses to 70% built-upon area on a project-by-project basis subject to approval of a 10/70 bonus permit according to Sec. 44-434.10. For the purposes of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses allowed.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990;
- (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this subsection;
- (3) Residential development; and
- (4) Nonresidential development excluding discharging landfills.

Sec. 44-434.06. WS-III watershed area--water quality critical area (WS-III-WQCA).

In order to maintain a low to moderate land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 40,000 square feet. All other residential and nonresidential development is permitted at a maximum of 12% built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area is at least 40,000 square feet, except when approved as a cluster subdivision according to Sec. 44-544.
- (2) All other residential and nonresidential development cannot exceed 12% built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

- (b) *Uses allowed.* The following uses are permitted:
- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil & Water Conservation Commission.
 - (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this Subsection.
 - (3) Residential development.
 - (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

Sec. 44-434.07. WS-III watershed area--balance of watershed (WS-III-BW).

In order to maintain a low to moderate land use intensity pattern, single-family residential uses are allowed on lots with a minimum area of 20,000 square feet. All other residential and nonresidential development are allowed a maximum of 24% built-upon area. In addition, nonresidential uses may occupy 10% of the balance of watershed area outside the water quality critical area, with a 70%-built-upon area when approved as a 10/70 bonus permit according Sec. 44-434.10. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

- (a) *Density and built-upon limits.* Density and built-upon limits are as follows:
- (1) For single-family residential development, the minimum lot area must be at least 20,000 square feet, except when approved as a cluster subdivision according to Sec. 44-544.
 - (2) All other residential and nonresidential development cannot exceed 24% built-upon area on a project-by-project basis, except that up to 10% of the balance of watershed area may be developed for nonresidential uses to 70% built-upon area on a project-by-project basis subject to approval of a 10/70 bonus permit according to Sec. 44-434.10. For the purposes of calculating the built-upon area, total project area must include acreage in the tract on which the project is to be developed.
- (b) *Uses permitted.* The following uses are permitted:
- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this Subsection.
 - (3) Residential development.
 - (4) Nonresidential development excluding discharging landfills.

Sec. 44-434.08. WS-IV watershed area--water quality critical area (WS-IV-WQCA).

Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the requirements of this Section when located in the WS-IV watershed. Written verification of project exemption must be submitted from the entity responsible for enforcement of the erosion/sedimentation program. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 20,000 square feet. All other residential and nonresidential development is allowed 24% built-upon area. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable. New residuals application sites and landfills are specifically prohibited.

(a) *Density and built-upon limits.* Density and built-upon limits are as follows:

- (1) For single-family residential development, the minimum lot area must be at least 20,000 square feet, except when approved as a cluster subdivision according to Sec. 44-544.
- (2) All other residential and nonresidential development cannot exceed 24% built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.

(b) *Uses permitted.* The following uses are permitted:

- (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil & Water Conservation Commission.
- (2) Forestry, subject to the provisions of the Forest Practices Guideline Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this Subsection.
- (3) Residential development.
- (4) Nonresidential development, excluding landfills and sites for land application of residuals or petroleum-contaminated soils.

Sec. 44-434.09. WS-IV watershed area--protected area (WS-W-PA).

Only new development activities that require an erosion/sedimentation control plan under state law are required to meet the requirements of this Section when located in a WS-IV watershed. Written verification of project exemption must be submitted from the entity responsible for enforcement of the erosion/sedimentation program. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed on a lot with a minimum area of 20,000 square feet without public water or sewer or 15,000 square feet with public water or sewer where a curb and gutter street system is not installed. All other residential and nonresidential development are allowed at a maximum of 24% built-upon area if a curb and gutter system is installed or 36% built-upon area if a curb and gutter system is not installed. Stormwater runoff from the development shall be transported by vegetated conveyances to the

maximum extent practicable.

- (a) *Density and built-upon limits.* Density and built-upon limits are as follows:
 - (1) For single-family residential development, the minimum lot area must be at least 20,000 square feet without public water or sewer or 15,000 square feet with public water or sewer where a curb and gutter street system is not installed. An exception to these requirements is when a cluster subdivision is approved according to Sec. 44-544.
 - (2) All other residential and nonresidential development cannot exceed 24% built-upon area if a curb and gutter system is installed or 36% built-upon area if a curb and gutter system is not installed. For the purpose of calculating the built-upon area, total project area includes acreage in the tract on which the project is to be developed.
- (b) *Uses permitted.* The following uses are permitted:
 - (1) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - (2) Forestry, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 11.0101-.0209). The division of forest resources is the designated management agency responsible for implementing this Subsection.
 - (3) Residential development.
 - (4) Nonresidential development.

Sec. 44-434.10. 10/70 bonus permit.

- (a) In addition to the nonresidential built-upon restrictions for the balance of WS-II and WS-III watersheds as stated in Sections 44-434.05 and 44-434.07, nonresidential uses may occupy no more than 10% of the balance of each WS-II and WS-III watershed outside the water quality critical area, with a maximum 70% built-upon area when approved as a 10/70 bonus permit. The 10/70 bonus permit must be considered as a special use permit that must be reviewed by the board of adjustment and is subject to all rules and procedures as established in Article III. Requests for a 10/70 bonus permit will be considered in order of receipt of completed applications. A 10/70 bonus permit is valid for 2 years, and if the development has not begun within that time period the permit shall expire. Reapplication cannot be made for a period of 12 months following the date the permit expired.
- (b) In reviewing an application for a 10/70 bonus permit, the board of adjustment shall make the findings of fact as stated in Sec. 44-328(f) . In addition, the board of adjustment shall consider whether the property can be developed as proposed according to any or all of the following pertinent factors:
 - (1) Whether the proposal is in conformance with the County's current land use plan.

- (2) Whether the development is in coordination with the County's thoroughfare plan and urban area transportation plan.
 - (3) The feasibility of the proposed development based on site-specific factors, such as but not limited to soil type; topography; distance to public utilities, such as water, sewer and gas lines; and road access.
 - (4) Projects must minimize built-upon surface area and direct stormwater runoff away from surface waters. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- (c) Where developments are approved under a 10/70 bonus permit, a 100-foot wide vegetative buffer is required for new development along all perennial waters indicated on the most recent version of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

Sec. 44-434.11. Watershed cluster development.

Clustering of development is permitted in all watershed areas under the following conditions:

- (a) Minimum lot sizes are not applicable to single-family watershed cluster development projects; however, the overall density of the project must meet the associated density as required in Sections 44-434.04 – 44-434-09.
- (b) Built-upon area of projects shall not exceed that allowed for the applicable critical area or protected area/balance of the watershed as required in Sections 44-434.04 – 44-434-09.
- (c) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (d) The remainder of the tract must remain in a vegetated or natural state. The title to the open space must be conveyed to an incorporated homeowners' association for management, to a local government for preservation as a park or open space, or to a conservation organization for preservation in a permanent easement.

Sec. 44-434.12. Buffer area required.

- (a) In the watershed protection overlay (WP-O), a minimum 30-foot wide vegetative buffer is required for all new development along all perennial waters indicated on the most recent version of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Developments approved under the high-density option, including the 10/70 bonus permit, are required to maintain a 100-foot wide vegetative buffer.
- (b) No new development which requires a zoning authorization permit is allowed in the buffer except for water-dependent structures and public projects, such as road crossings, railroad rights-of-way and the like, where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best

management practices. Desirable artificial streambank or shoreline stabilization is permitted.

Sec. 44-434.13. Administration.

- (a) Administration of this Section shall be as provided under Article II of this Chapter. Zoning authorization permits shall be issued for development in the watershed protection overlay (WP-O) as prescribed in Article III of this Chapter. In addition to the general information required for a zoning authorization permit, the following must be submitted on detailed site plans, as applicable:
 - (1) The square footage and percent of built-upon area for nonresidential and residential development excluding single-family. The area required to remain as nondevelopable land must be noted on the detailed site plan.
 - (2) The location of all perennial streams and natural drainage areas on the property.
 - (3) The location and landscaping proposed for all required buffer areas.
- (b) The County may make amendments to this Section as provided by this Chapter. Under no circumstances shall the County adopt such amendments that would cause this Section to violate the watershed protection rules as adopted by the state environmental management commission. The planning director shall keep records of all amendments to the water supply watershed regulations and shall provide copies of all amendments, upon adoption, to the state division of water quality.
- (c) The planning director shall keep a record of variances to the local watershed protection district. This record shall be submitted, for the calendar year, to the state division of water quality section on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
- (d) The planning director shall keep records of the County's utilization of the provision that a maximum of 10% of the noncritical area of WS-II-BW and WS-III-BW watersheds may be developed with nonresidential development to a maximum of 70% built-upon surface area. Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option and individual file records for each development that is approved in these areas.

Sec. 44-434.14. Variances.

- (a) The board of adjustment may authorize, in specific cases, minor variances from the terms of this Section that will not be contrary to the public interest. An application for a variance must conform with Sec. 44-329. In addition, the County shall notify and allow 2 weeks for response from all other local governments having jurisdiction in the designated watershed and the entity using the water supply for consumption where the variance is being considered. In

granting of a variance the board of adjustment shall make findings as required in Sec. 44-329(f).

- (b) If an application calls for the granting of a major variance, and if the board of adjustment decides in favor of granting the variance, the board shall prepare a preliminary record of the hearing within 30 days
 - (1) The preliminary record of the hearing shall include the following:
 - a. The variance application;
 - b. The hearing notices;
 - c. The evidence presented;
 - d. Motions, offers of proof, objections to evidence and rulings on them;
 - e. Proposed findings and exceptions; and
 - f. The proposed decision, including all conditions proposed to be added to the permit.
 - (2) The preliminary record shall be sent to the environmental management commission for its review as follows:
 - a. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from nor make any practical use of the property unless the proposed variance is granted and will not result in a serious threat to the water supply, the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The commission shall prepare a commission decision and send it to the board of adjustment. If the board of adjustment approves the variance as proposed, the board shall prepare a final decision granting the proposed variance. If the commission approves the variance with conditions and stipulations, the board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
 - b. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance or the variance, if granted, will result in a serious threat to the water supply, the commission shall deny approval of the variance as proposed. The commission shall prepare a commission decision and send it to the board of adjustment. The board shall prepare a final decision denying the variance as proposed.

Sec. 44-434.15. High-density development.

- (a) *Requirements.* Development projects which require a sedimentation and erosion control plan in a WS-IV watershed area, which are being developed as a planned

development as defined in this Chapter, may propose to be developed under a high-density option as described in this Section and must meet the following requirements:

- (1) WS-IV watershed area-water quality critical area (WS-IV-WQCA). Where single-family residential development exceeds 2 dwelling units per acre on the overall project or other residential and nonresidential development exceeds 24% built-upon area, engineered stormwater controls must be used to control runoff from the first one inch of rainfall, and development cannot exceed 50% built-upon area.
 - (2) WS-IV watershed area--protected area (WS-IV-PA). Where single-family residential development exceeds 2 dwelling units per acre on the overall project, or 3 dwelling units per acre on the overall project with public water or sewer where a curb and gutter system is not installed, or other residential and nonresidential development exceeds 24% built-upon area with curb and gutter installed, or 36% built-upon area for projects without a curb and gutter street system, engineered stormwater controls must be used to control the first one inch of rainfall, and development cannot exceed 70% built-upon area.
 - (3) A minimum 100-foot wide buffer consistent with Sec. 44-434.12 must be provided for all developments using the high-density option.
- (b) *High-density development permits.* Development projects requesting to use the high-density development option must follow the application, review, public hearing and approval procedures as required by this Chapter for planned developments.
- (c) *Stormwater control structures.* Standards for stormwater control structures are as follows:
- (1) All stormwater control structures must be designed by a NC registered professional with qualifications appropriate for the type of system required. Registered professionals are defined as professional engineers, landscape architects to the extent that NCGS Chapter 89A allows, and land surveyors to the extent that the design represents incidental drainage within a subdivision, as provided by NCGS 89C-3(7).
 - (2) All stormwater controls must use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in Subsection (3) below, are used. Wet detention ponds must be designed for specific pollutant removal according to modeling techniques approved by the state division of water quality. Specific requirements for these systems must be in accordance with the following design criteria:
 - a. Wet detention ponds must be designed to remove 85% of total suspended solids in the permanent pool and storage runoff from a one-inch rainfall from the site above the permanent pool.

- b. The design runoff storage volume must be above the permanent pool.
 - c. The discharge rate from these systems following the one-inch rainfall design storm must be such that the runoff does not draw down to the permanent pool level in less than 2 days and that the pond is drawn down to permanent pool level within at least 5 days.
 - d. The mean permanent pool depth must be a minimum of 3 feet.
 - e. The inlet structure must be designed to minimize turbulence using baffles or other appropriate design features.
 - f. Vegetative filters must be constructed for the overflow and discharge of all stormwater wet detention ponds and be at least 30 feet in length. The slope and width of the vegetative filter must be determined to provide a non-erosive velocity of flow through the filter for a 10-year, 24-hour storm within a 10-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- (3) Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. The design criteria for approval shall be 85% average annual removal of total suspended solids. In addition, the discharge rate must meet one of the following criteria:
- a. The discharge rate following the one-inch design storm must be such that the runoff draws down to the pre-storm stage within 5 days, but not less than 2 days; or
 - b. The post development peak discharge rate must equal the predevelopment rate for the 1-year, 24-hour storm.
- (4) In addition to the vegetative filters required in Subsection 2(f) above, all land areas outside of the pond must be provided with a ground cover sufficient to restrain erosion within 15 working days after any land disturbance for flat lands and 21 calendar days after any land disturbance for slopes. Upon completion of the stormwater control structure, a permanent ground cover must be established and maintained as part of the maintenance agreement in Subsection (d)(3) below.
- (5) A description of the area containing the stormwater control structure must be prepared and filed consistent with Subsection (g)(2) below as a separate deed with the office of the register of deeds for the County along with any easements necessary for general access to the stormwater control structure. The deeded area must include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (6) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure

is used to compute the percentage of built-upon area for one site, it cannot be used to compute the built-upon area for any other site or area.

- (d) *Posting of financial security.* Posting of financial security is required as follows:
- (1) All new stormwater control structures must be conditioned on the posting of adequate financial assurance for the purpose of construction, maintenance, repair or reconstruction necessary for adequate performance of the stormwater control structures.
 - a. *Construction security.* Financial security to ensure that the required stormwater control structures are installed as required must be provided to the County so that, if these structures are not properly installed, the County may use the financial security to have such structures properly installed. The bond or other instrument must be in an amount equal to 1.25 times the total cost of constructing the stormwater control structure, as estimated by the applicant and approved by the board of commissioners. The total cost of the stormwater control structure must include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation and fill. The costs cannot be prorated as part of a larger project, but are considered under the assumption of an independent mobilization.
 - b. *Maintenance security.* Financial security, to ensure that the required stormwater control structures are properly maintained, must be provided to the County so that, if these structures are not properly maintained, the County may use the financial security to have the structures properly maintained or repaired. Consistent with Subsection (2) below, the applicant must deposit with the County either cash or other instrument approved by the board of commissioners that is readily convertible into cash at face value. The cash or security must be in an amount equal to 15% of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a 10-year period, whichever is greater. The estimated cost of maintaining the stormwater control structure must be consistent with the approved operation and maintenance plan or manual provided by the developer under Subsection (e)(1) below. The amount shall be computed by estimating the maintenance cost for 25 years and multiplying this amount by $\frac{2}{5}$ ths or 0.4.
 - (2) *Financial assurance.* Financial assurance must be in the form of a certified check, a no-contest irrevocable bank letter of credit or a performance and payment bond underwritten by a state-licensed corporate surety company. Except for a certified check, such sureties cannot be accepted unless the County attorney has reviewed them and rendered a written opinion that the interests of the County are fully protected. The

certified check must be deposited with the County manager, as escrow agent, who shall deposit the check in an interest-bearing escrow account of the County. The no-contest irrevocable bank letter of credit must be from a banking corporation licensed to do business in the state and having an office in the County. The terms of the letter must include the absolute right of the County manager to withdraw funds from the bank forthwith upon the County manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached.

- (3) *Maintenance agreement.* The applicant must enter into a binding operation and maintenance agreement between the County and all interested parties in the development. The agreement must require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement must be filed with the County register of deeds.
 - (4) *Default under the construction security.* Upon default of the applicant to complete the stormwater control structure as spelled out in the performance bond or other security, the County may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The County shall return any funds not spent in completing the required improvements to the owning entity.
 - (5) *Default under the maintenance security.* Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the County must obtain and use all or any portion of the cash security to make the necessary improvements based on an engineering estimate. The expenditure of funds must be made after exhausting all other remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The County shall not return any of the deposited cash funds.
- (e) *Maintenance and upkeep.* Maintenance and upkeep must be provided as follows:
- (1) An operation and maintenance plan or manual must be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan must clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
 - (2) Landscaping and grounds management must be the responsibility of the owning entity. However, vegetation must not be established or allowed to mature to the extent that the integrity of the control structure is diminished

or threatened or to the extent of interfering with any easement or access to the stormwater control structure.

- (3) Except for general landscaping and grounds management, the owning entity must notify the planning department prior to any repair or reconstruction of the stormwater control structure. All improvements must be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the planning director shall inspect the completed improvements and inform the owning entity of any required additions, changes or modifications and of the time period to complete the improvements. The planning director may consult with an engineer or landscape architect, to the extent that NCGS Chapter 89A allows.
 - (4) Amendments to the plans and specifications of the stormwater control structure and/or operation and maintenance plan or manual must be approved by the board of commissioners. Proposed changes must be prepared by a state-registered professional engineer or landscape architect, to the extent that NCGS Chapter 89A allows, and submitted to and reviewed by the planning director.
 - a. If the board of commissioners approves the proposed changes, the owning entity of the stormwater control structure must file sealed copies of the revisions with the planning department.
 - b. If the board of commissioners disapproves the changes, the proposal may be revised and resubmitted as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, the proposal will be returned to the applicant.
 - c. If the board of commissioners finds that the operation and maintenance plan or manual is inadequate for any reason, the planning director shall notify the owning entity of any required changes and prepare and file copies of the revised agreement with the County register of deeds, the planning department and the owning entity.
- (f) *Application and inspection fees.* Application and inspection fees are required as follows:
- (1) Processing and inspection fees must be submitted in the form of a check or money order payable to the County. Applications will be returned if not accompanied by the required fee.
 - (2) A permit and inspection fee schedule is available in the planning department.
 - (3) Inspection fees are valid for 60 days. An inspection fee is required when improvements are made to the stormwater control structure consistent with Subsection (e)(3) above, except when a similar fee has been paid within the last 60 days.

- (g) *Inspections and release of the performance bond.* Inspections will be made, and the performance bond released, in accordance with the following:
- (1) The stormwater control structure shall be inspected by the planning director after the owning entity notifies the department that all work has been completed. At this inspection, the owning entity must provide the following:
 - a. The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the register of deeds for the County.
 - b. A certificate sealed by an engineer or landscape architect, to the extent that NCGS Chapter 89A allows, stating that the stormwater control structure is complete and consistent with the approved plans and specifications.
 - (2) The planning director will present the materials submitted by the developer, the inspection report and recommendations to the planning board at its next regularly scheduled meeting.
 - a. If the planning board approves the inspection report and accepts the certification, deed and easements, the board shall file the deed and easements with the office of the register of deeds for the County, release up to 75% value of the construction security and issue a letter of approval for the stormwater control structure.
 - b. If deficiencies are found, the planning board shall direct that improvements and inspections be made and/or documents be corrected and resubmitted to the planning board.
 - (3) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the planning board to release the remaining value of the construction security. Upon receipt of the petition, the planning director shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The planning director shall present the petition, inspection report and recommendations to the planning board.
 - a. If the planning board approves the report and accepts the petition, the developer must deposit with the County a financial security for maintenance in an amount equal to that described in Subsection (d) (1)b. above, after which the board will release the remaining construction security.
 - b. If the planning board does not accept the report and rejects the petition, the board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
 - (4) A zoning compliance permit shall not be issued for any building within the permitted development until the planning board has approved the stormwater control structure, as provided in Subsection(g)(2) above.

- (5) All stormwater control structures will be inspected by the County at least on an annual basis to determine whether the controls are performing as designed and intended. The costs of the inspections are the responsibility of the owning entity and are subject to a fee schedule approved by the County. Records of inspections shall be maintained on forms approved or supplied by the state division of water quality. Annual inspections will begin within one year of the filing date of the deed for the stormwater control structure.
- (6) If the County discovers the need for corrective action or improvements, the planning director shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements must be made consistent with the plans and specifications of the stormwater control structure and operation and maintenance plan or manual. After notification by the owning entity, the planning director may consult with an engineer or landscape architect, to the extent that NCGS Chapter 89A allows.

Sec. 44-435. Rural Preservation Overlay (RP-O).

Purpose: The purpose of the Rural Preservation Overlay is to balance residential development with the rural qualities of a corridor. Specifically, the goals of the rural preservation overlay are to:

- ◆ *Preserve scenic vistas;*
 - ◆ *Limit the number of driveways along the corridor;*
 - ◆ *Provide a rural visual corridor with homes setback from the roadway;*
 - ◆ *Protect resource areas along the corridor through a cluster subdivision design; and*
 - ◆ *Preserve rural character for potential scenic byway roadways*
- (a) *Plan consistency.* This section implements the land use recommendations of the Startown Small Area Plan.
 - (b) *Setback requirement.*
 - (1) All structures within a new residential subdivision (family, minor and major) and new non-residential development must be located outside a 100-foot setback abutting one of the streets set out in (4) below.
 - (2) In lieu of the 100-foot setback, one of the following must be provided for new residential subdivisions located in the RP-O:
 - a. If 500 feet of road frontage is available, a 50-foot setback containing a 30-foot wide berm with accompanying landscaping along all existing external road frontage; or
 - b. If 500 feet of road frontage is available, a 50-foot setback containing a 30-foot wide landscaped strip containing a solid landscaped screen along all existing external road frontage. The landscaped strip would contain a combination of trees, shrubs and ground cover (grass, mulch, etc.), either in a straight line or off-set, to cover a 30 foot wide area.

- (3) For existing vacant lots of record fronting one of the streets set out in (4) below, the 100-foot setback requirement must be met if land area is available that can accommodate the house, septic system and well or non-residential structure(s). If the required setback cannot be achieved, then the average setback of the surrounding housing units or non-residential development should be utilized in order to obtain uniformity; however, in no case can the minimum yard setback be less than 30 feet for a house or the minimum setback for the corresponding non-residential district. Existing vacant lots of record on internal subdivision roads within the RP-O must meet a minimum 30-foot front setback. Appeals to the setback requirement can be made to the Board of Adjustment in accordance with Sec. 44-202.
- (4) This setback provision of this Section applies to both sides of the following roads:
 - a. Startown Road (SR 1005) north of Settlemyre Bridge Road (SR1165) to the County's planning jurisdiction and south of NC Highway 10 to U.S. Hwy. 321;
 - b. Sigmon Dairy Road (SR 2013);
 - c. Rome Jones Road (SR 2012);
 - d. Blackburn Bridge Road (SR 2021);
 - e. Hickory-Lincolnton Hwy. (SR 1008) north of Blackburn Bridge Road (SR 2021) to NC Hwy. 10;
 - f. Sherrills Ford Road (SR 1848) from its intersection with Murray's Mill Road (SR 1003) to Slanting Bridge Road (SR 1844);
 - g. Island Point Road (SR 1838) from its intersection with Sherrills Ford Road (SR 1848) to its terminus;
 - h. Beatty Road (SR 1842) from its intersection with Sherrills Ford Road (SR 1848) to its terminus; and
 - i. NC Hwy. 16 South from the planning jurisdiction of the City of Newton to the Lincoln County line.

Sec. 44-436

Economic Development Overlay (ED-O).

Purpose: The Economic Development Overlay District (ED-O) is designed to accomplish the following:

- ◆ *Promote a sensitive conversion of farmland and vacant land to more urban uses.*
- ◆ *Support development that is compatible with and, whenever possible, enhances the visual attractiveness of the land.*
- ◆ *Promote well-planned, economically viable development of all types.*
- ◆ *Protect the environment by providing clean air, clean water and an appropriate mix of natural vegetation and wildlife.*
- ◆ *Encourage orderly and sensitive planned development, especially at the interchanges.*
- ◆ *Avoid uncoordinated, strip development patterns.*
- ◆ *Promote flexibility in individual site design including diversification in the location of*

structures, parking areas and other components.

- ◆ *Encourage the efficient use of land to facilitate an economical arrangement of buildings, traffic circulation systems, land uses and utilities.*
- ◆ *Provide for more usable and suitably located recreation facilities and other public and common facilities that would not otherwise be provided under conventional land development procedures.*
- ◆ *Encourage high quality development.*
- ◆ *Ensure that adequate traffic capacity is available to serve proposed projects.*
- ◆ *Create an environment that supports opportunities for alternative residential development that consists of well-planned, affordable housing.*
- ◆ *Encourage cooperation between local governments concerning municipal growth and service extensions.*
- ◆ *Support mixed-use projects that enhance opportunities to work, shop, entertain and recreate on the same or adjacent sites.*
- ◆ *Enhance the economic, tax and employment base for the County.*

(a) *Plan consistency.* This section implements the land use recommendations of the U.S. 321 Corridor District Plan and the following small area plans:

- (1) Mtn. View
- (2) Startown
- (3) Catawba
- (4) St. Stephens/Oxford

(b) *Applicability.* The Economic Development Overlay (ED-O) shall apply to the following areas:

- (1) U.S. Hwy. 321 corridor, as defined in the U.S. 321 Corridor District Plan, and referred to as the “Hwy. 321 corridor;” and
- (2) I-40 industrial corridor consisting of two strips of land with the first concentrated at Exit 138 at the Town of Catawba/Hwy. 10 interchange and the second including tracts of land north of the Conover/Claremont industrial areas. These areas are indicated as “business/light industrial park” and “industrial” in the Catawba and St. Stephens/Oxford small area plans, respectively. This area is referred to as the “I-40 corridor.”

(c) *Development standards.*

- (1) New residential subdivisions, existing and new single-family, site-built or manufactured homes and duplexes are exempt from the requirements of the ED-O district.
- (2) Churches and existing commercial/office institutional/industrial uses or properties are exempt from the provisions of the ED-O district.
- (3) With the exception of Subsection c. below, property being developed for nonresidential or multifamily uses:
 - a. In the Hwy. 321 corridor component of the ED-O must

1. Be rezoned to 321-ED(MX) or (I). Schools; public use facilities and public utility facilities are exempt from rezoning; and
 2. Meet the regulations of the 321-Economic Development (321-ED) Special District, Sec. 44-446.
- b. In the I-40 corridor component of the ED-O must:
1. Be rezoned to the applicable zoning district. Schools; public use facilities and public utility facilities are exempt from rezoning; and
 2. Meet the regulations of the 321-Economic Development (321-ED) Special District, Sec. 44-446.
- c. Special uses listed below are allowed within the ED-O and do not require a rezoning, but must comply with the procedures set forth in Sec. 44-328 and standards within Article VI for the specific use.
1. Airstrip;
 2. Boardinghouse, rooming house and bed and breakfast;
 3. Campgrounds;
 4. Cemetery, human public;
 5. Cemetery, pet;
 6. Circus, carnival or fair;
 7. Commercial nurseries/landscaping businesses;
 8. Ham radio antenna;
 9. Hospice house-residential facility;
 10. Kennel;
 11. Membership organizations;
 12. Public service facilities;
 13. Public use facilities;
 14. Radio frequency test facility;
 15. Recreational fish lake or pond;
 16. Roadside stand, commercial; and
 17. Telecommunications tower.

(Ord. No. 2008-17, 10/20/08)

Sec. 44-437 - 440.

Reserved.