

Jody L. McLeod  
**MAYOR**

Bruce Thompson  
**TOWN ATTORNEY**

Steve Biggs  
**TOWN MANAGER**



Bob Satterfield  
R.S. "Butch" Lawter, Jr.  
Art Holder  
Jason Thompson  
**COUNCIL MEMBERS**

Michael Grannis  
**MAYOR PRO TEM**

---

---

## **TOWN COUNCIL MEETING**

**MARCH 19, 2012**

### **AGENDA**

#### **MAYOR AND TOWN COUNCIL**

**MAYOR JODY L. MCLEOD  
MAYOR PRO TEM MICHAEL GRANNIS  
COUNCILMAN BOB SATTERFIELD**

**COUNCILMAN ART HOLDER  
COUNCILMAN R.S. "BUTCH" LAWTER, JR.  
COUNCILMAN JASON THOMPSON**

#### **TOWN STAFF**

**STEVE BIGGS, TOWN MANAGER  
SHERRY L. SCGGINS, TOWN CLERK  
BRUCE THOMPSON II, TOWN ATTORNEY**

**AGENDA**  
**THE WORK SESSION MEETING OF THE CLAYTON TOWN COUNCIL**

**MONDAY, MARCH 19, 2012**  
**7:30 PM**

**THE CLAYTON CENTER**  
**COUNCIL CHAMBERS**

**1. CALL TO ORDER**

Pledge of Allegiance – Tiger Den 2 of Pack 124  
Invocation – Mayor Jody L. McLeod

**2. ADJUSTMENT OF THE AGENDA**

**3. ACTION AGENDA**

- a. Draft minutes from February 28, 2012, Council Retreat and March 5, 2012, regular meeting.

**4. INTRODUCTIONS AND SPECIAL PRESENTATIONS**

- a. Introduction of new Town of Clayton employee(s).
- b. Presentation by Harbor Inc proclaiming April as Sexual Assault Awareness Month.
- c. Presentation by the Downtown Development Association for the Town Square Concert Series.
- d. Presentation on the Façade Grant Reimbursement Request (tabled at the 9/19/2011 Council meeting).

**5. ITEMS SCHEDULED FOR THE REGULAR MEETING AGENDA**

- a. Presentation of planned development district PDD 2012-03 for Riverwood Place Senior Living Center located on Pritchard Road.
- b. Presentation of planned development district PDD 2012-05 for East Village of Clayton located on East Front Street between Old NC HWY 42 East and Center Street.
- c. Presentation of planned development district PDD 2012-07 for Riverwood Ranch and located on Pritchard Road across from the Athletic Club Subdivision.
- d. Presentation of text amendment updates and/or revisions to the Unified Development Code, Chapter 155 of the Town Code of Ordinances:
  - Manufactured Home Foundation Screening; 155.302 (G)
  - Article 2, Chapter 155
  - Article 3, Chapter 155
- e. Presentation of zoning map amendment; slated for public hearing on Monday, April 2, 2012.
- f. Presentation of proposed utility deposit changes.

- g. Presentation of resolution supporting Town of Clayton/Caterpillar NC Rural Center Grant Assistance.
6. ITEMS FOR DISCUSSION
    - a. Report on bid opening for spring 2012 street project.
    - b. Update on John Street sewer project.
  7. OLD BUSINESS
    - a. Discussion of request from the Clayton Visual Arts requesting permission to use the Clayton Town logo for an art poster contest and to develop a line of commemorative jewelry; continued from the March 5, 2012, Council meeting.
  8. STAFF REPORTS
    - a. Town Manager
    - b. Town Attorney
    - c. Town Clerk
      - Calendar of Events
    - d. Other Staff
  9. OTHER BUSINESS
    - a. Informal Discussion & Public Comment.
    - b. Council Comments.
  10. ADJOURNMENT

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 3a

Meeting Date: 3/19/12

**TITLE: DRAFT MINUTES FROM THE FEBRUARY 28, 2012, COUNCIL  
RETREAT AND MARCH 5, 2012, REGULAR MEETING.**

**DESCRIPTION: Minutes.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

**Date:**

**Action:**

**Info. Provided:**

3-19-12

Approval.

DRAFT minutes from  
2/28/2012 Council Retreat  
& 3/5/2012 regular meeting.

**MINUTES – COUNCIL RETREAT  
CLAYTON TOWN COUNCIL  
FEBRUARY 28, 2012**

The Clayton Town Council held a Council Retreat on Tuesday, February 28, 2012, at 8:15 AM at the Johnston County Development Workforce Center, 135 Bestwood Drive, Clayton.

**PRESENT:** Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Bob Satterfield, Councilman R.S. “Butch” Lawter, Councilman Art Holder, and Councilman Jason Thompson.

**ALSO PRESENT:** Steve Biggs, Town Manager; Nancy Medlin, Deputy Town Manager; Sherry Scoggins, Town Clerk; Kemp Ward, KW Communications; Jody Servon, Artist in Residence; Andrew Holland, Intern; and Rebecca Putterman, Clayton News-Star.

**BACKGROUND:**

Mr. Lyle Sumek of Lyle Sumek Associates, Inc. facilitated the 2012 Council Retreat for the purpose of reviewing the progress of the goals established at the 2010 Council Retreat and to facilitate Council dialogue on goals and direction for 2012.

Mr. Sumek began the meeting by referring to Section 4, pages 11-16, and reviewing the following goals:

- Financially Responsible Town Government Providing Quality Service; and
- Grow the Local Economy; and
- Manage Growth Producing Quality Developments; and
- Expand Leisure Opportunities and Arts Community; and
- Beautify the Town of Clayton; and
- Create an Alive Downtown

Mr. Sumek stated in meeting with staff, staff focused on the following questions:

- What actions were taken to reduce costs?
- What were the service reductions?
- What services were increased?

Mr. Sumek referred to Section 4, page 18 and reviewed the “Actions to Reduce Cost to Government?”

- In-house planning: Code revision, small area planning
- Electronic transfer for bill payment
- Equipment: contracts for copiers, data
- Land lines: number, contracts, add VOIP, pooling minutes
- Standard phones
- Vehicle maintenance: e-service request, changed lubricant mix, time between oil changes

- Credit /debt payment, reduced cost of printing bill
- Energy cost: reduced number of servers
- Contract for custodial services
- County: Code RED Partnership
- Reduced pagers: Public works and fire
- NCDOT Reimbursements for mowing
- Library book purchasing
- Email / on-line Parks & Recreation registration
- Police Attorney: fixed price and reduced rate
- Solid waste contract: waived increase
- Planning and public works: swapped vehicles
- Advance certificates for police: reduced liability with NCLM
- Weapons trade for new weapons: no cost
- Storm water Phase II: using Johnston County personnel, common framework
- Electric Equipment Purchase (e.g. transformer)
- Debt refinanced: shortened to 20 years
- Bond financing
- Re-negotiated with Microsoft
- Safety training program
- Group health insurance: 3% premium reduction

Mr. Sumek referred to Section 4, page 19 and reviewed the “Service Reductions”:

- Customer Service position: volunteer coverage, reduced to four hours

Mr. Sumek referred to Section 4, pages 20 and 20a and reviewed the “Service Increases”:

- Two 24-hour engines; response (reduced 2 minutes)
- Storm water program: public education, retention/detention, regulation
- Horne Square: Maintenance
- E-recycle: additional program
- Channel programming: expanded
- Community events and activities: support
- After School Program (P&R)
- Dog Park: opening
- Programs: Adult athletics, girls volley ball (P&R)
- Community Garden & Garden classes & Partnership FFA, County (P&R)
- Public art and arts
- Home schoolers: Library and recreation
- Library: adult programs and social interaction, J-Club
- Conference facility: use
- C.E.R.T. Program: growing, assistance in fire prevention
- Rescue State Certification
- Greenway: 5 miles
- Groups coming to Council
- Public records requests: up

- Online bill payment
- Fire Insurance: information, savings
- Development review process: streamlines, better coordination
- Façade program
- Recycling containers from 64 to 96 gallons
- Code enforcement: selected areas
- Wireless “hot spots”: Downtown
- Backflow for all businesses
- Collection: stepped up, calling people
- Artist in residence
- Energy audit program
- Facebook and social media
- Six management teams: better coordination, completion of projects
- Online code text changes
- Computer classes for seniors (P&R)

Mr Sumek referred to Section 1 pages 7 and 8 and reviewed the “Forces of Turbulence”:

- Revenues will not come back (as fast)
- Seeing employees being recruited to private sector
- Internet sales on the internet
- Housing values and changing housing preferences
- World of instant communications
- Anti-Government and Anti-Politics Attitudes
- Partisan (politics) in nonpartisan

Mr. Sumek referred to Section 1 pages 9, 10, and 11 and reviewed, “Reality: Town Governments Will Grow, Town Governments Must Become Financially Self-Sufficient.”

Mr. Sumek referred to Section 1 pages 3 and 4 and reviewed, “Lessons from Successful Leadership.”

Mr. Sumek referred to Section 1 page 18 and reviewed, “Town of Clayton Our New Reality”:

- Doing more with less
- Changing demographics: shift from families with small children to empty-nesters and retirees
- Fewer Hispanics
- Seniors volunteering
- Energy costs increasing
- Multi-family and rental market increasing
- Workforce – Where is the next generation?
  - Multiple tiered retirements
- Succession planning
- Regulations and mandates not going away

- Audits
- New measurements

Mr. Sumek referred to Section 5 pages 9 and 9a and reviewed, “Top ‘15’ Priorities for 2012”:

- Front Street Extension
- Façade Grant
- Neuse Business Park Small Area Plan
- Nitrogen Alternative
- Mountains-to-Sea Trail Phase II Development
  - Public Access / Trail Connectivity
- Artist in Resident: Recommendation
- Employee Compensation and Benefit (4-5%)
- Use Plan for Annex Building
- Downtown Master Plan Update and Code Revision
- Fire Operations Command Structure / Shift Supervision
- Town Staff Review: Succession, Building Organization
- Northside / Neuse River Conceptual Plan
- Park and Recreation Master Plan
- Interlocal Agreement with Johnston County: Library
- Streets Conditions Assessment: Update

Mr. Sumek referred to Section 8 page 3 and requested the Council prioritize the Town of Clayton Goals.

After Council discussion, the Town of Clayton goals were prioritized to:

**Grow the Local Economy**

**Financially Responsible Town Government Providing Quality Service**

**Manage Growth Producing Quality Developments**

**Expand Leisure Opportunities**

**Beautify the Town of Clayton and Create an Arts Community**

**Think Downtown**

Mr. Sumek referred to Section 8, page 12 and tasked Council with selecting the challenges and opportunities as high priorities for “Grow the Local Economy”:

- Retaining and growing current businesses
- Positive reputation: “Business friendly Town”
- Strong relationship with Johnston County
- Opportunities to attract related or support businesses
- Communicating “How” the Town works with small businesses

The following challenges and opportunities are low priorities for “Grow the Local Economy”:

- Utility capacity and nitrogen allocation
- National and international economy and its impact on business investment
- Land available for business development
- Competition with other communities
- Location for major distribution center

Mr. Sumek referred to Section 8, page 13 and tasked Council with selecting the actions 2012 as high priorities for “Grow the Local Economy”:

- Hospital Development / Expansion
  - Partnering with hospital on “Think Clayton” marketing campaign
- Target specific businesses for active recruitment
- Small business owner packet and tool kit
- Web based feature for demographics

The following actions 2012 are low priorities for “Grow the Local Economy”:

- Incentives for small business
- Grease traps: business education

Mr. Sumek referred to Section 8 page 6 and tasked the Council with selecting the challenges and opportunities as high priorities for “Financially Responsible Town Government Providing Quality Service”:

- Equity: In-town vs. out-of-town
- Rise of costs to Town government: cost of service from affiliate associations, fuel costs
- Workload vs. capacity of Town staff
- Retaining top quality workforce with competitive compensation
- Actions taken by the State of North Carolina and federal government impacting the Town of Clayton

The following challenges and opportunities are low priorities for “Financially Responsible Town Government Providing Quality Service”:

- Aging workforce and potential upcoming retirements
- Funding for operations and maintenance of new facilities
- Reporting data and outside mandates / regulations
- Cost of training to retain certifications and enhance skill sets
- Opportunities for good bids on Town capital projects

Mr. Sumek referred to Section 8 pages 7, 8, and 9 and tasked Council with selecting the actions 2012 as high priorities for “Financially Responsible Town Government Providing Quality Service”:

- IT Master Plan
- Financial Plan with Five Year Projections
- Employee Compensation
- Public Information Expansion
- Customer Service Policy
- Collection Policy

- **Town Plan for Fuel Costs**

The following actions 2012 are low priorities for “Financially Responsible Town Government Providing Quality Service”:

- **Electric Service: Public Information and Education Program**
- **Energy Audit for Town Government – Identify vendors**
- **Storm water utility (rain tax)**
  - Analysis of options
  - Recommendations
  - Decision: direction
- **Training for Town Employees**
- **Outreach to Hispanic Community**
- **Animal Shelter / Adoption Center**
  - Performance evaluation
  - Financial / tax dollars
  - Town participation / role
- **Public Transit Strategy**
- **EMS Evaluation and direction**

Mr. Sumek referred to Section 8 page 18 and tasked the Council with selecting the challenges and opportunities as high priorities for “Manage Growth Producing Quality Developments”:

- **Saying “yes” to the right projects; saying “no” to projects not consistent with the Town’s vision, goals, and plans**
- **Threat to the Town’s ETJ**
- **Determining the definition of “quality development”**
- **Funding for capital projects for maintenance, upgrades and development**

The following challenges and actions are low priorities for “Manage Growth Producing Quality Developments”:

- **Degree of government regulation or control**
- **Opportunities to change Town land use and development regulations**
- **Changing housing market and developer access to the capital market**
- **Actions by the State of North Carolina impacting growth and development**

Mr. Sumek referred to Section 8 pages 19, 20, and 21 and tasked the Council with selecting the actions 2012 as high priorities for “Manage Growth Producing Quality Developments”:

- **Scenic Highway Infrastructure Plan**
- **Wastewater Transmission Line to Raleigh**
- **Street Bond Package**
  - Analysis
  - Decision: Direction
- **Wastewater Treatment: Nitrogen**
  - Alternative Analysis
  - Regulations: status

- Barber Mill Road Improvements (West Clayton Elementary Intersection)
- Business Park & Neuse River Conceptual Plan

The following actions 2012 are low priorities for “Manage Growth Producing Quality Developments”:

- Unified Development Ordinances: Comprehensive Review
  - Zoning Districts, Definitions, Development Standards
  - Sections 4-7
- Energy Audit Program (home and commercial)
- Transportation map series
- Way finding signs
  - Decision: Funding
- Comprehensive water and sewer needs
  - Assessment
  - Plan
- Street conditions assessment: update

Mr. Sumek referred to Section 8 page 24 and tasked the Council with selecting the challenges and opportunities as high priorities for “Expand Leisure Opportunities”:

- Funding for major projects and debt capacity developing parks and acquiring land
- Tapping the potential of the Neuse River
- Defining what is a true sustainable “Arts Community”
- Maintaining the support and vitality of the Clayton Center

The following challenges and opportunities are low priorities for “Expand Leisure Opportunities”:

- Working with and partnerships with sports organizations, community organizations, and private organizations
- Changing leisure and recreation patterns and needs
- Increasing demands for library and recreational programs and services

Mr. Sumek referred to Section 8 pages 25, 26, and 27 and tasked the Council with selecting the actions 2012 as high priorities for “Expand Leisure Opportunities”:

- Dog Park 2
  - Identify a site
- Parks & Recreation Master Plan: Update
- East Clayton Community Park
- Sam’s Branch Greenway Project
- Clayton Center Strategy
- Municipal Park: Funding
- Library Master Plan
- Inter-Local Agreement with Johnston County Library

The following actions 2012 are low priorities for “Expand Leisure Opportunities”:

- Land banking policy(south east / Cobblestone area)
  - Location
  - Park design
- Mountains-to-Sea Trail: Phase II, Use and Maintenance
  - Planning for eastward development
- Program design for river property
  - Concept
  - Program design
- Parkland acquisition
- Turf field: Evaluation
- Race for Clayton
  - Ways to incorporate greenways for events

Mr. Sumek referred to Section 8 page 30 and tasked the Council with selecting the challenges and opportunities as high priorities for “Beautify the Town of Clayton and Create an Arts Community”:

- Addressing irresponsible property owners
- Communicating and obtaining “buy in” with businesses and residents about community beauty and their responsibilities
- Funding for public art
- Redevelopment of less attractive commercial areas

The following challenges and opportunities are low priorities for “Beautify the Town of Clayton and Create an Arts Community”:

- Compliance with codes and level of enforcement
- Funding for beautification
- Personal property rights versus community benefit
- “Ugly” beyond Town control or influence
- Conflicting views by residents of “beauty” and “art”

Mr. Sumek referred to Section 8 page 31 and tasked the Council with selecting the actions 2012 as high priorities for “Beautify the Town of Clayton and Create an Arts Community”:

- Public Art
  - Next project
  - Fund raising
- Business façade grant program
  - Define eligibility standards
  - Define areas
- Artist in Residence: Recommendations
- Feasibility study for artist workshop or studio

The following actions 2012 are low priorities for “Beautify the Town of Clayton and Create an Arts Community”:

- Code Enforcement

- Architectural and design standards
- Targeted area beautification plan
  - Identify areas
  - Funding
- Clayton High School Beautification: Phase II
  - Design
  - Direction on funding
  - Necessary agreements

Mr. Sumek referred to Section 8 page 36 and tasked the Council with selecting the challenges and opportunities as high priorities for “Think Downtown”:

- Becoming a true “destination” for residents and visitors
- Seven days a week Downtown
- Increasing residential opportunities in Downtown
  - Tapping the potential of second floors: loft apartments, businesses
- Continuing to beautify Downtown
- Owner investment in own property to upgrade

The following challenges and opportunities are low priorities for “Think Downtown”:

- Changing the mix of businesses
- Non-Town owned facilities: telephone and cable
- Increasing entertainment opportunities
- Underutilized areas; open spaces, behind buildings
- Solid waste: dumpsters, trash cans

Mr. Sumek referred to Section 8 pages 37 and 38 and he tasked the Council with selecting the actions 2012 as high priorities for “Think Downtown”:

- Parking lot for Clayton Center
  - Evaluation
  - Plan
  - Decision: Direction
- Host a statewide conference every other year
- Downtown events
  - Partnerships/organizations
- Use plan for Annex building

The following actions 2012 are low priorities for “Think Downtown”:

- Undergrounding utilities
  - Funding to subsidize non-Town utilities
- Downtown Master Plan: Update and Code Revision
- Main Street Streetscape Design
  - Create continuity and harmony from Robertson Street to Smith Street
- Color palette for Downtown
  - Analogous and complimentary

Facilitator Lyle Sumek stated this information will be shared with staff for an action plan. He stated the action plan will be presented to the Council at its follow-up meeting with him on Thursday, March 22, 2012, at 3:30 PM, at the Johnston County Development Workforce Center, 135 Bestwood Drive, Clayton.

The Council thanked Mr. Sumek.

With there being no further discussion at the Council Retreat, the Council Retreat was adjourned at 2:44 PM.

Duly adopted by the Town Council this \_\_\_\_\_ day of March 2012 while in regular session.

ATTEST:

---

Jody L. McLeod  
Mayor

---

Sherry L. Scoggins, MMC  
Town Clerk

**MINUTES  
CLAYTON TOWN COUNCIL  
MARCH 05, 2012**

The first regular meeting of the Clayton Town Council for the month of March was held on Monday, March 5, 2012, at 7:30 PM at Town Hall, 111 East Second Street.

**PRESENT:** Mayor Jody L. McLeod, Mayor Pro Tem Michael Grannis, Councilman Bob Satterfield, Councilman R. S. "Butch" Lawter Jr., Councilman Art Holder, and Councilman Jason Thompson.

**ALSO PRESENT:** Steve Biggs, Town Manager; Brenton McConkey, Town Attorney; Sherry Scoggins, Town Clerk; Nancy Medlin, Deputy Town Manager; David DeYoung, Planning Director; Tim Simpson, Public Works & Utilities Director; Bruce Naegelen, Downtown Development Coordinator; Tommy Roy, Information Services Technician

**ITEM 1. CALL TO ORDER**

Mayor McLeod called the meeting to order at 7:31 PM.

The following members of Girl Scout Troop 628 led the Pledge of Allegiance: Jocelyn Pysar, Erica Salome, Chelsea Russell, Victoria Hoffman, Jasmine Hammer, Sophie Hammer, Claire Hammer, Amaya Cradle, Abigail Dennison, Tally Booth, and Troop Leader Chenoa Pysar.

Mayor McLeod gave the invocation.

**ITEM 2. ADJUSTMENT OF THE AGENDA**

As there was no adjustment of the agenda, it was the consensus of the Council to approve the agenda as presented.

**ITEM 3. ACTION AGENDA**

Councilman Holder motioned to approve the action agenda as presented; Councilman Lawter seconded the motion. The motion carried unanimously at 7:32 PM with the following action agenda items being approved:

- Item 3a. Draft minutes from the February 20, 2012, work session meeting and February 20, 2012, closed session meeting.
- Item 3b. Ordinance adopting the 2011 S-7 supplement to the Town's Code of Ordinances.
- Item 3c. Applications for Recreation Advisory Board.
  - Reappointment of Jenny Gorman, term expiring 12/31/2014;

- Item 3d.
  - Reappointment of Anthony Stanback, term expiring 12/31/2014Resolution awarding badge and service seldarm to retiring Officer Mark Strickland.
- Item 3e. Proclamation for Arbor Day.
- Item 3f. Warranty acceptance for asphalt pavement at Spring Branch, Ph 1.
- Item 3g. Request for additional wastewater allocation for Grifols.

#### **ITEM 4. INTRODUCTIONS AND SPECIAL PRESENTATIONS**

- Item 4a. Recognize Girl Scout Troop 628 and present proclamation celebrating 100 years of Girl Scouting.

Mayor McLeod read the following proclamation into the record:

#### **CELEBRATING 100 YEARS OF GIRL SCOUTING PROCLAMATION**

**WHEREAS**, March 12, 2012, marks the 100<sup>th</sup> anniversary of Girl Scouts of the USA, which began in 1912 when Juliette Gordon Low gathered 18 girls in Savannah, Georgia, to provide them an opportunity to develop physically, mentally, and spiritually; and

**WHEREAS**, for 100 years, Girl Scouting has helped build millions of girls and women of courage, confidence, and character who act to make the world a better place; and,

**WHEREAS**, the Girl Scout Leadership Program helps girls discover themselves and their values, connect with others, and take action to make the world a better place; and,

**WHEREAS**, the Girl Scout Gold Award, the highest honor in Girl Scouting, requires girls to make a measurable and sustainable difference in their community and honors leadership in Girl Scout tradition; and,

**WHEREAS**, core programs around science, technology, engineering and math (STEM), environmental stewardship, healthy living, financial literacy, and global citizenship helps girls develop a solid foundation in leadership; and,

**WHEREAS**, through the dedication, time, and talent of thousands of volunteers of different backgrounds, abilities, and areas of expertise, the Girl Scout Program is brought to more than 70,000 girls in grades K-12 across the State of North Carolina.

**NOW, THEREFORE**, the Honorable Mayor and Town Council of the Town of Clayton do hereby applaud the Girl Scouts for their 100 years of leadership, salute them as they celebrate 100 years of Girl Scouting and proudly proclaim March 11-17, 2012, “**Girl Scout Week**” in Clayton.

On behalf of the Town Council, Mayor McLeod presented the proclamation to Girl Scout Troop 628.

Item 4b. Presentation of request for Heart Chase event.

Ms. Cheryl Champion stated she is a volunteer with the American Heart Association. She stated Heart Chase is a new program modeled after “The Amazing Race.” She stated Clayton was selected as a site for Saturday, April 28th. She stated the start line will be at either Horne Square or Towne Square. She stated participants will look for clues and there will be stations in the area. She stated she has spoken with police, fire, public works and Downtown Development Coordinator Bruce Naegelen. She stated she has lined up the trash cans, port-o-potties, and police officers. She provided an overview of the routes for the Heart Chase. She stated there will be plenty of volunteers and safety is a priority for the participants. She requested to temporarily close Lombard Street between Second and Main Streets from 8 AM to noon.

Based upon question by Council, Downtown Development Coordinator Bruce Naegelen stated sidewalks will be utilized and the only temporary street closure is Lombard between Main and Second Streets for vendors.

Councilman Satterfield motioned to approve the request as presented; Mayor Pro Tem Grannis seconded the motion.

Town Manager Steve Biggs questioned if the use of Horne Square will impact parking.

Downtown Development Coordinator Bruce Naegelen stated in the negative and added only the paver area of Horne Square will be used.

Motion carried unanimously at 7:41 PM

Item 4c. Presentation by representative of the Clayton Visual Arts requesting the use of Horne Square for the Saturday, June 2, 2012, Millstock Arts and Music Festival.

Mr. John McFadden presented the following PowerPoint presentation for the Millstock Arts and Music Festival request:

## Millstock 2012

Saturday, June 2

12<sup>th</sup> annual Clayton festival

Presented by Clayton Visual Arts, Inc.



'Bringing Art to Clayton'

## 2011 Clayton Visual Arts Faire



Last year's Faire was Home Square's 1st big festival

## 2011 recap

- 27 artists & crafts-people sold wares
- 10 a.m. - 4 p.m.
- Music acts
  - Bruce Naegelen
  - Bob Clarke
  - Kennedy Fitzsimmons
  - Others
- Children's booth
- Chalk It Up (chalk art contest)
  - \$175 in prizes
- Troupe of dancers
- Food vendor
- Crowd of 800+



Some of the 27 artists' booths at 2011 Clayton Arts Faire festival

## 2011 Artists' Evaluation

- 21 of 27 artists completed survey
- Positive comments, 16 = 76%
- Horne Square a hit
- Artist sales met or exceeded expectations
- Crowd size met or exceeded expectations
- Negative comments, 5 = 24%
- Minuses focused on poor communication between artists & event staff

## What the artists said

- Best aspect—location, location, location!
  - Horne Square “beautiful”
  - Square is flat; all artist tents close together
  - Setup area “nice; easy to use”
  - Nice atmosphere
- Clayton community appreciates art
  - Positive feedback for artists
  - Compliments on art
  - Friendly people
  - Local exposure
  - “I’d like to come back next year”

## Scenes from 2011



Don Stephenson, Lyn Austin enjoy festival



Musicians enliven the day



Spectators roam among artist tents

## Millstock 2012 plans

- Date: Saturday, June 2
- More artists, perhaps 50-60 (last year, 27)
- Booths 10 feet x 10 feet
- Fee \$35 each
- All of Horne Square circle used for booths
- 4-5 acoustic music acts
- Chalk It Up sidewalk art contest
- Expanded Children’s Table

## Community outreach

- More publicity & paid advertising
- Cooperation with Flipside's music event on same day
- Ask downtown restaurants, businesses to stay open
- More CVA members working on June 2

## Chalk It Up



Dianne Carroll at Chalk It Up



1<sup>st</sup> place winner by Amy Beshgetorian



A 'beachy' entry

## Requests of Clayton Town Council

- Use of Horne Square, 6 a.m.-5 p.m.
- Use of dead-end block of N. Lombard (east of Horne Square) for Chalk It Up
- Banner hung over Main at Lombard to promote event
- All Horne electrical outlets working
- Help with obtaining PortaPotties
- Help with trash cans & pickup



Painter sets out work on morning of 2011 festival



Bonnie Light of Eye of the Eagle helps a young girl with her art creation

## THANK YOU

From Clayton Visual Arts, Inc.  
for Town's help in 2011 & 2012

- Millstock Chairman John McFadden
- President Janie Prete
- Vice President Dianne Carroll
- Secretary June Lioret
- Treasurer Linda Strevig
- Past President Dorothy Demboski
- 34 member volunteers

*Please put us on your calendar— June 2*

### Thanks also to 2011 contributors

- Pepsi
- Downtown Development Association
- Eye of the Eagle
- The Clayton Center
- Clayton Visual Arts volunteers
- And others

### Last scenes from 2011



Dancer from troupe



Stuffed fiber art

### The End

Event to be produced by



Millstock 2012 is supported in part by a grant from the Johnston County Visitors Bureau  
Clayton Visual Arts is supported in part by a grant from the Town of Clayton Cultural Arts Fund  
Clayton Visual Arts is an all-volunteer, 501 (c) 3 organization, founded in 1999.

Mr. McFadden requested the use of the Town logo for jewelry he wished to create and for use in a poster contest.

Mayor Pro Tem Grannis questioned if the artists participating is juried.

Mr. McFadden stated affirmative.

Mayor Pro Tem Grannis questioned the use of the logo.

Councilman Satterfield stated the request to use the Town logo is vague.

Mr. McFadden stated it would be used for poster art contest.

Mayor McLeod questioned how it would be used for the poster art contest.

Mr. McFadden stated last year the “Think Clayton, Think Art” was used.

Councilman Lawter questioned how the use of the logo is approved.

Town Clerk Sherry Scoggins stated the Town logo is registered with the North Carolina Secretary of State as a service mark. She stated several years ago the Council received a request from a student working with the Clayton Historical Association to incorporate the logo in a calendar.

Councilman Holder stated concern about allowing the use of the logo.

Councilman Satterfield stated he does not have reservations about the jewelry and the possibility of being misused in a poster.

Mayor McLeod stated his concern is the sale of the jewelry for private gain. He stated his concern is the use of the Town logo for personal gain.

Councilman Satterfield the jewelry promotes Clayton.

Mr. McFadden stated the idea came during the Main Street Conference.

Mayor McLeod questioned if this would be a fundraiser for CVA.

Mr. McFadden stated not necessarily.

Councilman Satterfield requested to split the requests and to take action on the request for the use of Horne Square and to further discuss the Town logo request at the next meeting.

Councilman Satterfield motioned to approve the use of Horne Square for Millstock festival and to discuss the use of the Town logo at the next Council meeting. Councilman Lawter seconded the motion. Motion carried unanimously at 7:49 PM.

Item 4d. Presentation requesting temporary street closure of South Lombard between Main and Second Streets for St. Baldrick's Fundraiser on Saturday, March 17, 2012.

Downtown Development Coordinator Bruce Naegelen stated this will be at the Flip Side and the hours of request have been amended to 11 AM to 5 PM temporary closure of Lombard Street between Main and Second Streets.

Councilman Satterfield and Councilman Lawter simultaneously seconded the motion. Councilman Holder seconded the motion. Motion carried unanimously at 7:52 PM.

#### **ITEM 5. PUBLIC HEARINGS**

No public hearings were scheduled.

#### **ITEM 6. OLD BUSINESS**

Item 6a. GO Bond Order Open Space and Park Development.

Town Manager Biggs provided an overview of the resolution. He stated the resolution in the packet has a date change and the amortization schedule was reduced from 16 years to 15 years.

Based upon question by Council, Town Manager Steve Biggs stated the interest rate will be based on bids received. He added the Local Government Commission will market and is open to all interested bidders.

Mayor Pro Tem Grannis motioned to approve the resolution for the GO Bond Order for Open Space and Park Development. Councilman Satterfield and Councilman Holder simultaneously seconded the motion. Motion carried unanimously at 7:54 PM.

#### **ITEM 7. NEW BUSINESS**

Item 7a. Proclamation recognizing veterans returning to Johnston County.

Mayor McLeod read the following proclamation into the record:

## **PROCLAMATION RECOGNIZING VETERANS RETURNING TO JOHNSTON COUNTY**

**WHEREAS**, Rotary International is recognized as the world’s first service organization, founded by Paul P. Harris in 1905; and

**WHEREAS**, Rotary clubs serve communities around the world, each with unique concerns and needs; and

**WHEREAS**, Rotary International is one of the world’s largest service organizations with more than 1.2 million members who share in the commitment and motto: “Service Above Self;” and

**WHEREAS**, Clayton area business professionals have taken to heart “Service Above Self” thus establishing two Rotary chapters in Clayton dating back to 1925; and

**WHEREAS**, the Clayton Rotary Clubs desire to formally honor and recognize the Johnston County Veterans returning home from serving Iraq and Afghanistan; and

**WHEREAS**, the Clayton Rotary Clubs are hosting a fundraising concert and musical salute in honor of the Johnston County Veterans who have returned home on Saturday, March 10, 2012, at 7:30 PM at the Clayton Center Auditorium; and

**WHEREAS**, proceeds of the fundraiser will be donated to Veterans Empowering Veterans of Fayetteville, a non-profit organized by Johnston County residents Calvin and Renee Elder, whose mission is to provide care and support to displaced veterans.

**NOW THEREFORE**, the Honorable Mayor and Town Council recognize our Johnston County Veterans returning home from serving in Iraq and Afghanistan. Further the Honorable Mayor and Town Council encourage the residents to join in the celebration of welcoming home our Johnston County Veterans.

Mayor Pro Tem Grannis motioned to approve the proclamation as presented; Councilman Holder seconded the motion. Motion carried unanimously at 7:56 PM.

On behalf of the Clayton Town Council, Mayor McLeod presented the proclamation to Mr. Leigh Hudson of the Rotary Club.

Mr. Hudson accepted the proclamation. Mr. Hudson requested the assistance of those in attendance to share this event with Johnston County veterans.

Item 7b. Amendment to the Records Retention and Disposition Schedule – Municipal.

Town Clerk Sherry Scoggins stated the current Records Retention and Disposition Schedule does not include information on cemetery documents. She stated this amendment will enable the Town to take care of those documents.

Mayor Pro Tem Grannis motioned to approve the amendment as presented. Councilman Holder seconded the motioned. Motion carried unanimously at 7:59 PM.

#### **ITEM 8. STAFF REPORTS**

Item 8a. Town Manager

Town Manager Steve Biggs stated no additional report.

Item 8b. Town Attorney

Town Attorney Brenton McConkey stated no additional report.

Item 8c. Town Clerk

Town Clerk Sherry Scoggins stated ElectriCities is hosting a regional meeting for Council members at the Benson Fire Department on Thursday, March 8, 2012, beginning at 6 PM.

Item 8d. Other Staff

No other staff presented a report.

#### **ITEM 9. OTHER BUSINESS**

Item 9a. Informal Discussion and Public Comment

Mayor McLeod stated before opening the floor, he acknowledged the Council is aware of the presence of the majority in attendance this evening. He stated the Council understands the presence of those in attendance and it speaks volumes. He stated if there is anyone in attendance who would like to speak to do a show of hands. He stated five people raised their hands and he requested they come

forward. He requested they come one at a time and to provide name and address for the record.

Ms. Holly Nielson, 371 Riverstone Drive, Clayton, stated her thanks to the Council and Town Manager to allow the lines of communication to remain open regarding this issue. She stated her appreciation of not taking animals to the shelter and pulling funding from the shelter until the situation approves. She stated progress has been made at the shelter over the past week. She thanked the citizens for coming out this evening. She encouraged the Council to view the Facebook page and it is public. She stated on July 20, 2003, she expressed concerns to the Town about the shelter. She stated a number of people have expressed an interest in volunteering at the shelter through supplying food for the shelter and cleaning supplies and the offers have not been acknowledged. She stated the amount of debris on the property is a nuisance. She stated her requests of the Council are:

- Review the lease requirements
- Investigate the SPCA rent payments
- Direct the town manager to investigate the amount of debris on the property
- Records request from the Johnston County SPCA
- Complaints about the shelter are investigated

She thanked the Council for its time. She provided documents from other residents; herewith attached.

Vickie Vaughan, 118 Wilshire Lane of Four Oaks, stated she was employed at the Johnston County SPCA from May 30, 2001, to July 3, 2001. She stated during that time she never saw an animal at the facility scanned for a microchip or documented. She stated the temperatures during her employment were very warm because the air conditioning did not work nor was there ventilation. She stated no dogs or cats were adopted during her time at the shelter. She stated this was reported to Mr. Biggs and Mr. Harding.

Beth Whaley, 103 Shady Lane of Clayton, stated she was made aware of the Facebook. She stated she went to the Johnston County SPCA in 2001 to adopt an animal. She stated she made phone calls and visited the site and did not receive a return call from the Johnston County SPCA so she went to the county shelter and adopted a dog. She stated when her children grew up she made a call to volunteer at the Johnston County SPCA and did not receive a phone call. She stated she understands the Town contracts with Johnston County SPCA and the Johnston County SPCA was not responsive and she was receiving tax payer dollars. She requested the allegations be investigated. She submitted a letter from a neighbor; herewith attached.

Susan Dunaway, 300 Polenta Road of Smithfield, stated she was employed at the Johnston County SPCA from August 2009 to March 12, 2010. She stated she

resigned after working two to four hours a day for seven days a week. She stated some of her time was unpaid as a volunteer. She stated she was told not to feed the animals as they would make a mess of the cages. She added dogs were not provided water in their cages. She added dogs were co-mingled and not spayed and neutered. She added many of the dogs that were there when she arrived were there when she left. She stated her observations were shared with Steve Biggs on Friday, March 12, 2010, at 6:30 PM. She stated she requested an investigation and does not know if one has been done.

Bill Hall, cousin of the 20 year volunteer, stated she has given many hours of her time. He stated the Johnston County SPCA Board of Directors voted to close the shelter on or before June 1, 2012. He requested they be given a chance to close the shelter in a humane way. He stated Melinda Barefoot, his wife, and one paid volunteer, two to four hours a day a week runs the shelter. He stated the Wake County SPCA is coming Wednesday.

Donna Eatmon, 61 Lynn Lane of Selma, stated she only heard about the gas chambers for the animals. She stated she met Melinda Barefoot in 2001 and when she went to the shelter there were people going in and out of the shelter. She stated she was there when Holly Nielsen was there to trade dog food for a Great Dane that she had personally rescued from Selma. She stated in 2001, 2002, and 2003 she was going into the shelter to check the conditions for another rescue group.

Mayor McLeod closed the public comment section.

Mayor McLeod requested those in attendance for the shelter to please stand. He stated the Town Council will take the citizen comments under advisement and give it consideration. He stated on behalf of the Council, he stated his appreciation.

Item 9b. Council Comments.

Mayor McLeod stated the stop sign on Barbour Street is too tall and he has seen cars run the sign. He also requested the police department to give thought to a four way stop at Horne and Barbour Street.

Councilman Lawter requested an update on phase two of the streets project.

Town Manager Biggs stated phase two is going quite well and is expected to wrap up the end of this month. He stated there have been minor changes.

Item 10. ADJOURNMENT

Councilman Holder motioned to adjourn; Councilman Satterfield seconded the motion. Motion carried unanimously at 8:36 PM.

Duly adopted by the Town Council this [REDACTED] day of March 2012, while in regular session.

ATTEST:

---

Jody L. McLeod  
Mayor

---

Sherry L. Scoggins, MMC  
Town Clerk

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 4a

Meeting Date: 3/19/12

**TITLE: INTRODUCTION OF NEW TOWN OF CLAYTON EMPLOYEE (S).**

**DESCRIPTION: Introduction(s).**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Introduction(s).	N/A.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 4b

Meeting Date: 3/19/12

**TITLE: PRESENTATION BY HARBOR INC PROCLAIMING APRIL AS SEXUAL ASSAULT AWARENESS MONTH.**

**DESCRIPTION: Public awareness.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Introduction(s).	Proclamation.

**TOWN OF CLAYTON**  
**PROCLAIMING APRIL 2012 AS SEXUAL ASSAULT AWARENESS MONTH**

**WHEREAS**, 174 registered sex offenders are living in Johnston County and 14,443 registered sex offenders are living in the state of North Carolina (North Carolina Department of Justice, 2012); and

**WHEREAS**, in Johnston County from 2009 to 2010 there were 53 forcible rapes involving a weapon reported (State Bureau of Investigation, 2010); and

**WHEREAS**, according to the FBI 2010 Uniform Crime Report, 84,767 sexual assaults were reported in the US in 2010; and

**WHEREAS**, 1 out of every 8 adult women or 393,000 adult women in North Carolina have been the victim of forcible rape at some point in her lifetime (Kilpatrick, D. G. & Ruggiero, K.J., Rape in NC: A report to the state, 2003); and

**WHEREAS**, fewer than half of all rapes and sexual assaults in the US are reported to police (U.S. Department of Justice, 2001); and

**WHEREAS**, 16% of victims of forcible assaults, and 8% of incapacitated victims, sought help from a crisis, health, or victims' center after they were sexually assaulted (Kilpatrick, D. G. et al., "Drug-facilitated, incapacitated, and forcible rape: A national study," 2007); and

**NOW THEREFORE**, the honorable Mayor and Town Council of the Town of Clayton do hereby proclaim the month of April 2012 as "Sexual Assault Awareness Month." Furthermore, the Mayor and Town Council encourage all citizens to speak out against sexual assault and support the local community's efforts to provide services to victims and survivors of Sexual Assault.

**DULY PROCLAIMED** this            day of            2012, while in regular session.

---

Jody L. McLeod  
Mayor

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 4c

Meeting Date: 3/19/12

**TITLE: PRESENTATION BY THE DOWNTOWN DEVELOPMENT ASSOCIATION FOR THE TOWN SQUARE CONCERT SERIES.**

**DESCRIPTION:** The Downtown Development Association, hereafter DDA, respectfully requests the use of the Town Square and the temporary road closure of Fayetteville Street between Main Street and Second Street for the following Town Square Concert dates from 5 PM to 10 PM:

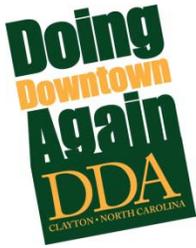
- Thursday, May 17 – MikeMixEr (Zydeco/High Energy)
- Thursday, June 21 – Castaways (Beach)
- Thursday, July 19 – All My Rowdy Friends (country/Hank Jr tribute)
- Thursday, August 16 – Suicide Blonde (80’s cover)
- Saturday, September 15 – Nantucket (rock)

In addition to the use of the Town Square, the DDA requests permission to close the Town Square parking lot at 7 AM on the dates of the concerts and it will be reopened when Fayetteville Street is reopened.

**RELATED GOAL:** Think Downtown

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Memorandum & Site Layout.



# Clayton Downtown Development Association, Inc.

*Vision 2012: Downtown is the social and cultural hub of Clayton*

North Carolina Main Street Community

Richard Rairigh  
President

Debbie Romano  
Secretary/  
Co-Vice Chair  
Promotion

Betsy Grannis  
Vice Chair  
Organization

Rob Baker  
Vice Chair  
Economic  
Restructuring

Debie  
Austermuehle  
Co-Vice Chair  
Promotion

Jessica Creech

Janice Hardison

Leslie Hubbard

Margaret Lee

Michael Sims

Donna Steele

*Ex Officio*

Michael Grannis,  
Town Council

Bruce Naegelen,  
Downtown  
Development  
Coordinator

David DeYoung,  
Planning Director

Steve Biggs,  
Town Manager

TO: Town Council  
FROM: Debbie Romano, Chair, Concert Series Committee  
DATE: March 1, 2012  
SUBJECT: Road Closure Request – 2012 Town Square Concert Series

The Town Square Concert Series is a program of the DDA’s Promotion Committee, which is co-chaired Jessica Creech and Janice Hardison. The Town of Clayton and the Clayton Downtown Development Association are sponsoring a series of concerts at the Town Square on the following dates:

- May 17 MikeMixEr (*Zydeco/High Energy*)
- June 21 Castaways (*Beach*)
- July 19 All My Rowdy Friends (*country/Hank Jr Tribute*)
- August 16 Suicide Blonde (*80’s covers*)
- September 15 Nantucket\* (*rock*)

All concerts except September 15 are the Third Thursday of the month. The concerts will begin at 7:00 PM – and end at around 9:00 PM.

The purpose of the event is to promote downtown Clayton and the use of the Town Square as public space.

Residents of Clayton are encouraged to bring lawn chairs and blankets for this “free” public concert. There are several local vendors to provide light refreshments and food. The Clayton Downtown Development Association, Inc. will once again serve beer and wine. Volunteers will assist with crowd control, information and general assistance. There will be 3-4 portable comfort stations situated within the area.

**REQUEST:** We would like permission to close the Town Square Parking Lot at 7:00 AM and to close Fayetteville Street between Second and Main streets at 5:00 PM with the streets and parking lot being reopened at 10:00 PM.

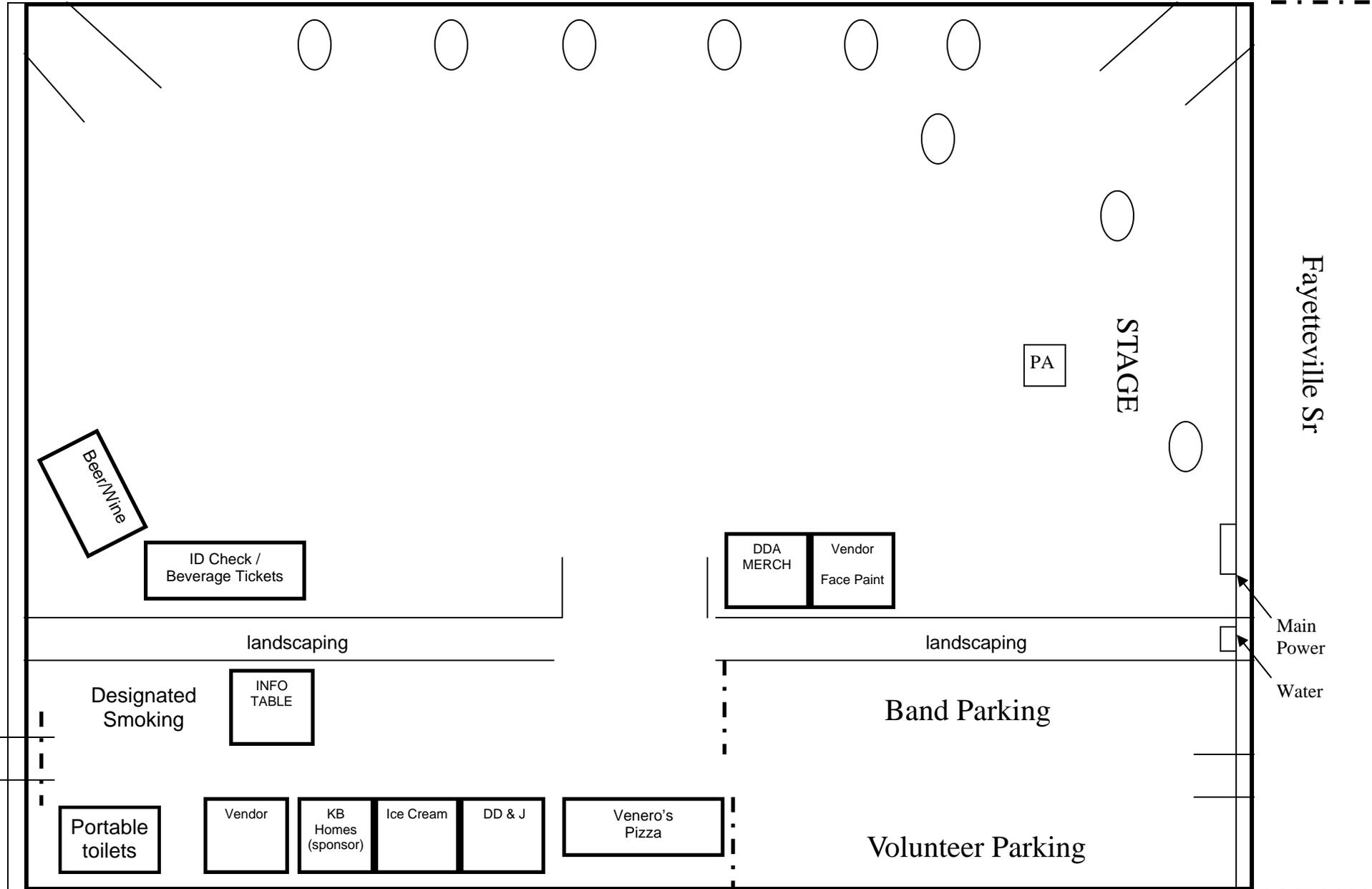
We continue to work with Public Works, Police, Fire and EMS to provide a safe area for the public. Promotional and informational signage and banners will be erected to promote the event and direct attendees.

Thank you.

West Main Street

O'Neil Street

Fayetteville Sr



East Second Street

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 4d

Meeting Date: 3/19/12

**TITLE: PRESENTATION ON THE FAÇADE GRANT REIMBURSEMENT REQUEST; TABLED AT THE 9/19/2011 COUNCIL MEETING.**

**DESCRIPTION: Provide an update on the Façade Grant Reimbursement program and request to temporarily increase of the reimbursement rate from 50% to 75% for the remainder of FY 2011-2012.**

**RELATED GOAL: Think Downtown.**

**ITEM SUMMARY:**

Date:

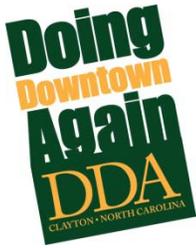
Action:

Info. Provided:

3-19-12

Presentation.

Memorandum & History.



# Clayton Downtown Development Association, Inc.

*Vision 2012: Downtown is the social and cultural hub of Clayton*

North Carolina Main Street Community

Richard Rairigh  
President

Debbie Romano  
Secretary

Betsy Grannis  
Vice Chair  
Organization

Rob Baker

Debie  
Austermuehle  
Vice Chair  
Economic  
Restructuring

Jessica Creech  
Co-Vice Chair  
Promotion

Janice Hardison  
Co-Vice Chair  
Promotion

Leslie Hubbard

Margaret Lee  
Vice Chair  
Design

Michael Sims  
Treasurer

Donna Steele

*Ex Officio*  
Michael Grannis,  
Town Council

Bruce Naegelen,  
Downtown  
Development  
Coordinator

David DeYoung,  
Planning Director

Steve Biggs,  
Town Manager

TO: Town Council Members, Mayor Jody McLeod

FROM: Bruce Naegelen, Downtown Development Coordinator

CC: Margaret Lee, Chair, Design Committee  
Richard Rairigh, Chair, Downtown Development Association  
Steve Biggs, Town Manager

DATE: March 6, 2012

SUBJECT: Request Temporary Increase of Downtown Façade Grant Reimbursement  
*[Request Tabled on 9/19/2011]*

### Background

The Downtown Façade Improvement Grant was initiated in FY07/08. The program provides a 50% reimbursement of eligible expenses in façade improvements for commercial buildings in the downtown district.

Thirteen (13) façade projects have been completed. A total of \$29,335 in public funds has been invested in the program spurring private investment of \$241,700 in façade and other associated improvements. The program has returned \$8.24 in private investment for every \$1.00 invested by the Town of Clayton.

### Consideration

Projects that are being targeted include new awnings, windows, paint, signage and some repairs. Several major projects have been discussed with property owners, but even with a 50% shared cost there is hesitancy to invest funds right now because of the uncertainty of the economy. If the private share was reduced, there might be greater incentive to achieve our desired results.

### Conclusion

In an effort to achieve the façade improvements desired to improve the appearance in downtown Clayton we are requesting that the reimbursement formula in the Downtown Façade Improvement Grant Program rate be temporarily increased from 50% to 75%.

The change would take effect upon approval from Town Council for at least FY11/12. The formula and economic situation will be reviewed at the end of the fiscal year to determine a continuation or return to the current formula.

**FAÇADE IMPROVEMENT GRANT HISTORY**

Total Private Investment: \$	<b>241,700.58</b>	Public Invest: \$	<b>29,334.93</b>	Aggregate ROI:	<b>\$8.24</b>
------------------------------	-------------------	-------------------	------------------	----------------	---------------

**FY2010-11**

Earmarked: \$10,000

Address	Building/Business Name	Owner	File #	Project Invest	Grant Amount	Project	Completed
312 E Main Street	Main Street Seafood/The Loft	Larry Kristoff	FIG FY2011-01	\$ 8,636.65	\$ 4,225.83	Exterior Improvements	x

<b>TOTAL</b>	<b>\$ 8,636.65</b>	<b>\$ 4,225.83</b>
<b>ROI</b>	<b>\$2.04</b>	<b>Earmark Balance \$5,774.17</b>

**FY2009-10**

Earmarked: \$15,000

Address	Building/Business Name	Owner	File #	Project Invest	Grant Amount	Project	Completed
126 E Main Street	former "Little Shop"	Doris V Parker	FIG FY2010-01	\$ 25,000.00	\$ 5,000.00	Exterior Improvements	x
424 E Main Street	Old Town Supply	Doris V Parker	FIG FY2010-02	\$ 3,877.82	\$ 1,938.91	Exterior Improvements	x
427 E Main Street	former "Clayton Supply Co."	Joyce L Canady	FIG FY2010-03	\$ 12,021.85	\$ 5,000.00	Exterior Improvements	x

<b>TOTAL</b>	<b>\$ 40,899.67</b>	<b>\$ 11,938.91</b>
<b>ROI</b>	<b>\$3.43</b>	<b>Earmark Balance \$3,061.09</b>

**FY2008-09**

Earmarked: \$20,000

Address	Building/Business Name	Owner	File #	Project Invest	Grant Amount	Project	Completed
104 N Fayetteville Street	HTR Commercial	104 N Fayetteville LLC	FIG FY2009-01	\$ 175,437.00	\$ 5,000.00	Interior & Exterior	x
104 W Main Street	Home Revision LLC	104 N Fayetteville LLC	FIG FY2009-02	\$ 10,571.87	\$ 5,000.00	Exterior Improvements	x
236 E Main Street	Main Street Jewelers	Ed & Debie	FIG FY2009-03	\$ 1,910.00	\$ 955.00	Awning	x
131 E First Street	Eye of the Eagle Art	Sabra Light	FIG FY2009-04	\$ 2,668.29	\$ 1,334.15	Sign & landscape	x
226 E Main Street	Lucky Chicken	Esther Ortiz	FIG FY2009-05	\$ 2,033.75	\$ 1,016.87	Sign & Awning	x
333-335 E Main Street	Jewelry by Vincent Edward Jones	Jesse & Lyn Austin	FIG FY2009-06	\$ 3,030.00	\$ 1,515.00	Paint & Awning	x
219 E Main Street	Mulberry on Main Italian	Jerry Gubitosi	FIG FY2009-07	\$ 1,150.00	\$ 575.00	Awning	x
323-327 E Main Street	Awards/Beddingfields/et al	Baker/Rasor/Belvin	FIG FY2009-08	\$ -	\$ -	Pole-Support Canopy	n/a

<b>TOTAL</b>	<b>\$ 196,800.91</b>	<b>\$ 15,396.02</b>
<b>ROI</b>	<b>\$12.78</b>	<b>Earmark Balance \$4,603.98</b>

**FY2007-08**

Address	Building/Business Name	Owner	File #	Project Amount	Grant Amount	Project	Completed
436 E Main Street	Cider House Studio	Holley Carpenter	FIG FY2008-01	\$ 4,000.00	\$ 2,000.00	Exterior Improvements	x

<b>TOTAL</b>	<b>\$ 4,000.00</b>	<b>\$ 2,000.00</b>
<b>ROI</b>	<b>\$2.00</b>	

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5a

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF PLANNED DEVELOPMENT DISTRICT PDD 2012-03 FOR RIVERWOOD PLACE SENIOR LIVING CENTER LOCATED ON PRITCHARD ROAD.**

**DESCRIPTION:** The applicant is seeking rezoning from B-3 Highway Business to planned development district mixed use to allow a 60 unit senior apartment facility for residents 55 and older on a 4.31 acre parcel of land. Due to the small size of the parcel, the site plan is functioning as the master plan.

At its February 27, 2012, Planning Board meeting, the Planning Board recommended approval with the conditions presented by staff and added the condition a sidewalk connection shall be installed from the proposed sidewalk on the west side of the building to Collinsworth Drive with adequate lighting for use at night. Additionally, the Planning Board approved the site plan (SP 2012-04) contingent upon Council approval of the planned development district request.

The Town Council held a public hearing on May 2, 2011, for planned development district PDD-MU 2011-05. The request was approved by Council; however, the applicant did not return executed documents to the Town Clerk for recordation.

This item is slated for evidentiary hearing at the Monday, April 2, 2012, Council meeting.

**RELATED GOAL:** Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Application, Neighborhood Meeting minutes, staff report, Waste water allocation Request, map, and master Plan.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5b

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF PLANNED DEVELOPMENT DISTRICT PDD 2012-05 FOR EAST VILLAGE OF CLAYTON LOCATED ON EAST FRONT STREET BETWEEN OLD NC HWY 42 EAST AND CENTER STREET.**

**DESCRIPTION:** The applicant is requesting approval for planned development district request PDD-R 2012-05 and modification to the subdivision plan. The modification increases the size of the PDD and changes the proposed mix of uses (adding apartments), phasing lines, and lot configuration.

At its February 27, 2012, Planning Board meeting, the Planning Board unanimously recommended of the planned development district and subdivision plan as presented with the conditions recommended by staff.

**HISTORY for East Village of Clayton:**

- Hearing for PDD-R on March 3, 2008; DB 3539, Pg 176-182; and
- Hearing for subdivision approval of SUB 06-04 held on July 17, 2006; and
- Hearing for subdivision approval of SUB 05-02 held on May 2, 2005.

**This item is slated for evidentiary hearing at the Monday, April 2, 2012, Council meeting.**

**RELATED GOAL:** Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Application, Neighborhood Meeting minutes, staff report, Waste water allocation Request, map, and master Plan.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5c

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF PLANNED DEVELOPMENT DISTRICT PDD 2012-07 FOR RIVERWOOD RANCH AND LOCATED ON PRITCHARD ROAD ACROSS FROM THE ATHLETIC CLUB SUBDIVISION.**

**DESCRIPTION:** The applicant is requesting approval for a planned development district PDD-MU modification to the master plan and modification to the subdivision plan. The modification changes the proposed mix of uses, adding senior housing and additional commercial outparcels, phasing lines and lot configuration.

At its February 27, 2012, Planning Board meeting, the Planning Board unanimously recommended of the planned development district and subdivision plan as presented with the conditions recommended by staff.

The Town Council held a public hearing on October 8, 2008, for planned development district PDD-MU 2008-01; Deed Book 3635, pages 949-954.

This item is slated for evidentiary hearing at the Monday, April 2, 2012, Council meeting.

**RELATED GOAL:** Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Application, Neighborhood Meeting minutes, staff report, Waste water allocation Request, map, and master Plan.

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

**Agenda Item:** 5d

**Meeting Date:** 3/19/12

**TITLE:** PRESENTATION OF TEXT AMENDMENT UPDATES AND/OR REVISIONS TO THE UNIFIED DEVELOPMENT CODE, CHAPTER 155 OF THE TOWN CODE OF ORDINANCES:

- MANUFACTURED HOME FOUNDATION SCREENING; 155.302 (G);
- ARTICLE 2, CHAPTER 155
- ARTICLE 3, CHAPTER 155

**DESCRIPTION:** Attached.

This item is slated for evidentiary hearing at the Monday, April 2, 2012, Council meeting.

**RELATED GOAL:** Manage Growth Producing Quality Developments

**ITEM SUMMARY:**

Date:

Action:

Info. Provided:

3-19-12

Presentation.

Ordinance Amendments (3).

**TOWN OF CLAYTON**  
**Amendment to the Code of Ordinances: Chapter 155**  
**Unified Development Code**

**BEING HEREBY ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF CLAYTON, NORTH CAROLINA to amend 155.302 (G)(1)(a) with the following:**

**§ 155.302 RESIDENTIAL USE STANDARDS.**

*(G) Manufactured home parks.*

*(1) General requirements.*

(a) Notwithstanding the criteria set forth in division (F) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (F) above, except divisions (F)(2), (F)(3) and (F)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with ~~faux~~ skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.

Duly adopted this \_\_\_\_ day of \_\_\_\_\_ 2012, while in regular session.

\_\_\_\_\_  
Jody L. McLeod  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sherry L. Scoggins, MMC  
Town Clerk

\_\_\_\_\_  
Brenton W. McConkey  
Town Attorney

## ARTICLE 2: ZONING DISTRICTS

### § 155.200 DISTRICTS ESTABLISHED.

To carry out the provisions of this chapter, within the jurisdiction of the Town, the following zoning districts are established.

(A) *General use districts*

(1) *Residential.*

(a) **R-E | Residential-Estate.** ~~This~~The R-E district is comprised of low density, single-family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space subdivisions are permitted.

(b) **R-10 | Single-Family Residential-10.** ~~The R-10 district is established~~ and is intended to provide for orderly suburban residential development and redevelopment, and is intended to maintain residential areas at relatively low densities characterized predominantly by owner-occupied, single-family detached units. The district requirements protect existing neighborhoods from undesirable ~~or incompatible uses and residential conversions.~~ To encourage higher quality development and to ensure greater environmental protection, open space subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(c) **R-8 | Single-Family Residential-8.** ~~The R-8 district is established~~ and is intended to provide for orderly suburban residential development and redevelopment, and is intended to maintain residential areas at suburban densities characterized predominantly by owner-occupied, single-family detached units. To encourage higher quality development and to ensure greater environmental protection, open space subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(d) **R-6 | Single-Family Residential-6.** ~~The R-6 district is established~~ and is intended to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density which include multi-family dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

(2) *Nonresidential.*

(a) **O-R | Office-Residential.** ~~The O-R district is intended~~ to accommodate modest-scale professional occupations, along with single-family and multi-family residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

(b) **O-I | Office-Institutional.** ~~The O-I district is intended~~ to permit offices, institutions and associated administrative, executive, professional and research uses in new

and existing structures and limited retail uses. Such offices and instructional user should be located along major roadways, adjacent to commercial uses to act as a buffer between such roadways and residential uses.

(c) **B-1 | Central-Business.** [The B-1 district is intended](#) to foster a vibrant, safe, town center by encouraging residential development while retaining and further developing a broad range of commercial, office, institutional, public, cultural and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work and recreate.

(d) **B-2 | Neighborhood-Business.** [The B-2 district provides opportunities](#) for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive and conducted at a scale and density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation and utilities.

(e) **B-3 | Highway-Business.** [The B-3 district provides](#) locations of offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares and, therefore, are accessible to and serve the entire community. Site design and buffering mitigate impacts of traffic, operations and scale on adjacent businesses and residential neighborhoods.

(f) **I-1 | Industrial-Light.** [The I-1 district Promotes fosters](#) the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries that by their nature may create some nuisance to surrounding properties.

(g) **I-2 | Industrial-Heavy.** [The I-2 district fosters Promotes](#) the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Indented for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.

(3) *Planned Development.*

(a) **PD-R | Planned Development-Residential.** [The PD-R district Intended to provides opportunities](#) for master-planned residential communities containing a mix of housing types, including associated amenities with appropriate perimeter buffering and open space. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in [the a](#) residential districts, or greater scrutiny by the Town due to their scale.

(b) **PD-C | Planned Development-Commercial.** [The PD-C district is intended](#) to enhance the design of a commercial development by allowing for additional flexibility not available in the nonresidential districts. The district allows for innovations and special features

in site development, including the location and type of structures, the conservation of natural features, the conservation of energy, and the efficient use of open space.

(c) **PD-I | Planned Development-Industrial.** The PD-I district is intended to provide a means of achieving unified industrial complexes of high quality to promote amenities beyond those expected under conventional techniques, to achieve greater flexibility in design, to encourage well-planned industrial developments that provide for community needs, to provide for appropriate use of land which is significantly unique in its physical characteristics, location or other circumstances to warrant special methods of development, and to allow the expansion of existing industrial areas while safeguarding and maintaining the integrity of surrounding uses, especially those of a residential nature.

(d) **PD-MU | Planned Development-Mixed Use.** The PD-MU district is intended to provide coordinated mixed use developments which include light industrial, commercial, office, educational, civic, institutional, residential and service uses within a planned development with appropriate perimeter buffering and open space. The variety of land uses available in this district allows flexibility to respond to market demands and the needs of tenants, which provides for a variety of physically and functionally integrated land uses.

(B) *Special Use Districts.*

(1) Pursuant to G.S. § 160A-382, the Town Council may establish by ordinance various special use districts upon request by or on behalf of all owners. Parallel special use districts shall be designated by adding "-S" to the corresponding general use district.

(2) All zoning regulations that apply to the general use district are the minimum within the corresponding special use district.

(3) A special use district may provide for greater but not lesser setbacks than those applicable to the corresponding general use district, and may ~~specify that only one or some of~~ limit the uses permissible number of uses. in the general use district are permissible in the special use district.

(4) Under each special use district, all uses ~~allowed as permissible in the corresponding general use district are~~ must be approved through ~~permitted only upon the~~ issuance of a special use permit granted by the Town Council in accordance with § 155.711. However, a special use permit is not required as a prerequisite to establish a special use district, since the district itself may be conditioned and established first and then developed much later. However, a special use permit may be submitted in tandem petition for the special use district, either by preference of the applicant or upon request by the Town Council or Planning Director, if either finds that such permit is necessary in order to consider an application for a special use district.

(5) If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this chapter that the authorization of such special use permit shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification.

(C) *Overlay Districts.*

(1) *Thoroughfare Overlay Districts.*

(a) Thoroughfare Overlay District (TOD). The Thoroughfare Overlay District is established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in § 155.204(A) shall be applied, at the discretion of the Town Council, to nonresidential properties which adjoin major thoroughfares, as designated on the Town's Transportation Plan.

(b) Thoroughfare Overlay District II (TOD-II). The Thoroughfare Overlay District II is established for the same purpose, and shall be applied to properties strategically situated at the primary entryways into the Clayton area.

(2) *Watershed Protection Overlay (WPO).*

(a) The Watershed Protection Overlay (WPO) is hereby established as a district that overlays the designated water supply watershed. The designated water supply watershed under this district is defined and established by the overlay district "~~WP~~ Watershed Protection Overlay" on the zoning map. Land use and development within the ~~WPO Overlay~~ must comply with all the requirements of both the underlying zoning district and the watershed overlay.

(b) The designated water supply watershed within the Town is designated by the state as a Class IV watershed protected area (WS-IV PA) and is referred to as the Neuse River (Smithfield) watershed within the Neuse River basin. Only new development activities that require an erosion/sedimentation control plan under state law or approved local government program are required to meet the provisions of this program. See § 155.501 for watershed protection standards.

(D) *Interpretation of District Boundaries.*

(1) *Defined.* District boundaries as are shown upon the ~~Official Zoning Map~~ of the Town ~~adopted by this chapter~~ as set forth in § 155.1034, ~~are hereby and as~~ adopted ~~by Town Council, and~~ ~~†~~The provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries ~~of each and every district~~ as shown on the map.

(2) *Rules for interpretation.*

(a) The Board of Adjustment is authorized to interpret the ~~Official Zoning Map~~ and ~~to passact~~ upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Planning Director, they shall be handled as provided in § 155.717.

(b) An application for an ~~Official Zoning Map~~ interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Planning Director. The

application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(c) Where uncertainty exists as to the boundaries of any district shown on the [Official Zoning Map](#), the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and
3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.
4. Where a district boundary divides a lot or where distances are not specifically indicated on the zoning map, the boundary shall be determined by measurement, using the scale of the zoning map.
5. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09)

#### **§ 155.201 MEASUREMENTS AND EXCEPTIONS.**

(A) *General.* No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

(B) *Building coverage.* The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

(C) *Impervious surface.* The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings, paved areas such as driveways, uncovered porches or patios, or solid decks.

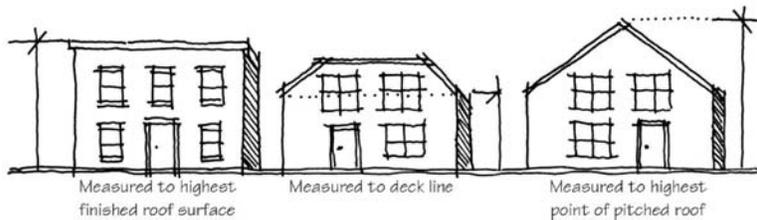
(D) *Building separation.* The required separation between any two buildings located on the same lot or parcel of land.

(E) *Gross floor area.* The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:

- (1) The area of each floor of the structure;
- (2) All attic space used for active commercial space; and
- (3) All outside storage areas as permitted § 155.405.

(F) *Height.*

(1) Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface of any flat roof, to the deck line of a mansard roof, or to the highest point of the ridge of any pitched roof.



(2) No structure shall be erected or altered so as to exceed the height limit or density regulations of this subchapter for the district in which it is located.

(3) The Board of Adjustment may grant a conditional use permit in accordance with § 155.710 for structures such as spires, belfries, cupolas, domes not intended for human occupancy, monuments, water tanks/towers, transmission and telecommunication towers, chimneys, flagpoles, aerials or antennas, or other similar structures which, by design or function, must exceed established height limits of the district in which it is to be located.

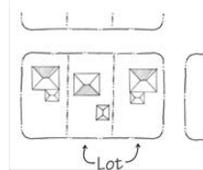
(4) The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits of any district.

(G) *Area.* Area shall be measured in gross square feet or acres.

(1) *Lot.*

(a) A single lot of record, or more than one contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley.

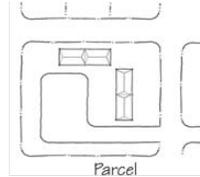
(b) Lot area shall be that area included in a single, undivided piece of land.



(c) Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas (see § 155.500), and required recreation and open space (see § 155.203(H)).

(2) *Parcel.*

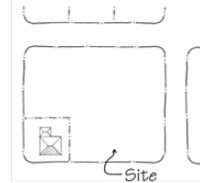
(a) A continuous quantity of land in the possession of or owned by, or recorded as property of the same person or persons. A parcel may contain multiple buildings or uses.



(b) Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.

(3) *Site.*

(a) A continuous quantity of land to be developed as a single project. A site may contain multiple parcel or lots.



(b) Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

(c) Net site area shall mean the total gross area of the parcel, minus any resource conservation areas (see § 155.500) located on the site.

(H) *Width.*

(1) *Building width.* Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

(2) *Parcel or lot width.* Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.



(I) *Density.*

(1) Density shall be allocated to each development parcel as follows:

(a) One hundred percent of the district density for the area outside of resource [protection-conservation](#) areas; and

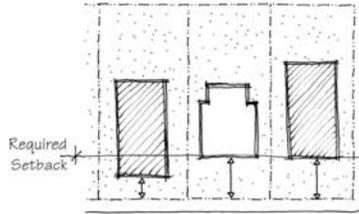
(b) Fifty percent of the district density for any resource conservation areas.

(2) Density for single-family districts shall be calculated by dividing one acre of land (43,560 square feet) by the minimum single-family detached lot size for the district.

(J) *Yards and setbacks.*

(1) *General.*

(a) All street yard and side yard (street) setbacks shall be measured from the edge of the right-of-way.



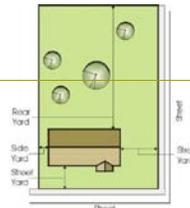
(b) The minimum street yard requirements of this subchapter for residential dwellings shall not apply on any lot where the average street yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required street yard. In such cases, the street yard on such lots may be less than the required street yard, but not less than the adjacent dwelling with the greatest street yard depth.

(c) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this chapter.

(d) No part of a yard or other open space required about any structure or use for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

(2) *Types of yards.*

(a) There are four types of yards - street, side (street), side (interior), and rear yards.

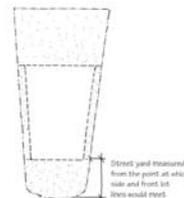


Formatted: Font:

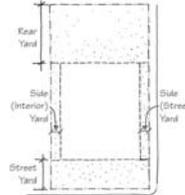
(b) Double frontage lots shall be considered to have two street yards.

(3) *Measurement of yards.*

(a) Depth of a required street yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.



(b) Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.



(c) Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

(4) *Yard encroachments.* The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

(a) Parking structures may extend into the rear yard of a dwelling unit.

(b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.

(c) Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and one-half feet above the ground elevation, and it is located at least five feet from any other building or eave.

(d) Sills and ornamental features may project up to 24 inches into any required yard.

(e) Except in the B-1 District, fire escapes may project up to eight feet into any required yard.

(f) Signs may extend into required yards in conformance with standards found in [the § 155.403](#).

(g) Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.

(h) Security gates and guard stations may be located within any required yard.

(i) Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.

(j) Covered porches may encroach a maximum of 20% of the required street yard setback depth.

(k) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.

(l) Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.

(m) Structures below and covered by the ground may extend into any required yard.

(n) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.

(o) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard and may be no closer than one foot from the property line subject to visibility restrictions.

(p) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.202 LAND USE REGULATIONS.**

(A) *Housing types.*

(1) *Definitions.* The following housing types are established to provide a common terminology for housing in the Town. All drawings are for illustrative purposes only.

<p><b>Single Family Detached</b> A detached dwelling unit located on a single lot with private yards on all four sides</p>			
<p><b>Zero Lot Line House</b> A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.</p>			
<p><b>Alley-Loaded House</b> A detached dwelling unit located on a single lot with private yards on all four sides: however, the house is set closer to the street than a single-family detached house.</p>			
<p><b>Two-Family House</b> Two attached dwelling units in a single structure on a single lot (often called a duplex). The two units can be located on separate floors or side-by-side.</p>			
<p><b>Townhouse</b> Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically.</p>			
<p><b>Apartment</b> Three or more attached dwelling units in a single structure on a single lot. An apartment can vary in height from two to five stories, individual units can be mixed vertically.</p>			
<p><b>Upper-Story Residential</b> A dwelling unit located on a floor above a nonresidential use.</p>			

Formatted Table







Article 2 / Zoning Districts

	R-E	R-10	R-8	R-6	O-R	O-1	B-1	B-2	B-3	I-1	I-2	Specific Use Standard
P= Permitted   C= Conditional Use (§ 155.710)   S= Special Use (§ 155.711)   * = Group of Uses (§ 155.300)												
<b>CIVIC USES</b>												
Additions and/or alterations to public and private primary and secondary schools	P	P	P	P		P			P			-
Adult care home (2 to 6)	P	P	P	P								§ 155.303(A)
Adult care home (7 to 12)	S	S	S	S		E	S	S	S			§ 155.303(A)
Adult care home (13+)						E	S	S	S			§ 155.303(A)
Boarding house				E		P		P				§ 155.303(B)
Child care home (3 to 8)	E	E	E	E	E							§ 155.303(C)
Child care center (9+)	E	E	E	E	E	P	P	E	P			§ 155.303(D)
College						P						-
Civic club	E			E	P	P		P	P			-
Hospital						P			P	E		-
Museum, library					P	P	P	P	P			-
Nursing home	E			E		P		S	P			-
Park, open area*	S	S	S	S	S	S	S	S	S	S	S	-
Place of worship	E	E	E	E		E		E	E			§ 155.303(E)
Public facility	S	S	S	S	S	P	S	P	P	S	S	§ 155.303(F)
School (public or private)	S	S	S	S		S			S			§ 155.303(G)
Technical, trade, business school	S	S	S	S		P	P		P	P	P	-
Utility, Minor*	P	P	P	P	P	P	P	P	P	P	P	-
Utility, Major*										P	P	-
Wireless facility	S	S	S	S	S	S	S	S	S	S	S	§ 155.303(H)
<b>COMMERCIAL USES</b>												
Adult-oriented business									S		S	§ 155.304(A)
Agriculture (livestock)*	E										E	-
Agriculture (sales, processing)*	P										E	-
Amusement center							E	E	E			-



Office, Medical*					P	P	P	P	P	P	P	-
Outdoor recreation*									E	P		-
Outdoor seating and sidewalk cafes							P					§-155.304(O)
Radio or television studio									P	P	P	-
Recreational club, private	E	E	E	E	E	E	E	E	E	E	E	§-155.304(G)
Restaurant						E	P	P	P	E		-
Retail, Neighborhood*							P	P	P			§-155.304(H)
Retail, General*							P		P			§-155.304(H)
Self storage facility							E	E	P	P		§-155.304(I)
Service, Neighborhood*							P	P	P			§-155.304(J)
Service, General*							P		P			§-155.304(J)
Tattoo parlor									S			-
Vehicle repair*									S	P	P	§-155.304(K)
Vehicle sales*									P	P	P	§-155.304(L)
Vehicle service*							E		P	P	P	§-155.304(M)
Veterinarian, animal hospital	E						P	E	P	P		§-155.304(N)
Warehouse/freight movement*									E	P	P	-
<b>INDUSTRIAL USES</b>												
Crematorium										P	P	-
Manufacturing, General*										P	P	-
Manufacturing, Heavy*											P	-
Research & Development*						P			P	P	P	-
Waste service*										E	P	-

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2009-06-06, passed 6-1-09; Am. Ord. 2009-08-03, passed 8-3-09)

**§ 155.203 GENERAL USE DISTRICT STANDARDS.**

(A) *Intent.* The general use district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the Town. Separate standards are established to regulate development in each general use district. This approach to district development standards ~~has several public benefits~~ benefits the public by:

- (1) ~~It allows~~ Allowing for development that is more sensitive to the environment and allows ~~for~~ encourages the preservation of open and natural areas.

(2) ~~It promotes~~Promoting quality site ~~layout design~~ and energy-efficient development.

(3) ~~It promotes~~Promoting affordable and life-cycle housing.

(4) ~~It promotes~~Promoting development intensities that ~~match maximize~~ existing and proposed infrastructure investments.

(B) *Resource conservation areas.*

(1) No resource conservation area (see §-155.500) shall be counted towards lot area required by this subchapter. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of this subchapter.

(2) No resource conservation area shall be counted towards the recreation and open space requirements (see (H) of this section).

(C) *Clayton general design guidelines.* The Town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers should use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant should refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

(D) *How to use this section.* This section is divided into the following:

**Part 1. Residential Districts.** This Part sets forth specific standards for development in residential districts. § 155.203(E) through § 155.203(J)

---

**Part 2. Nonresidential Districts.** This Part sets forth specific standards for development in nonresidential districts. § 155.203(K)

---

**Part 3. Planned Development Districts.** This Part sets forth specific standards for development in planned development districts. § 155.203(L)

---

## **PART 1. RESIDENTIAL DISTRICTS**

(E) *Purpose and intent.* The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the Town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

(F) *Residential subdivision types.* Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

(1) *Conventional residential subdivision.* A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

(2) *Open space residential subdivision.* An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

(G) *Conventional subdivision standards.*

(1) *Applicability.* A conventional residential subdivision is permitted in all residential districts subject to the following standards.

(2) *Density.* In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) *Development standards.* Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) *Lots not served by public water and sewer.* No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) *Minimum square footage.* Minimum square footage requirements have been established for conventional subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Residential subdivisions which have a valid subdivision/plat approval, and additions to existing dwelling units are exempt from the minimum square footage requirements.

(6) *Dimensional standards.* Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

**Table 2-2 Conventional Subdivision Regulations**

Formatted: Font: Bold

<b>Conventional Subdivision Standards</b>																
Zoning District	Unit Type	Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Lot Standards				Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards			
				Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft.)	Accessory Structures	
<b>R-E</b>	Single Family with water and sewer	--	--	20,000	80	35	50	2	35	15	25	30	35	1,400	See §155.305	
	Single Family with well and septic	--	--	40,000	100	35	50	1	35	15	25	30	35	1,400		
<b>R-10</b>	Single Family	--	--	10,000	70	35	50	4	30	10	20	25	35	1,100	See §155.305	
	Zero Lot Line	--	--	10,000	70	35	50	4	30	0	20	25	35	1,100		
	Alley Loaded	--	--	10,000	70	35	50	4	30	10	10	25	35	1,100		
	Two Family		12,000	<b>Set by Special Use Process</b>												
	Townhouse (2 units)		12,000													
	Townhouse (3+ units)		20,000													
Apartments		20,000														
<b>R-8</b>	Single Family	--	--	8,000	60	35	55	5	25	10	15	25	35	1,100	See §155.305	
	Zero Lot Line	--	--	8,000	60	35	55	5	25	0	15	25	35	1,100		
	Alley Loaded	--	--	8,000	60	35	55	5	15	10	15	25	35	1,100		
	Two Family		10,000	<b>Set by Special Use Process</b>												
	Townhouse (2 units)		10,000													
	Townhouse (3+ units)		20,000													
Apartments		20,000														
<b>R-6</b>	Single Family	--	--	6,000	50	35	60	7	20	6	10	20	35	960	See §155.305	
	Zero Lot Line	--	--	6,000	50	35	60	7	20	0	10	25	35	960		
	Alley Loaded	--	--	6,000	50	35	60	7	10	6	10	25	35	960		
	Two Family		8,000	<b>Set by Special Use Process</b>												
	Townhouse (2 units)		8,000													
	Townhouse (3+ units)		20,000													
Apartments		20,000														
<b>Notes</b>																
1	Minimum dwelling unit size = total heated square footage															
2	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.302 (F) and (G)															
3	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.															
4	A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.															
5	Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.															
6	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.															
7	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.															
8	In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.															

(H) *Open space subdivision standards.*

(1) *Intent.* The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

(a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

(b) To preserve important historic and archaeological sites.

(c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.

(d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

(e) To promote interconnected greenways and corridors throughout the community.

(f) To create contiguous greenspace within and adjacent to the development site.

(g) To protect scenic views.

(h) To protect prime agricultural land and preserve farming as an economic activity.

(2) *Applicability.* An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

(3) *Mix of housing types.* Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) *Minimum square footage.* Minimum square footage requirements have been established for open space subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Existing dwelling units, including any additions thereto, are exempt from the minimum square footage requirements.

(5) *Development standards.* Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405

and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(6) *Dimensional standards.* Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

[The Remainder of this Page Left Intentionally Blank]

**Table 2-3 Open Space Subdivision Regulations**

Formatted: Font: Bold

<b>Open Space Subdivision Standards</b>															
Zoning District	Unit Type	Lot Standards						Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft.)	Accessory Structures
<b>R-E</b>	Single Family	10	--	12,000	48	35	50	3	21	9	15	18	35	1,400	See §155.305
<b>R-10</b>	Single Family	10	--	8,000	50	35	50	5	25	6	15	15	35	1,100	See §155.305
	Zero Lot Line	10	--	8,000	50	35	50	5	25	0	15	15	35	1,100	
	Alley Loaded	10	--	6,000	42	35	50	7	15	5	10	15	35	960	
	Two Family	10	12,000	12,000	75	35	50	3	25	6	15	15	35	960	See §155.305
	Townhouse (2 units)	10	12,000	6,000	42	35	50	3	25	6	15	15	35	960	
	Townhouse (3+ units)	10	20,000	4,000	25	35	50	10	25	15	15	15	35	700	
Apartments	10	20,000	--	--	35	50	10	25	15	15	15	35			
<b>R-8</b>	Single Family	10	--	6,000	42	35	55	7	20	6	10	15	35	960	See §155.305
	Zero Lot Line	10	--	6,000	42	35	55	7	20	0	10	15	35	960	
	Alley Loaded	10	--	4,800	40	40	55	9	10	5	10	15	35	960	
	Two Family	10	10,000	9,000	65	40	55	4	20	6	10	15	35	700	
	Townhouse (2 units)	10	10,000	4,800	40	40	55	9	20	6	10	15	35	700	
	Townhouse (3+ units)	10	20,000	3,000	21	40	55	10	20	--	10	15	35	700	
	Apartments	10	20,000	--	--	40	55	10	15	10	15	20	35		
<b>Notes</b>															
1	Minimum dwelling unit size = total heated square footage														
2	Minimum dwelling unit size for multi-family is a per unit minimum														
3	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.302 (F) and (G)														
4	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.														
5	A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District														
6	A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.														
7	Public water and sewer is required in all residential Zoning Districts.														
8	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.														
9	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.														
10	The minimum building separation for townhouse parcels and apartment parcels is 20 feet.														

(7) *Utilities.* To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(8) *Project boundary buffer.*

(a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.

(b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

(I) *Recreation and open space requirements.*

(1) *Applicability.* Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

(2) *All residential subdivisions.*

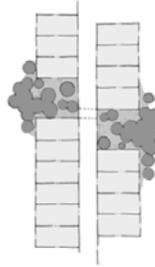
(a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.

(b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.

(c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

(3) *Open space residential subdivision.*

(a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.



(b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (H)(2) of this section. The Town Council reserves the right to refuse to accept dedication.

(c) Where the recreation and open space is retained privately, or deemed unacceptable as public recreation and open space by the Town Council, it shall receive only 50% credit against the recreation and open space requirement, in recognition of a reduced burden on the Town's public recreation and open space system.

(4) *Configuration of recreation and open space.*

(a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.

(b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:

1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
2. The right-of-way area is not included in the calculation of minimum recreation and open space required.

(c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.

(d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

(e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.

(f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved

recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

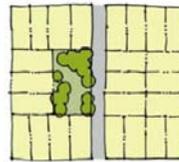
**Tot Lot & Playgrounds (Private Only).** *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



**Mini-Park (Private Only).** *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



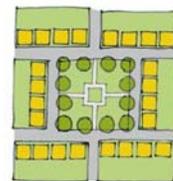
**Plaza.** *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



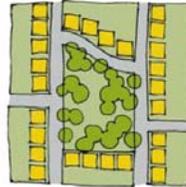
**Squares.** *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



**Green.** *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



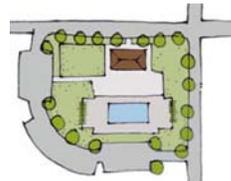
**Neighborhood Park.** *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



**Clubhouse/Pool Amenity Area.** *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



**Greenway.** *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



(5) *Adopted municipal and county plans.* Adopted municipal and county plans shall be taken into consideration when evaluating land proposals.

(6) *Permitted uses of recreation and open space.* Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;
- (g) Above-ground utility rights-of-way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and
- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) *Prohibited uses of recreation and open space.* Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) *Ownership and management of recreation and open space.*

(a) Ownership. Recreation and open space shall be accepted and owned by one of the following entities:

1. Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the town.

2. Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.

3. Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.

4. Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) Management. Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

1. Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;

3. Provides that any changes to the plan be approved by the Town; and

4. Provides for enforcement of the plan.

(c) Maintenance.

1. Passive recreation and open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

2. No specific maintenance is required for agricultural uses.

3. Active recreation and open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

(d) Failure to maintain. In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The

costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) *Legal instrument for permanent protection.*

(a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

1. A permanent conservation easement in favor of either:

A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or

B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the Town, then a third right of enforcement favoring the Town shall be included in the easement.

2. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

3. An equivalent legal tool that provides permanent protection, if approved by the Town.

(b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(j) *Nonresidential development in residential districts.* As set forth in the ~~Permitted Land-Use Regulation~~ Table (~~Table 2-1 (see § 155.202(B))~~) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the ~~following~~ dimensional standards ~~provided in~~ [Table 2-4](#). Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**Table 2-4 Nonresidential Development Standards for Residential Districts**

Zoning District	Lot Standards			Minimum Setbacks				Building Standards		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street (Front)	Side Interior	Side Street	Rear	Max. Building Height (ft.) <sup>(1)</sup>	Building Coverage	Impervious Surface
<b>R-E</b>	20,000	80	Required	35	15	25	30	35	35%	50%
<b>R-10</b>	10,000	70	Required	30	10	20	25	35	35%	50%
<b>R-8</b>	8,000	60	Required	25	10	15	25	35	35%	55%
<b>R-6</b>	6,000	50	Required	20	6	10	20	35	35%	60%

**Notes**

(1) The Council may grant a special use permit in accordance with § ~~155.713~~155.711, allowing nonresidential buildings to exceed the maximum height limits of the district.

Formatted: Font: Bold  
Formatted: Centered, Indent: Left: 0"

Formatted: Centered, Space After: 0 pt, Line spacing: single

	<b>R-E</b>	<b>R-10</b>	<b>R-8</b>	<b>R-6</b>
<b>Lot (min.)</b>				
Lot area (sq. ft.)	20,000	10,000	8,000	6,000
Lot width (ft.)	80	70	60	50
Water/sewer	Required	Required	Required	Required
<b>Yards (min. ft.)</b>				
Street yard	35	30	25	20
Side yard (interior)	15	10	10	6
Side yard (total)	30	20	20	12
Side yard (street)	25	20	15	10
Rear yard	30	25	25	20
<b>Bulk (max.)</b>				
Height (ft.)	35 <sup>(1)</sup>	35 <sup>(1)</sup>	35 <sup>(1)</sup>	35 <sup>(1)</sup>
Building coverage	35%	35%	35%	35%
Impervious surface	50%	50%	55%	60%

<sup>(1)</sup> The Council may grant a special use permit in accordance with § 155.713, allowing nonresidential buildings to exceed the maximum height limits of the district.

**PART 2. NONRESIDENTIAL DISTRICTS**

(K) *Nonresidential district standards.*

(1) Development standards. Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) *Nonresidential dimensional standards.*

(a) As set forth in the ~~Permitted Land-Use Regulations~~ Table (Table 2-1 see § 155.202(B)) certain ~~nonresidential~~ uses are ~~permitted~~ allowed in nonresidential districts. ~~Permitted-Allowed nonresidential~~ uses shall meet the following dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

**Table 2-5 Nonresidential Dimensional Standards**

Formatted: Font: Bold

Zoning District	Lot Standards			Minimum Setbacks (ft.)				Building Standards <sup>(1)</sup>		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street / Front (Max.)	Side Interior (abutting residential)	Side Street	Rear (abutting residential)	Max. Building Height (ft.) <sup>(1)</sup>	Building Coverage	Impervious Surface
<b>O-R</b>	6,000	50	Required	20	6 (6)	10	20 (20)	35	50%	75%
<b>O-I</b>	6,000	60	Required	30	10 (30)	20	20 (30)	60	50%	75%
<b>B-1<sup>(1)</sup></b>	None	None	Required	0 <sup>(2)</sup>	0 (30)	0	0 (30)	50	--	--
<b>B-2</b>	6,000	50	Required	20	10 (30)	10	20 (30)	35	50%	75%
<b>B-3</b>	8,000	60	Required	25	15 (30)	30	30 (30)	60	50%	75%
<b>I-1</b>	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%
<b>I-2</b>	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%

- Notes:
- (1) No maximum building coverage or impervious surface limits in the B-1 Zoning District
  - (2) Maximum 10 foot street yard setback in B-1 Zoning District
  - (3) Minimum Building Separation in all Zoning Districts is 20 feet
  - (4) The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits

Formatted Table

	<b>O-R</b>	<b>O-1</b>	<b>B-1</b>	<b>B-2</b>	<b>B-3</b>	<b>I-1</b>	<b>I-2</b>
<b>Parcel (min.)</b>							
Parcel area (sq. ft.)	6,000	6,000	None	6,000	8,000	20,000	20,000
Parcel width (ft.)	50	60	None	50	60	100	100
Water/sewer	Required						
<b>Yards (min. ft.)</b>							
Street yard (min.)	20	20	0	20	25	50	50
Street yard (max.)	None	None	10	None	None	None	None
Side yard (interior abutting residential district)	6	10	0	10	15	20	20
Side yard (street abutting residential district)	6	30	30	30	30	30	30
Rear yard (interior abutting residential district)	10	20	0	10	25	30	30
Rear yard (street abutting residential district)	20	20	0	20	30	40	40
Building Separation	20	20	20	20	20	20	20
<b>Bulk (max.)</b>							
Height (ft.)	35	60	50	35	60	50	50
Building coverage	50%	50%	—	50%	50%	50%	50%
Impervious surface	75%	75%	—	75%	75%	75%	75%

Formatted Table

\* No maximum building coverage or impervious surface limits in the B-1 Zoning District

(b) More than one building may be permitted be on a single lot (see § 155.301).

(c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.

(d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) *Residential dimensional standards.*

(a) As set forth in the ~~Permitted Land-Use Regulations~~ Table (~~Table 2-1~~ see § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). ~~However, except i~~With in the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

(b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform ~~with to all the~~ lot, yard and bulk requirements of the principal building.

(c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

**PART 3. PLANNED DEVELOPMENT DISTRICTS**

(L) *Planned development district standards.*

(1) *General provisions for all planned developments (PD-R, PD-C, PD-I, PD-MU).*

(a) Rezoning criteria. In approving a rezoning for a planned development, the Town Council shall find the district designation and planned development master plan comply with the general standards for all planned development in this section and the specific standards for the proposed planned development listed in (K)(2) through (5) of this section, respectively.

(b) Planned development master plan. The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

(c) Design guidelines and dimensional standards. Each planned development shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area and dimensional standards shall be established by the Town Council at the time of approval.

(d) General development standards. Unless specifically waived by the Town Council, all standards specified in §§ 155.400 through 155.405 shall apply.

(e) Resource conservation areas.

1. No resource conservation area (see § 155.500) shall be counted towards lot area. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided.

2. No resource conservation area shall be counted towards the recreation and open space requirements (see below).

(f) Recreation and open space. The planned development master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see [§ 155.203\(H\)-\(H\) of this section](#)).

(g) Stormwater management. When determined necessary by the Town Council, the planned development master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) Phasing. If development is proposed to occur in phases, the planned development master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(2) *Planned Development-Residential (PD-R) District.*

(a) Minimum requirements.

1. The Planned Development -Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.

2. Unless waived by the Town Council, the PD-R District is permissible on tracts of land of least ten contiguous acres.

(b) ~~Permitted Uses.~~ ~~All uses permitted listed~~ in the R-E, R-10, R-8, R-6 Districts are generally permitted-allowed in a PD-R District (see [Table 2-1 § 155.202](#)), subject to approval by the Town Council.

(b) Project boundary buffer.

1. A perimeter buffer shall be required along all project boundaries of a planned residential development~~No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.~~

2. Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(3) *Planned Development-Commercial (PD-C) District.*

(a) Minimum requirements.

1. The Planned Development- Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.

2. Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

(b) ~~Permitted Uses. All The uses permitted listed~~ in the O-I, B-1, B-2, and B-3 districts are ~~permitted generally allowed~~ in a PD-C District ([Table 2-1](#) see § 155.202), subject to approval by the Town Council.

(c) Project boundary buffer.

1. Unless waived by the Town Council, a Class B buffer (see § 155.402) shall be provided along all project boundaries abutting a nonresidential district.

2. Unless waived by the Town Council, a Class C buffer (see § 155.402) shall be provided all project boundaries abutting a residential district.

(4) *Planned Development-Industrial (PD-I) District.*

(a) Minimum requirements.

1. The Planned Development- Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.

2. The PD-I District is permissible on tracts of land of least ten contiguous acres.

(b) ~~Permitted Uses.~~

1. ~~All The~~ uses ~~permitted by right, as conditional uses, and as special uses listed~~ in the B-1, B-2, B-3, I-1, and I-2 Districts are ~~permitted generally allowed~~ in a PD-I District (see § 155.202), subject to approval by the Town Council.

2. Non-industrial or non-manufacturing uses located in a PD-I District are intended to serve the needs of the development and not the needs of a surrounding area. Areas designated for non-industrial and non-manufacturing activities shall be oriented towards the interior of the project and shall not be located on exterior or perimeter streets or property boundaries, but shall be centrally located within the project to serve the employees of the district.

(c) Project boundary buffer. A Class C buffer shall be provided (see § 155.402) along all project boundaries.

(5) *Planned Development-Mixed Use (PD-MU) District.*

(a) Minimum requirements.

1. The Planned Development- Mixed Use District is an option provided to encourage coordinated mixed use developments.

2. Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

(b) ~~Permitted-U~~uses.

1. ~~All~~The uses ~~listed permitted by right, as conditional uses, and as special uses in the~~ in the ~~Permitted-Use Regulations~~ Table ~~are generally allowed~~is permitted in a PD-MU District (~~see Table 2-1~~ § 155.202), subject to approval by the Town Council.

2. The mix of uses shall be established by the Town Council at the time of approval.

(c) Project boundary buffer. Unless waived by the Town Council, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07)

**§ 155.204 OVERLAY DISTRICT STANDARDS.**

*(A) Thoroughfare Overlay Districts.*

(1) *Established.* The Thoroughfare Overlay Districts (TOD) are established for the purpose of maintaining a safe, efficient, and functional development pattern adjacent to major thoroughfares, while maintaining an aesthetic streetscape environment. It is recognized that an enhanced development quality in areas of high visibility promotes economic development and stability in the entire community. The standards established in this section shall be applied, at the discretion of the Town Council, to nonresidential properties which adjoin major thoroughfares, as designated on the town's Transportation Plan. The Thoroughfare Overlay District II (TOD-II) is established for the same purpose, and shall be applied to properties strategically situated at the primary entryways into the Clayton area.

(2) *Designation.*

(a) Thoroughfare Overlay District. Properties subject to these regulations shall be adjacent to, or have immediate access to a major thoroughfare. The boundaries should follow corporate limits where possible, but in no case should the district boundary be more than 150 feet from the outer edge of the right-of-way of the thoroughfare.

(b) Thoroughfare Overlay District II. Properties subject to these regulations shall be adjacent to a major thoroughfare. The boundaries shall begin at the corporate limit line and shall end at the extraterritorial jurisdiction line where possible, but in no case should the district boundary be more than 150 feet from the outer edge of the right-of-way of the thoroughfare.

(3) *Permitted uses.* All permitted, special, and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification.

(4) *Dimensional requirements.* The dimensional requirements of this overlay district shall be the same as the underlying zoning district.

(5) *Street yard requirements.*

(a) Effective November 17, 1997 for the TOD and October 22, 1998 for the TOD II, all new developments or major expansions of existing development (25% increase in building area, lot area, or parking requirement) shall provide a landscaped street yard as follows provided in Table 2-6.

**Table 2-6 TOD Street Yard Requirements**

	Street Yard Width (feet)		
	Average	Minimum	Maximum
TOD Commercial	20	10	40
TOD Industrial	40	20	80
TOD II Commercial and Industrial	40	30	50

Formatted: Font: Bold  
Formatted: Centered, Indent: Left: 0.63"

(b) For purposes of this section, the street yard area is determined by multiplying the lot frontage, less driveways, times the average required width to determine the required street yard area. There shall be no structures allowed in this street yard, except as follows:

1. Landscaping;
2. Drainage features designed to mimic the natural environment;
3. Public utilities and facilities;
4. Driveways and streets;
5. Sidewalks, pedestrian ways, or bikeways;
6. In the TOD I and TOD II, one on-premises sign not exceeding six feet in height and 24 square feet.

(6) *Landscape requirements.*

(a) All required street yard areas shall be covered by lawn, ground cover, trees, shrubs, or mulch, except as noted above. Maintenance shall be the responsibility of the property owner. Landscaping shall be required according to ~~the following~~ Table 2-7 below.

**Table 2-7 TOD Landscape Requirements**

	Min. Landscape Requirements	
	Trees (per 1,000 sq. ft. of street yard)	Shrubs (per 1,000 sq. ft. of street yard)
TOD Commercial	1	5
TOD Industrial	2	10
TOD II Commercial and Industrial	2	10

Formatted: Font: Bold  
Formatted: Centered, Indent: First line: 0"

(b) The preservation of existing trees shall be required when practical, utilizing recognized professional standards. The species and size of all plant material shall be specified on the site plan, and at least 50% of the total shall be evergreen. Trees shall have a minimum height of six feet and shrubs must have a minimum height of 18 inches at planting and reach 30 inches within two years. Additional trees may substitute for shrubs on a one-for-one basis. The requirements set forth in this section may be used to fulfill up to 67% (two-thirds) of the landscaping required under § 155.402(D), except that landscaping within all parking areas for vehicles, as set forth in § 155.401(C)(3)(d)2., and buffers, as set forth in § 155.402(E)(2)(c) shall be provided completely, as required, in addition to these requirements.

(7) *Access regulations.* All driveways and public street intersections in the Thoroughfare Overlay Districts shall be subject to NCDOT and the town standards and permitting processes, whichever is applicable. Any parcel of land with less than 400 feet of frontage on a thoroughfare may have no more than one point of access to the thoroughfare. One additional driveway for each additional 400 feet of thoroughfare frontage shall be allowed, and one per 400 feet of additional frontage. Where medians are provided which prohibit turns into oncoming traffic, access points may

be provided every 200 linear feet. No driveway shall be allowed within 300 feet of the intersection of two thoroughfares or within 200 feet of an intersection of any other public street on the thoroughfare. Driveways shall be a minimum of 200 feet apart (measured from center line to center line) on thoroughfares, and shall align with opposing drives, where possible. Shared driveways or parallel access roads shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance. If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by NCDOT and/or the town. For the purpose of this section, adjacent lots in common ownership fronting on a thoroughfare in the Thoroughfare Overlay Districts shall be considered as one lot when determining permitted driveways.

(8) *Alternative means of compliance.* It is recognized that strict interpretation and application of these standards may create particular hardships in areas of unusual topographic condition, or in retrofitting existing developed properties which are expanded. The Planning Board, by majority vote, may approve a site plan for any proposed development which does not meet any specific standard of this section as an alternate means of compliance, subject to making the following findings:

(a) The proposed development attempts to meet the intent of the Thoroughfare Overlay District.

(b) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this chapter.

(c) The proposed development will be designed to meet the standards of this section to the fullest extent possible.

(d) In determining alternative means of compliance, the Planning Board may consider various features such as width in relation to opacity of landscaping in street yard, number of required parking spaces, and driveway locations and/or distances from nearby intersections.

(B) *Watershed Protection Overlay (-WP).* Use and development standards. The use and development standards for the Watershed Protection Overlay (-WP) are found in § 155.501.

(C) *Scenic Highway Overlay (SHO).*

(1) *Established.* The Scenic Highway Overlay (SHO) is established for the purpose of protecting the visual qualities of the scenic US Highway 70 West corridor by maintaining the corridor in as natural a state as is feasible and retaining its historic rural character while providing opportunities for growth and development, and encouraging urban development at highway interchanges. The property within the SHO offers a desirable, predominantly low density, rural lifestyle. A primary goal is to promote and enhance the quality of life experience by protecting the unique rural character and social fabric while enhancing appeal for new residential and business investment.

(2) *Designation.* Properties subject to these regulations shall be within the SHO boundaries for scenic US Highway 70 West. The general boundaries for the SHO follow the thoroughfare within Town limits and extra territorial jurisdiction (ETJ) for ½ mile, centered on highway interchanges and extends 1,000 feet from the centerline of the right-of-way for the remainder of the thoroughfare.

The official SHO boundaries are subject to an Official Zoning Map amendment approved by Town Council.

(3) *Exemptions.*

(a) Existing single family lots of record and residential subdivisions which have a valid subdivision/plat approval.

(b) Property used for “bona fide” farms as defined in North Carolina General Statutes (NCGS) Section 153A-340.

(4) *Permitted uses.* All permitted, special, and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification unless otherwise stated herein.

(5) *Development requirements.* The development requirements of the SHO shall prevail over any conflicting regulation established within the underlying zoning district. All driveways and public street intersections shall be subject to applicable NCDOT requirements, town standards and permitting processes.

(6) *Nonconformities.* This section shall not be construed or held to affect the rights of (1) any existing established business, its successors, or assigns, to continue in a use or structure that may otherwise become a legal nonconformity as a result of the establishment of this section or (2) any use specifically approved by a development plan approval granted by the Town prior to the effective date of this section.

(7) *Waivers.* A waiver from one or more of the development requirements may be granted by the Town Council if the waiver criteria set forth below have been met.

(a) The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;

(b) The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;

(c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this chapter are enforced; and

(d) The purpose of the waiver is not based primarily upon financial consideration.

(8) *SHO interchange development.* The Town seeks to encourage the development of specific uses at SHO interchanges, evoking a sense of arrival at a significant urban destination. SHO interchanges shall generally include properties within ½ mile radius of the intersection point of the following highway interchanges:

- Scenic US Highway 70 West and business US Highway 70 West
- Scenic US Highway 70 West and NC HWY 42 West

To create the unique character and aesthetics for these interchanges, development standards are provided which:

- Create an urban identity for interchanges through the use of planning and design standards.
- Ensure high quality, architecturally compatible, consistently landscaped development at interchanges.
- Regulate uses at interchanges to create a specific character and aesthetic quality.
- Ensure that new development or redevelopment projects at the interchanges preserve and enhance the existing visual character of the scenic corridor.
- Promote and protect the health, safety and general welfare of the Town.

(9) *Interchange site development guidelines.*

(a) Application. To promote and enhance the character of the SHO, certain uses shall be prohibited at the interchanges which might otherwise be permitted within the underlying zoning districts. Mixed-use development at the interchanges is encouraged.

(b) Uses. Those uses permitted, allowed subject to a conditional use or subject to a special use at SHO interchanges are listed in [in the Use Regulations Table 2-8](#) below. A use not listed, but possessing similar characteristics to those identified may be established upon approval by the Planning Director. Appeals to such determinations shall be made to the Board of Adjustment.

**Table 2-8 Interchange Use Regulations**

Use Type	SHO Interchange	Specific Use Section
<b>Residential Uses</b>		
Apartments	S	§155.302 (D)
Alley Loaded	S	§155.302 (B)
Nursing Convalescent Facility	S	§155.303 (A)
Townhouse	S	§155.302 (C)
Single Family	S	§155.302 (A)
Upper-story Residential	P	§155.302 (E)
<b>Public and Civic Uses</b>		
College or University	S	
Government Service	P	
Hospital or Medical Center	C	
School (Technical, Trade or Business)	S	
School (Public or Private)	S	§155.303 (G)
<b>Recreational Uses</b>		
Arena, Auditorium or Stadium	S	
Indoor Recreation	C	
<b>Commercial Uses</b>		
Indoor Entertainment	S	
Convenience Store with Gas Sales	S	§155.304 (E)

Use Type	SHO Interchange	Specific Use Section
Hotel/Motel	C	§155.304 (D)
Office, General	P	
Office, Medical	P	
Outdoor Seating/Sidewalk Cafe	S	§155.304 (O)
Restaurant	C	
Retail Sales, General	P	§155.304 (H)
Service, General	P	§155.304 (J)
Veterinarian/Animal Hospital	C	
<b>Industrial Uses</b>		
Research and Development	C	
<b>Key:</b>		
P – Permitted by right		
C – Conditional Use permitted if approved by the Planning Board (PB)		
S – Special Use permitted if approved by the Town Council (TC)		
* Mixed use development is encouraged		

(c) Site design. Development shall incorporate the design criteria established in the Town’s General Design Guidelines to enhance and protect the health, safety and general welfare of the Town.

(d) Pedestrian amenities. Uses shall contribute to pedestrian-friendly focal spaces through the provision of well-designed walking paths, pedestrian spaces with furnishings, public art, generous plantings, marked crosswalks, and vehicular parking and circulation areas clearly separated from such pedestrian amenities.

(e) Landscaping. To supplement landscape requirements, existing vegetation shall be incorporated into the design of the development to the greatest extent possible.

(f) Setback requirements.

1. Setbacks for properties not having direct frontage along a thoroughfare within the SHO shall be as defined by the underlying zoning district.

2. Thoroughfare right-of-way setbacks shall be a minimum of 50 feet. The entire area within the right-of-way setback shall be fully grassed and landscaped. Structures and paved areas for motor vehicles, other than for ingress, egress and signage shall not be installed or constructed within 50 feet of a road right-of-way. Buildings shall be directly adjacent to the right-of-way setback with parking and circulation occurring interior to the development. Encroachment into the setback may be granted by Town Council to allow for art in public places, transit stops, pedestrian amenities such as meandering sidewalks, and outdoor seating with or without service for restaurants.

(g) Access management.

1. NCDOT policies and access management practices shall be followed to limit traffic conflicts through the design and placement of driveways and medians within the SHO.

2. To improve safety and site circulation, cross access agreements shall be provided by proposed development to adjacent properties.

(h) Site development. To promote a sense of arrival, structures located on intersection properties having frontage on Scenic US Highway 70 West are encouraged to be multiple stories in height. Buildings directly adjacent to Scenic US 70 West shall be a minimum of two stories or 25 feet in height. To encourage both quality mixed-use development and multiple story buildings, the Town Council may grant development incentives such as:

1. Density and/or intensity bonuses;
2. Increased building height allowances; and
3. Reduced parking requirements.

(i) Prohibited elements. The following elements are prohibited at SHO interchanges:

1. Unfinished concrete or concrete masonry walls.
2. Unscreened dumpsters or trash receptacles.
3. Visible neon and other elements with highly reflective or bright colored surfaces.
4. Distracting or frivolous objects which are not in harmony with the SHO.

(10) *SHO Interchange building design guidelines.*

(a) General design. Development shall be designed to be compatible with the surrounding environment, both manmade and natural. A building shall provide a positive impact on the surrounding environment.

(b) Building elevations. All building elevations shall be treated equally as if all sides were the front of the building. This requirement includes but is not limited to architectural elements, facade treatment, and landscaping.

(c) Building materials and color. Building materials and color selection shall achieve visual order through the consistent use of compatible color palettes.

(d) Trademark forms and colors. Buildings and structures which use trademark or symbolic forms and colors and which have a negative impact on the visual environment of the area, shall not be permitted.

(e) Architectural detail. Architectural design shall prohibit large expanses of blank walls with limited or no windows or architectural embellishments.

(f) Roof overhangs. Unless specifically designed otherwise, roof overhangs including mansard roof overhangs shall wrap around the building so that there is visual continuity around the entire building.

(g) Mechanical equipment screening. The highest portion of mechanical equipment, such as backflow preventers, meters and valves for public utilities operations, satellite antennas, heating and ventilating, air-conditioning, or other utility hardware on roofs, ground, or buildings shall be installed at or below the lowest elevation or below the level of screening materials. Materials used for screening purposes shall be compatible with the architectural style, color, and materials of the principal building. This equipment shall be located so as not to be visible from any street or adjoining property.

(h) Gutters and down spouts. Gutters and down spouts shall be painted to match the surface to which they are attached. Gutters and down spouts may, however, be painted in such a way so as to become a design element if the color is consistent with the color scheme of the building.

(i) Service yards, storage yards, and loading docks. All refuse and waste containers, recycling or compacting containers, dumpsters, oil tanks, bottled gas tanks, service yards, storage yards, and loading docks shall be located in the rear or side yard. All such service equipment and service areas shall be screened from view from any street or adjoining property by means of a wall, landscaping, or other methods approved by the Town Council.

(11) *SHO corridor development.*

(a) General design. New development along the SHO corridor shall be sited and designed to minimize adverse impacts on scenic areas visible from the scenic highway to the maximum extent feasible. As a general design principle, the density of vegetation should increase with the density or intensity of development. Priority shall be given to retaining existing natural resources and mature trees.

(b) Special setback requirement. Non-residential development must maintain a minimum 100 foot setback and non-exempt residential development must maintain a minimum 50 foot setback from the edge of the ultimate right-of-way for Scenic US Highway 70 West. Residential development which provides a 100 foot setback and provides unit clustering will receive a density bonus of one-half unit per acre. The following exceptions are permitted within the special setback:

1. Landscaping;
2. Drainage features designed to mimic the natural environment;
3. Public utilities and facilities, and private wells and septic systems;
4. Driveways and streets; and
5. Sidewalks, pedestrian ways, or bikeways.

(c) Development location. Development shall be designed so that it is located on the least visible portion of the site from the corridor. If there is no feasible building site location to

minimize visibility, then the development shall be sited and designed to minimize impacts on scenic areas from the highway.

(d) Landscape elements. Existing vegetation and proposed landscaping shall be blended to produce the feeling of masses of trees forming green arbors. These masses shall be interrupted by occasional views to open spaces and environmentally sensitive lands.

(e) Clustering development. In an effort to preserve expansive open spaces and native vegetative communities within the corridor, development shall be clustered to preserve large areas of open space and the existing natural vegetation shall be preserved whenever possible, with the exception of invasive plant species.

(f) Building design. Buildings and structures shall be designed to blend into the existing natural setting to the greatest extent possible. This shall be accomplished through the use of natural earth toned colors, architectural treatments on all sides of a structure and landscaping. Facilities such as loading zones, mechanical equipment, and trash and garbage containers shall be completely screened and buffered so that they cannot be viewed from the highway.

(g) Site grading. Site grading shall be minimized to incorporate the existing topography to the greatest extent feasible.

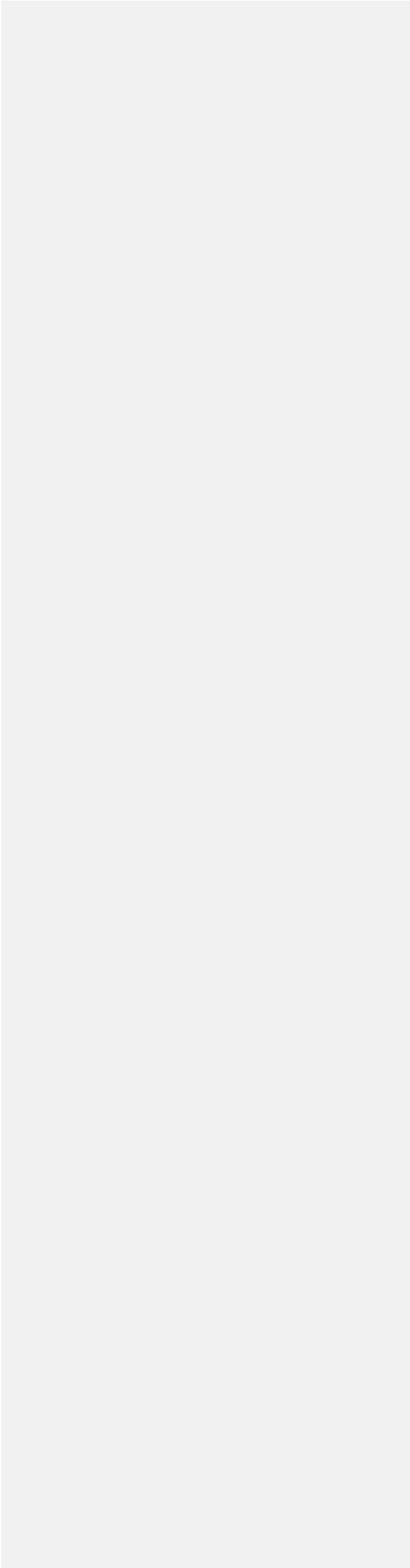
(h) Massing. The massing of buildings, including height, bulk and scale, is important to maintaining the character of the SHO corridor. To ensure the impact of development is minimized, the height buildings shall be limited based on the topography and the shape of the site in relation to the highway.

1. In order to better determine the impact of development on the corridor, the Planning Director may require the applicant to hold a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise on a temporary mast, a large and brightly colored balloon in the approximate location and at the maximum height of the proposed structure(s).

(i) Prohibited elements. The following elements are prohibited along the SHO corridor:

1. Unfinished concrete or concrete masonry walls.
2. Unscreened dumpsters or trash receptacles.
3. Visible neon and other lighting elements with highly reflective or bright colored surfaces.
4. Unshielded lighting and backlit signage.
5. Distracting or frivolous objects which are not in harmony with the SHO.

(Ord. 2005-11-02, passed 11-21-05)



## ARTICLE 3: SPECIFIC USE STANDARDS

### § 155.300 USE INTERPRETATION.

(A) ~~Grouping of uses~~Uses. ~~The list of uses included in the Use Regulations Table (Table 2-1 § 155.202(B)) and defined in this subsection is intended to classify uses on the basis of common functional characteristics (activity, type of customers, goods or services) and land use compatibility. Other uses not specifically listed in the Use Table, but exhibiting similar characteristics to a listed use, shall be so classified by the interpretation of the Planning Director pursuant to the procedures and standards set forth in 155.300(B) below. As set forth in the Permitted Land Use Table (see § 155.202(B)) certain uses are grouped together based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers, how goods or services are sold or delivered, likely impact on surrounding properties, and site conditions. Grouping uses provides a systematic basis for assigning uses to appropriate general use districts. Any use not specifically set forth in this chapter is expressly prohibited, unless determined otherwise as set forth in (F) of this section.~~

(B) Uses not specifically listed.

(1) Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a use or uses listed in this chapter. Where an unlisted use is similar to a use listed in Table 2-1 (§ 155.202(B)), the unlisted use shall also be subject to the similar uses standards and approval process. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the unlisted use.

(2) Where an unlisted use is found by the Planning Director not to be similar to any other use listed in Table 2-1 (§ 155.202(B)), the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.

(3) When considering the appropriate districts for a use not listed in the Use Regulations Table, the district intent statements (see § 155.203(A)) shall be taken into consideration.

(4) Determination of an appropriate category for a proposed use not currently listed shall be made by applying the following criteria.

(a) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.

(b) The relative amount of site area or floor space and equipment devoted to the activity.

(c) Relative amounts of sales from each activity.

(d) The customer type for each activity.

(e) The relative number of employees in each activity.

(f) Hours of operation.

Formatted: Font: Not Italic

Formatted: Font: Not Italic

Formatted: Font: 11 pt

(g) Building and site arrangement.

(h) Types of vehicles used and their parking requirements.

(i) The relative number of vehicle trips generated.

(j) Signs.

(k) How the use is advertised.

(l) The likely impact on surrounding properties.

(m) Whether the activity is likely to be found independent of the other activities on the site.

(C) Developments with multiple uses.

(1) Nonresidential, townhouse and apartment complexes may be established on a single unified parcel, provided that the following requirements are met. Except as set forth above, no more than one principal building or use may be erected on a single lot of record.

**Formatted:** Indent: Left: 0.25", First line: 0.38"

(2) Development with multiple uses shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

**Formatted:** Justified, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

(3) When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

(4) A development comprised of uses regulated by separate rows on the Use Regulations Table shall be reviewed using the most restrictive process from among the proposed uses. If a proposed development on a single parcel includes a special use review, then the entire development requires special use review.

**Formatted:** Font: Not Italic

**Formatted:** Font: Not Italic

**Formatted:** Font: Not Italic

(5) Where a use requiring approval as a conditional use or a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

**Formatted:** List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

~~(B) Uses not grouped. As set forth in the Permitted Land Use Table (see § 155.202(B)), due to their specific nature and characteristics, certain uses have not been grouped. Individual uses may be defined in §§ 155.800 through 155.802.~~

**Formatted:** Tab stops: 1", Left

~~(C) Civic use groups.~~

~~(1) —Parks and open areas: Uses focusing on natural areas consisting mostly of open vegetation, passive or active outdoor recreation areas, or community gardens, and having few structures. Parks and open areas shall include the following: tot lot and playgrounds; mini-parks; plazas; squares; greens; neighborhood parks; botanical gardens; nature preserves and recreation trails; or any similar use.~~

~~(2) —Utility, major: A large scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.~~

~~(3) —Utility, minor: All utility facilities not considered major, including, but not limited to neighborhood serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.~~

~~(D) —Commercial use groups:~~

~~(1) —Agriculture: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, conservation, and the secondary industries associated with agricultural production. Agriculture shall include the following: animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, apiculture, aquaculture, dairying, personal or commercial animal breeding and development; floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture; animal boarding, outdoor; livestock auction; milk processing plant; packing house for fruits or vegetables; plant nursery; plant nursery with landscape supply; retail or wholesale sales of agriculturally related supplies and equipment; stable; or any similar use.~~

~~(2) —Creative studio: A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.~~

~~(3) —Indoor recreation: Amusement or recreational activities carried on wholly within a building, including theater, health club and activities of a similar nature. This does not include an adult-oriented business or amusement center.~~

~~(4) —Manufacturing, limited: A facility conducting light manufacturing operations within a fully enclosed building, generally serviced by trucks no longer than 24 feet in length. Limited manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; photo finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.~~

~~(5) —Office, general: A facility generally focusing on business, government, professional or financial services. General office shall include the following: advertising office; bank; business management consulting; data processing; financial business such as lender, investment or brokerage house; collection agency; real estate or insurance agent; professional service such as lawyer, accountant, bookkeeper, engineer, or architect; sales office, travel agency or any similar use.~~

~~(6) *Office, medical:* A medical facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner or similar medial provider treats or counsels patients.~~

~~(7) *Outdoor recreation:* Any recreational facility where activity takes place primarily outdoors, including miniature golf courses, batting cages, swimming pool, driving range or a similar facility.~~

~~(8) *Retail, general:* A facility involved in the wholesale or retail sale, lease, or rental of new or used products to through traffic as well as the surrounding neighborhood. General retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; printed materials; sporting goods; or any similar use. The retail sale of automobile parts shall be considered retail general provided no on-site automobile service or repair is provided. This definition does not include any adult entertainment establishment.~~

~~(9) *Retail, neighborhood:* A facility involved in the sale, lease, or rental of new or used products primarily to local traffic in the surrounding neighborhood. Neighborhood retail shall include the selling, leasing or renting of the following goods: books; health and beauty products; photo finishing; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; stationery; tobacco; videos or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections and similar products whose preparation does not require installation of an exhaust hood.~~

~~(10) *Service, general:* A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: animal grooming; photographic; photography, blueprint, quick sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult entertainment establishment.~~

~~(11) *Service, neighborhood:* A facility involved in providing limited personal services to local traffic in the surrounding neighborhood. Neighborhood services shall include the following: personal care services such as hair, nail, tanning, massage therapy; laundromat; dry cleaning and laundry pickup station; pack and ship facility; or any similar use.~~

~~(12) *Vehicle sales:* A facility involved in providing direct sales, renting or leasing of motor vehicles, light and medium trucks, tractor trailers, recreational vehicles, earthmoving equipment; construction equipment; farming equipment; and other consumer motor vehicles such as motorcycles and boats, or any similar use.~~

~~(13) *Vehicle service:* A facility involved in providing limited service to passenger vehicles and other small consumer vehicles. Such minor operations are primarily provided while customers wait for their vehicles. Limited vehicle service shall include the following: alignment shop; quick~~

lubrication facilities; brake service, battery sales and installation; outdoor car wash; auto detailing and tire sales and mounting; or any similar use.

~~(14) *Vehicle repair*: A facility involved in providing repair services to passenger vehicles, light and medium trucks, tractor trailers, recreational vehicles, earthmoving equipment, construction equipment, farming equipment, and other consumer motor vehicles such as motorcycles and boats, or any similar use.~~

~~(15) *Warehouse and freight movement*: A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.~~

~~(E) *Industrial use groups*.~~

~~(1) *Manufacturing, general*: A facility conducting manufacturing with some operations conducted outside. General manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign making; building maintenance service; exterminator; movie production facility; laundry or dry cleaning plant; photo finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.~~

~~(2) *Manufacturing, heavy*: A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.~~

~~(3) *Research and development*: A facility focused primarily on the research and development of new products. Research and development shall include: laboratories, offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input; facilities and operations in which the input of~~

science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

~~(4) —Waste service: A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.~~

~~(F) — Uses not specifically listed.~~

~~(1) —Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with § 155.715, that the use is similar to a permitted individual use or permitted group of uses as listed in this chapter. Where such similar permitted individual use or permitted group of uses is subject to a use standard contained in this subchapter or conditional use or special use review, the proposed use shall also be subject to such standard or approval. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the proposed use.~~

~~(2) —Where a use not listed is found by the Planning Director not to be similar to any other permitted individual use or permitted group of uses, the use shall be permitted only following a text amendment in accordance with § 155.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.~~

~~(3) —When considering the appropriate districts for a use not listed in the Permitted Land Use Table, the district intent statements (see § 155.203(A)) shall be taken into consideration.~~

~~(4) —Determination of an appropriate group of uses for a proposed use not currently listed shall be made by applying the following criteria.~~

~~(a) —The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.~~

~~(b) —The relative amount of site area or floor space and equipment devoted to the activity.~~

~~(c) —Relative amounts of sales from each activity.~~

~~(d) —The customer type for each activity.~~

~~(e) —The relative number of employees in each activity.~~

~~(f) —Hours of operation.~~

~~(g) —Building and site arrangement.~~

~~(h) —Types of vehicles used and their parking requirements.~~

~~(i) — The relative number of vehicle trips generated.~~

~~(j) — Signs.~~

~~(k) — How the use is advertised.~~

~~(l) — The likely impact on surrounding properties.~~

~~(m) — Whether the activity is likely to be found independent of the other activities on the site.~~

~~(G) — Developments with multiple principal uses.~~

~~(1) — Except as set forth in § 155.301, no more than one principal building or use may be erected on a single lot of record.~~

~~(2) — When all principal uses of a development fall within one use category, the entire development shall be assigned to that use category.~~

~~(3) — When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.~~

~~(4) — A development comprised of uses regulated by separate rows on the Permitted Land Use Table shall be reviewed using the most restrictive process from among the proposed uses. **Commentary:** *If a proposed development includes a gas station, library and a restaurant, including outparcels, and one of those uses is only permitted as a special use in the district, then the entire development requires special use review.*~~

~~(5) — Where a use requiring approval as a conditional use or a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site. **Commentary:** *For example, where a vehicle repair shop in a B-3 District (subject to special use review) is an outparcel within a larger retail development, the special use shall review the outparcel only — not the entire development. However, where a special use is proposed in a building that contains a variety of other uses, the entire building and its associated parcel(s) of land shall require special use review.*~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2006-06-01, passed 6-19-06; Am. Ord. 2007-04-05, passed 4-2-07)

### ~~§ 155.301 — COMPLEXES.~~

~~Nonresidential, townhouse and apartment complexes may be established on a single unified parcel, provided that the following requirements are met:~~

~~(A) *Defined.* A group of two or more office, industrial, commercial, multifamily and/or other operations on an unsubdivided parcel, operating under one name or presenting other elements of a unified image of identity to the public.~~

~~(B) *General.* Complexes shall meet all applicable development standards as set forth in §§ 155.200 through 155.204, §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.~~

~~(C) *Uses.* Uses within complexes shall be limited to those permitted within the zoning district in which the development is located (see § 155.202(B)).~~

~~(D) *Intensity.* The overall intensity of the land use shall be no higher, and the standard of development no lower, than that permitted in the district in which the project is located.~~

~~(E) *Setbacks.* The distance of every building from every property line shall meet the relative setback requirements of the district in which the development is located (the rear of a building must meet rear yard requirements, (the front of the building must meet street yard requirements, the side of the building must meet side yard requirements). In no case, however, shall any portion of a building be located closer to a public street than the required minimum street yard setback of the zoning district.~~

~~(F) *Height.* The building heights shall not exceed the height limits permitted in the district in which the development is located.~~

~~(G) *Building separation.* The minimum spacing between buildings in a complex shall be 20 feet, with an additional ten feet provided between buildings for every story over two. (Ord. 2005-11-02, passed 11-21-05)~~

**§ 155.3012 RESIDENTIAL USE STANDARDS.**

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land-Use Regulations Table (see Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **Adult care home.** An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision.

- Formatted: Font: Bold
- Formatted: Font: Not Bold, Not Italic
- Formatted: Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left
- Formatted: Font: Bold

(1) In the R-E District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.

(2) In the R-10 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.

(3) In the R-8 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.

(4) In the R-6 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.

(B) **Alley-loaded house.** An detached dwelling unit located on a single lot with private yards on all four sides: however, the house is set closer to the street than a single-family detached house.

- Formatted: Indent: Left: 0.63", No bullets or numbering
- Formatted: Font: Bold
- Formatted: Font: 11 pt
- Formatted: Font: 11 pt
- Formatted: Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: Not Italic
- Formatted: Font: Bold, Italic
- Formatted: Font: 11 pt
- Formatted: Font: Bold

(1) An alley shall be provided to the rear of all alley-loaded houses. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

(C) **Apartments.** Three or more attached dwelling units in a single structure on a single lot. An apartment can vary in height from two to five stories, individual units can be mixed vertically.

(2) No parking space shall be located in a required yard, except for the rear yard.

(3) No off-street parking space shall be located closer than ten feet to any residential building wall.

(4) For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided for all developments.

(5) Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.

(6) For apartment complexes see § 155.301 for additional requirements.

Formatted: Normal, No bullets or numbering

(D) **Boarding House.** A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens and personal services are not provided.

**Formatted:** List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

(1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.

(2) Each boarding house shall have a full-time resident manager.

(3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.

(4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

(E) **Child Care Home.** A child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care,

**Formatted:** List Paragraph, Indent: Left: 0.25", First line: 0", Tab stops: 0.63", Left

**Formatted:** Font: Bold, Italic

**Formatted:** Normal, No bullets or numbering, Tab stops: 0.63", Left

(1) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

(F) **Manufactured home.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. Manufactured home includes any structure that meets all of the requirements of this definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

**Formatted:** Font: Bold

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Font: Not Bold, Not Italic

**Formatted:** Indent: Left: 0.25", No bullets or numbering

Except as set forth in division (G)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:

(1) The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.

(2) The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

(3) The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.

(4) Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall with a finished surface and constructed in accordance with North Carolina Building Code regulations. The foundation shall be unbroken except for required ventilation and access, and installed under the perimeter of the manufactured home.

**Formatted:** Font: (Default) +Body, 11 pt

**Formatted:** Indent: Left: 0.63", No bullets or numbering

(5) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.

(6) The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.

(8) At least two off-street parking spaces shall be provided.

(9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.

(10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.

(11) All standards must be met prior to issuance of a certificate of occupancy.

(G) **Manufactured home parks.** Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

(1) *General requirements.*

(a) Notwithstanding the criteria set forth in division (F) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (F) above, except divisions (F)(2), (F)(3) and (F)(4) shall not apply to manufactured homes located in manufactured home parks. All new or replacement manufactured homes located in manufactured home parks shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area. The foundation area of the manufactured home shall be at a minimum, completely screened with faux skirting panels constructed from durable vinyl, or panels simulating a faux brick, rock or stone finish. The skirting shall be completely framed including a bottom track. The foundation screening must be kept in a well maintained condition.

(b) All manufactured home parks shall be a minimum of three acres in size.

(c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.

**Formatted:** Normal, No bullets or numbering

**Formatted:** Font: Bold

**Formatted:** Font: Bold, Italic

**Formatted:** List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0.63", Hanging: 0.38"

**Formatted:** Indent: Left: 0.63", First line: 0.38", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Tab stops: 1.38", Left

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.

Formatted: List Paragraph, Left, No bullets or numbering, Tab stops: Not at 1.38"

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(e) Within a manufactured home park, one manufactured home may be used as an administrative office.

Formatted: No bullets or numbering, Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(2) Streets and parking.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(b) Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(c) Maintenance of such streets shall be provided by the owner or operator of the park.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(d) Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(e) Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(f) New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(g) A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(h) No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(3) Lot size and lot width requirements.

(a) Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.

(b) Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The

maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.

(c) Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.

(4) Project boundary buffer. A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(5) Yard requirements.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(a) The following yard requirements shall pertain to every manufactured home in the manufactured home park:

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

1. Minimum depth of street yard, measured from front lot line: 20 feet.

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.75", Left

2. Minimum width of side yard, measured from side lot line:

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.75", Left

A. Ten feet.

Formatted: Indent: Left: 1.38", First line: 0.38", Tab stops: 2.13", Left

B. Six feet, if served by public water and sewer.

Formatted: Indent: Left: 1.38", First line: 0.38", Tab stops: 2.13", Left

(b) Minimum depth of rear yard, measured from rear lot line: 20 feet.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(c) Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.305.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(6) Utility requirements.

Formatted: Indent: Left: 0.63", Hanging: 0.38"

(a) Water. An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(b) Sewer. Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(c) Solid waste.

Formatted: Indent: Left: 1", Hanging: 0.38"

1. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.75", Left

2. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.75", Left

3. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.69", Left

4. No junked or abandoned vehicles shall be allowed in the park.

Formatted: Indent: Left: 1", First line: 0.38", Tab stops: 1.75", Left

(7) Street lights. All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000 lumen class or its equivalent, spaced at intervals of not more than 400 feet. Street lights shall be at each intersection.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(8) Telephone and power lines. All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

Formatted: Indent: Left: 0.25", First line: 0.38"

(9) Recreation areas and facilities.

Formatted: Indent: Left: 0.63", Hanging: 0.38"

(a) Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(b) No recreational facilities shall be placed in an area utilized for septic tank filter fields.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(10) Mobile home parks with prior approval. All mobile home parks approved for development by the Town, county, or state prior May 4, 1987 are hereby granted special use status under the terms of § 155.109(A)(2), and the number of units contained therein may be maintained and replaced with other units, provided that:

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(a) A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(b) All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(c) All replacement units shall meet the requirements of (F) of this section.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

(d) No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(e) Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(f) If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.

Formatted: Indent: Left: 1", Tab stops: 1.38", Left

Formatted: Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(H) **Nursing Home (Congregate Living Facility).** This term includes assisted living facilities, extended congregate care facilities, transitional living facilities, rehabilitative home care services, or home for the aged or any other residential structure, whether or not operated for profit, which undertakes for a period exceeding 24 hours: care, housing, food service, and one or more personal services for persons not related to the owner or administrator by blood or marriage. In addition, this term shall include other residential uses such as dormitories, group homes with a central dining facility, and similar bed-based uses.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

Formatted: Font: 11 pt

(I) **Two Family.** Two attached dwelling units in a single structure on a single lot (often called a duplex). The two units can be located on separate floors or side-by-side.

Formatted: Font: Bold, Italic

(J) **Townhouse.** Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically.

Formatted: List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

Formatted: Font: Bold

(1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

Formatted: Font: 11 pt

(2) All townhouse garages and parking areas shall be located to the rear of the building. No parking shall be permitted in the required street yard.

Formatted: Font: Bold, Italic

(3) The maximum number of units allowed in a single building is eight.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(4) The first floor shall be located a minimum of two feet and a maximum of three feet above grade.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

(5) For townhouse complexes see § 155.301 for additional requirements.

Formatted: Font: (Default) +Body, 11 pt, Font color: Auto

(K) **Security or Caretaker Quarters.** A dwelling unit, which may be a mobile home, a manufactured home, or a modular home, located on a site for occupancy by a caretaker or security guard.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

Formatted: Font: Not Bold, Not Italic

Formatted

(L) **Single Family.** A detached dwelling unit located on a single lot with private yards on all four sides.

Formatted: Font: Not Bold, Not Italic

Formatted: Font: 11 pt

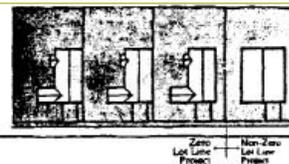
Formatted: Tab stops: 0.63", Left

(M) **Upper-story residential.** A dwelling unit located on a floor above a nonresidential use.

(1) An upper-story residential unit shall adhere all dimensional standards of the nonresidential zoning district in which it is located.

(A)(N) **Zero lot line.** An detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.

(1) A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.



(2) An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.

(3) If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07)

~~(A) **Alley-loaded house.** An alley shall be provided to the rear of all alley-loaded houses. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.~~

~~(B) **Townhouse.**~~

~~(1) Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.~~

~~(2) All townhouse garages and parking areas shall be located to the rear of the building. No parking shall be permitted in the required street yard.~~

~~(3) The maximum number of units allowed in a single building is eight.~~

~~(4) The first floor shall be located a minimum of two feet and a maximum of three feet above grade.~~

- Formatted: Font: Bold, Italic
- Formatted: Font: Bold, Italic
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: 11 pt
- Formatted: Indent: Left: 0.88", Tab stops: 1", Left
- Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left
- Formatted: Font: Not Italic
- Formatted: Normal, No bullets or numbering
- Formatted: Font:

- Formatted: Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"
- Formatted: Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"
- Formatted: Indent: Left: 0.63", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"
- Formatted: Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

(5) ~~For townhouse complexes see S 155.301 for additional requirements.~~

**Formatted:** Indent: Left: 0.63", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

~~(C) — Apartments.~~

~~(1) — No parking space shall be located in a required yard, except for the rear yard.~~

~~(2) — No off street parking space shall be located closer than ten feet to any residential building wall.~~

~~(3) — For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided for all developments.~~

~~(4) — Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets, mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.~~

~~(5) — For apartment complexes see § 155.301 for additional requirements.~~

~~(D) — Upper-story residential. — An upper-story residential unit is allowed on the upper floors of a permitted civic or commercial use as set forth in Permitted Land Use Table (see § 155.202(B)) and shall adhere all dimensional standards of the permitted civic or commercial use.~~

~~(E) — Manufactured home. — Except as set forth in division (G)(1)(a) of this section, all manufactured homes shall meet or exceed the following criteria:~~

~~(1) — The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.~~

~~(2) — The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.~~

~~(3) — The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.~~

~~(4) — Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall which is in accordance with North Carolina Building Code regulations, unbroken except for required ventilation and access, and which shall be installed under the perimeter of the manufactured home.~~

~~(5) — Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.~~

~~(6) — The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.~~

- ~~(7) The moving hitch, wheels and axles, and transporting lights shall be have been removed.~~
- ~~(8) At least two off-street parking spaces shall be provided.~~
- ~~(9) The lot shall be cleared of all excess growth and graded to provide adequate drainage.~~
- ~~(10) All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.~~
- ~~(11) All standards must be met prior to issuance of a certificate of occupancy.~~

~~(F) *Manufactured home parks.*~~

~~(1) *General requirements.*~~

~~(a) Notwithstanding the criteria set forth in division (F) above, manufactured homes located within manufactured home parks shall be in accordance with all of the requirements of division (F) above, except divisions (F)(2) and (F)(3) shall not apply to manufactured homes located in manufactured home parks existing at the time of the adoption of this chapter. All replacement manufactured homes located in manufactured home parks existing at the time of the adoption of this chapter shall be a minimum of 12 feet in width, measured at the narrowest part of the shortest axis of the home, and shall contain a minimum of 480 square feet of enclosed and heated living area.~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at: 1.25"

~~(b) All manufactured home parks shall be a minimum of three acres in size.~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at: 1.25"

~~(c) No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at: 1.25"

~~(d) Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at: 1.25"

~~(e) Within a manufactured home park, one manufactured home may be used as an administrative office.~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at: 1.25"

~~(2) *Streets and parking.*~~

~~(a) Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.~~

~~(b) — Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right of way having a minimum width of 40 feet.~~

~~(c) — Maintenance of such streets shall be provided by the owner or operator of the park.~~

~~(d) — Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.~~

~~(e) — Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.~~

~~(f) — New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.~~

~~(g) — A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right of way or within any street in the park.~~

~~(h) — No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.~~

~~(3) — Lot size and lot width requirements.~~

~~(a) — Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.~~

~~(b) — Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40% of the lot area.~~

~~(c) — Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40% of the lot area.~~

~~(4) — Project boundary buffer. — A Class C buffer shall be provided (see § 155.402) along all project boundaries of a manufactured home park.~~

~~(5) — Yard requirements.~~

~~(a) — The following yard requirements shall pertain to every manufactured home in the manufactured home park:~~

~~1. — Minimum depth of street yard, measured from front lot line: 20 feet.~~

~~2. — Minimum width of side yard, measured from side lot line:~~

~~A. — Ten feet.~~

~~B. — Six feet, if served by public water and sewer.~~

~~(b) — Minimum depth of rear yard, measured from rear lot line: 20 feet.~~

~~(c) — Detached garages and accessory buildings may be erected on manufactured home lots as permitted in § 155.305.~~

~~(6) — Utility requirements:~~

~~(a) — Water. — An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.~~

~~(b) — Sewer. — Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.~~

~~(c) — Solid waste:~~

~~1. — The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.~~

~~2. — All solid waste containing garbage shall be stored in a standard fly tight, watertight, rodent proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.~~

~~3. — Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.~~

~~4. — No junked or abandoned vehicles shall be allowed in the park.~~

~~(7) — *Street lights.* All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7,000 lumen class or its equivalent, spaced at intervals of not more than 400 feet. Street lights shall be at each intersection.~~

~~(8) — *Telephone and power lines.* All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.~~

~~(9) — *Recreation areas and facilities.*~~

~~(a) — Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.~~

~~(b) — No recreational facilities shall be placed in an area utilized for septic tank filter fields.~~

~~(10) — *Mobile home parks with prior approval.* All mobile home parks approved for development by the Town, county, or state prior May 4, 1987 are hereby granted special use status under the terms of § 155.109(A)(2), and the number of units contained therein may be maintained and replaced with other units, provided that:~~

~~(a) — A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.~~

~~(b) — All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.~~

~~(c) — All replacement units shall meet the requirements of (F) of this section.~~

~~(d) — No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.~~

~~(e) — Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.~~

~~(f) — If a mobile home park which does not conform to current standards has been discontinued, or if 80% of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be re-established, and all future use of the land therein shall comply fully with the provisions of this chapter.~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-06-02, passed 6-4-07)

§ 155.3023 PUBLIC AND CIVIC USE STANDARDS.

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land Use Regulations Table (Table 2-1) see § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) Assembly, Not for profit. A site or facility open to the public, owned or operated by a not-for-profit organization for social, educational or recreational purposes. Typical uses include museums, cultural centers, recreational facilities, botanical gardens and community services such as after school care or tutorial services, medical services, and employment services. Not for profit assembly uses requiring membership may include uses such as cultural organizations and union halls.

- Formatted: Font: 11 pt
- Formatted: List Paragraph, Justified, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: Bold, Italic
- Formatted: Font: 11 pt, Bold, Italic
- Formatted: Font: 11 pt
- Formatted: Font: (Default) +Body
- Formatted: Font color: Black
- Formatted: Font: Bold, Italic, Font color: Auto
- Formatted: Font: Italic
- Formatted: Font: Bold, Italic
- Formatted: Font: 11 pt
- Formatted: Font: Bold, Italic

(B) Cemetery. A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum, columbarium or crematory.

- Formatted: Font:
- Formatted: Font: Bold
- Formatted: Tab stops: 0.63", Left
- Formatted: Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

(C) Church or place of worship. A sanctuary which may include a retreat, convent, seminary or other similar use, owned or operated by a tax-exempt religious group that is used periodically, primarily or exclusively for religious worship, activities and related services.

- Formatted: Font: 11 pt
- Formatted: Font: 11 pt, Bold, Italic
- Formatted: Font: Bold
- Formatted: Font: (Default) +Body, 11 pt, Font color: Auto
- Formatted: Normal, No bullets or numbering, Tab stops: 0.63", Left
- Formatted: Font: Not Bold, Not Italic
- Formatted: Indent: Left: 0.25", No bullets or numbering
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: 11 pt

(1) Following the initial approval of places of worship through the conditional use permit process (see § 155.710), expansions of up to 20% of the area originally approved through the conditional use permit process may be approved administratively.

(2) Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the conditional use permit.

(3) Accessory uses standards for a place of worship are set forth in § 155.305(E).

(D) College or University. An institution of higher learning offering undergraduate or graduate degrees, and including the buildings required for educational or support services, such as classrooms, laboratories, dormitories and the like.

(E) Day care. An establishment that provides care, protection and supervision for children as regulated by the National Resource Center for Health and Safety in Child Care and Early Education, or for adults as regulated by the North Carolina Department of Health and Human Services.

(1) An off-street passenger drop-off and passenger loading area shall be provided for any day care. Such area shall not be located in the street yard.

(2) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

(F) Government Service. Buildings or facilities owned or operated by a government entity and providing services for the public, excluding utility and recreational services. Typical uses include

administrative offices for government agencies, public libraries, police and fire stations, and resource centers.

(G) **Hospital.** A facility licensed by the State of North Carolina which maintains and operates organized facilities for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A hospital may include related support facilities such as laboratories, out-patient departments, staff offices, food services, and a gift shop.

(H) **School (Elementary or Secondary).** A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

(1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.

(2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(I) **School (Technical, Trade or Business).** An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

(1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.

(2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

(B) **Adult care home.**

(1) In the R-E District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.

(2) In the R-10 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.

(3) In the R-8 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,600 square feet of lot area per occupant.

(4) In the R-6 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.

(C) **Boarding house.**

**Formatted:** Font: 11 pt, Bold, Italic

**Formatted:** List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

**Formatted:** Font: 11 pt

**Formatted:** Font: 11 pt

**Formatted:** List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Font: Bold, Italic

**Formatted:** Indent: Left: 0.44", No bullets or numbering

**Formatted:** Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0.63", No bullets or numbering

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

**Formatted:** Indent: Left: 0.63", No bullets or numbering

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25"

**Formatted:** Font: Bold, Italic

**Formatted:** List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(1) Boarding houses shall meet the standards of § 152.25 of the Town Code of Ordinances.~~

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

~~(2) Each boarding house shall have a full-time resident manager.~~

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

~~(3) Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.~~

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

~~(4) A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.~~

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

~~(D) *Child care home.* Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.~~

**Formatted:** Indent: Left: 0.25", No bullets or numbering

~~(E) *Child care center.*~~

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(1) An off-street passenger drop-off and passenger loading area shall be provided for any child care center. Such area shall not be located in the street yard.~~

~~(2) Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.~~

~~(F) *Place of worship.*~~

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(1) Following the initial approval of places of worship through the conditional use permit process (see § 155.710), expansions of up to 20% of the area originally approved through the conditional use permit process may be approved administratively.~~

~~(2) Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the conditional use permit.~~

~~(3) Accessory uses standards for a place of worship are set forth in § 155.305(E).~~

~~(G) *Public safety facility.*~~

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(1) Following the initial approval of a public safety facility through the special use permit process (see § 155.711), expansions of up to 35% of the area originally approved through the special use permit process may be approved administratively, unless such administrative approval is explicitly prohibited as a condition of the special use permit.~~

~~(2) Administrative approvals of expansions of public safety facilities shall not waive any conditions of approval of the special use permit.~~

~~(H) *School (public or private).*~~

**Formatted:** Indent: Left: 0.25", Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(1) Following the initial approval of a school through the special use permit process (see § 155.711), expansions of up to 20% of the area originally approved through the special use permit process may be approved administratively.~~

~~(2) Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.~~

~~(4) Wireless telecommunication facility. Specific standards for wireless telecommunication facilities are set forth in § 155.307.~~

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2009-08-02, passed 8-3-09)

### **§ 155.303 RECREATIONAL USE STANDARDS.**

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **Indoor Entertainment.** Amusement or recreational activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, theaters, and activities of a similar nature. This does not include an adult-oriented business or amusement center.

(B) **Outdoor Entertainment.** Amusement or recreational activities where any portion of the activity takes place in the open, excluding golf courses and public parks. Typical uses include athletic fields, batting cages, golf driving ranges, , tennis courts, go-cart tracks, and miniature golf courses.

(C) **Fitness Center.** A facility used for conducting recreational activities such as aerobic exercises, weight lifting, running, swimming, racquetball, handball, and squash. A fitness center may also include babysitting and limited food service for the use of the members of the center only.

(D) **Golf Course.** A facility providing a golf recreation area designed for executive or regulation play along with accessory support facilities, excluding miniature golf.

(E) **Gun Range.** An enclosed facility used for the discharge of firearms or projectiles at targets.

(F) **Park, Active.** A public outdoor recreation area which provides recreational opportunities and activities to the general public.

(G) **Park, Passive.** A public or private outdoor recreation area relying on a natural or man-made resource base and developed with a low intensity of impact on the land. Typical uses include greenway trail systems, community gardens, wildlife management and demonstration areas for historical, cultural, scientific, educational or other purposes that relate to the natural qualities of the area, and support facilities for such activities.

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Font: Not Bold, Not Italic

**Formatted:** Indent: Left: 0.25", No bullets or numbering

**Formatted:** Font: Bold

**Formatted:** Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left + Not at 1"

**Formatted:** Font: 11 pt

**Formatted:** Font: 11 pt

**Formatted:** Font: 11 pt

**Formatted:** Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

**Formatted:** Font: Bold, Italic

**Formatted:** Font: 11 pt

**Formatted:** Font: 11 pt

**Formatted:** Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

**Formatted:** Font: Bold, Italic

**Formatted:** Font: 11 pt

**Formatted:** Font: Bold, Italic

**Formatted:** Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

**Formatted:** Font: 11 pt

**Formatted:** Font: Bold, Italic

**Formatted:** Normal, No bullets or numbering

**Formatted:** Font: 11 pt

**Formatted:** Font: Bold, Italic

**Formatted:** Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

**Formatted:** Font: 11 pt

**Formatted:** Font: Bold, Italic

(H) **Stable, Private.** The breeding, boarding, training, or raising care of horses owned by the occupants or owners of the premises.

**§ 155.304 AGRICULTURAL USE STANDARDS.**

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **Agriculture, Livestock.** The breeding, raising and caring for domestic animals including horses.

(1) Property used for livestock shall be a minimum of five acres in size.

(2) All accessory uses and structures, such as troughs, feed mechanisms and storage, shall be setback a minimum of 100 feet from any property line.

(3) The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre.

(4) The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.

(5) The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the applicant shall satisfactorily mitigate the incompatibility prior to receiving final approval.

(B) **Agriculture, Sales and Service.** An establishment primarily engaged in the sale or rental of farm tools, small implements and farming equipment such as pickers, mowers, livestock, feed, grain, tack, riding attire, animal care products, and farm supplies.

(1) All storage areas for agricultural sales and service uses shall be enclosed or completely screened from view.

(C) **Nursery.** The sale of horticultural specialties such as flowers, shrubs, sod, trees, mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

- Formatted: Font: 11 pt
- Formatted: Indent: Left: 0.25", No bullets or numbering, Tab stops: 0.63", Left + Not at 1"
- Formatted: Font: 11 pt, Not Bold
- Formatted: List Paragraph, None, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: Not Bold, Not Italic
- Formatted: List Paragraph, None, Indent: Left: 0.25", Tab stops: 0.63", Left
- Formatted: Font: 11 pt, Not Bold
- Formatted: List Paragraph, None, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25", Tab stops: 1", Left
- Formatted: List Paragraph, None, Indent: Left: 0.63", Tab stops: 1", Left
- Formatted: Font: 11 pt, Not Bold
- Formatted: List Paragraph, Justified, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25", Tab stops: 1", Left
- Formatted: Font: 11 pt, Not Bold
- Formatted: Font: 11 pt, Not Bold
- Formatted: Font: 11 pt, Not Bold
- Formatted: Font: 11 pt
- Formatted: Font: Bold, Italic
- Formatted: Indent: Left: 0", First line: 0.25"
- Formatted: Font: Not Bold, Not Italic
- Formatted: Indent: Left: 0.25", No bullets or numbering
- Formatted: List Paragraph, Justified, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25", Tab stops: 1", Left
- Formatted: ...
- Formatted: ...
- Formatted: Font: 11 pt, Italic

**§ 155.3054 COMMERCIAL USE STANDARDS.**

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land Use Use Regulations Table (see Table 2-1, § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **Adult-oriented Business.** Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except the definition of "massage business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult-oriented business specifically includes, however, any massage business where massages are rendered by any person exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas." "Specified anatomical areas" are those defined by G.S. § 14-202.10, as such statute may be amended from time to time.

Formatted: Font: Not Italic  
Formatted: Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left

(1) No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.

(2) There shall be no more than one such use on the same property or in the same building or structure.

(3) Except for permanent signage as permitted in § 155.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

(B) **Bed & breakfast.** A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

Formatted: Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left

(1) An owner shall reside on site.

(2) There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.

(3) Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.

(4) Parking shall not be allowed in any street yard.

(C) **Car Wash/Auto Detailing.** A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

Formatted: Font: 11 pt

(C)(D) **Contractor's office.** A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor.

Formatted: Font: Not Italic

(1) ~~Except in the I-1 and I-2 Districts, a~~ All activity shall be conducted entirely within a fully-enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.

(2) ~~The overnight storage of fleet vehicles Outdoor storage and display~~ may be allowed subject to Planning Board approval (see § 155.405).

~~(3) Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.~~

(E) **Contractor Storage Yard.** A lot used for the storage of construction material, equipment, or three or more commercial vehicles used by building trades and services, other than construction sites. A contractor's office is permitted as an accessory to the storage yard.

(1) Equipment principally used in construction activity shall include but is not limited to bobcats, front-end loaders, over-head cranes, graders, dump trucks, compactors, forklift, steam rollers, earth movers, bulldozer, backhoe, concrete mixer, trenchers, cable/pipe layers or any such equipment that is not a street worthy vehicle.

(2) Outdoor storage may be allowed subject to Planning Board approval (see § 155.405).

(3) Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.

~~(D) Hotel, motel.~~

~~(1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.~~

~~(2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.~~

~~(3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.305(D)(3).~~

~~(E)~~(F) **Convenience Store with Gas station Sales.** with convenience retail. A convenience store which includes accessory gasoline retail sales to the general public.

(1) *General standards.*

(a) Vehicle repair or service shall not be permitted.

(b) The primary building, including any attached canopy, shall conform to all setback requirements.

(c) Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.

**Formatted:** Font: (Default) +Body, 11 pt, Italic, Font color: Auto

**Formatted:** List Paragraph, Justified, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Tab stops: 0.63", Left

**Formatted:** Font: (Default) +Body, 11 pt, Italic, Font color: Auto

**Formatted:** Font: Bold

**Formatted:** List Paragraph, Indent: Left: 0.63", Tab stops: 1", Left

**Formatted:** List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Font: (Default) +Body, 11 pt, Font color: Auto

**Formatted:** Indent: Left: 0.88", No bullets or numbering

**Formatted:** Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 1"

**Formatted:** Indent: Left: 0.88", No bullets or numbering

**Formatted:** Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left

**Formatted:** Font: Not Italic

(d) No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.

(e) A Class C buffer (see § 155.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.

(f) Freestanding vents shall not be permitted.

(g) Outdoor storage and display may be allowed subject to Planning Board approval (see § 155.405).

(2) *Fuel canopies.*

(a) The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.

(b) The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

(3) *Single-bay automatic car wash.* An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

(a) The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.

(b) The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.

(c) The car wash structure shall be located behind the rear building line of the principal building.

(d) All car wash structures shall meet all applicable yard requirements.

(G) **Creative studio.** A facility involved in the display and/or instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classroom; music studio or classroom; dance studio or classroom; martial arts instruction; or similar use. This definition does not include any adult entertainment establishment.

(H) **Electronic Gaming.** Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, and cybercafés. This does not include any lottery approved by the State of North Carolina.

- Formatted: Font: Bold
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Tab stops: 0.63", Left
- Formatted: Font: Italic
- Formatted: List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left
- Formatted: Font: Bold, Italic
- Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Tab stops: 0.63", Left
- Formatted: Font: Not Bold, Not Italic

(I) **Financial Institution.** An establishment engaged in deposit banking. Typical uses include commercial banks, savings institutions, and credit unions, including outdoor automated teller machines and drive-thru only facilities.

Formatted: Font: Bold, Italic

(1) Freestanding automated teller machines require minor site plan approval.

Formatted: Tab stops: 0.63", Left

(J) **Funeral Home.** An establishment which arranges and manages funeral and prepares the human deceased for burial.

Formatted: Font: Not Bold, Not Italic

(1) A funeral home may include a crematorium located within the principal building.

Formatted: Font: Not Italic

Formatted: Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

(K) **Hotel/Motel.** A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

Formatted: Font: Not Bold, Not Italic

Formatted: Font: Bold, Italic

(1) All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.

Formatted: List Paragraph, Tab stops: 0.63", Left

(2) Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Tab stops: 0.63", Left

(3) Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of § 155.307(D)(3).

Formatted: Font: Bold, Italic

Formatted: Font: Bold, Italic

Formatted: List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 1.38", Tab stops: 1", Left

(L) **Kennel.** Any building or land used, designed or arranged to facilitate the care of four or more domestic animals, such as dogs and cats.

Formatted: List Paragraph, Indent: Left: 1.38", Tab stops: 1", Left

(M) **Laundry Services.** An establishment that provides washing, drying, dry-cleaning, or ironing machines for hire to be used by customers on the premises, or that is engaged in providing laundry and dry cleaning services with customer drop-off and pick-up.

Formatted: List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 1.38", Tab stops: 1", Left

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Tab stops: 0.63", Left

Formatted: Font: 11 pt

Formatted: Font: 11 pt

Formatted: List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

Formatted: Font: 11 pt

Formatted: Font: Not Bold, Not Italic

Formatted: Indent: Left: 0.25", No bullets or numbering

(N) **Lounge, Cocktail.** A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, nightclubs, and similar uses other than restaurants or alcohol sales for off-premises consumption.

Formatted: Font: 11 pt

(1) A cocktail lounge shall not be located within 250 feet of a residential district and shall be separated a minimum of 750 feet from another cocktail lounge.

Formatted: List Paragraph, Justified, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.38" + Indent at: 0.63", Tab stops: 0.63", Left

(2) Outdoor seating and open lounge areas shall meet the criteria set forth in § 155.304(O)

Formatted: Font: (Default) +Body, 11 pt, Font color: Auto

(O) **Newspaper Publisher.** A building used for the production and distribution of newspapers, magazines and other related materials.

Formatted: Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.88", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Tab stops: 1", Left + Not at 0.63"

(P) **Office, General.** A facility generally focusing on business, government, or professional services. General office shall include advertising offices; business management consulting, data processing, collection agency; real estate or insurance agents professional services such as lawyer, accountant, bookkeeper, engineer, or architect, sales office, travel agency or any similar use.

Formatted: Font: (Default) Arial, 10 pt, Font color: Black

(Q) **Office, Medical.** A facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner or similar medial provider treats or counsels patients.

Formatted: Indent: First line: 0.25", Tab stops: 0.63", Left

(R) **Outdoor Seating and Sidewalk Cafes.** A restaurant which provides as a primary component of its business, an open area outside of the principal structure for seating including areas adjacent to sidewalks or pedestrian circulation areas.

Formatted: Font: Bold, Italic

(1) **Application.** Any restaurant seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application with the Town Manager or his designee, on a form for this purpose provided by the Town Manager.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

(2) **Site plan requirement.** A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, and other furnishings on the sidewalk or pedestrian way.

Formatted: Indent: First line: 0.25", Tab stops: 0.63", Left

(3) **Insurance and indemnification.** Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.

Formatted: List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

(4) **Issuance of permit.** No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met.

Formatted: Font: Bold, Italic

(a) The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant.

Formatted: Indent: First line: 0.25", Tab stops: 0.63", Left

(b) The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant is not open for business.

Formatted: Normal, No bullets or numbering

Formatted: Indent: Left: 0.44", No bullets or numbering

Formatted: Font: Italic, Font color: Black

Formatted

Formatted: Font: Font color: Black

Formatted: Font: Font color: Black

Formatted: Font: Italic

Formatted: Font: Font color: Black

Formatted: Font: Italic

Formatted: Font: Font color: Black

Formatted: Font: Italic

Formatted: Font: Font color: Black

(c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.

Formatted: Font: Font color: Black

(d) The placement of tables, chairs and other furnishings, as shown in the drawing submitted with the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street-side edge of the sidewalk) remains on the sidewalk or pedestrian way for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.

Formatted: Font: Font color: Black

(e) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant.

Formatted: Font: Font color: Black

(f) The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.

Formatted: Font: Font color: Black

(g) Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.

Formatted: Font: Font color: Black

(h) The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.

Formatted: Font: Font color: Black

(i) Alcoholic beverages. Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met;

Formatted: Font: Font color: Black

1. The sidewalk cafe shall be part of a standard restaurant and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on-premises consumption.

Formatted: Normal, Indent: Left: 0.63", No bullets or numbering

2. The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.

Formatted: Indent: Left: 1", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 1.75", Left + Not at 0.63"

3. The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. § 18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.

4. Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.

5. The restaurant operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.

(j) Denial. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.

(k) Permit revocation. The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:

1. Deliberately misrepresented or provided false information in the permit application;

2. Violated any provision of this code;

3. Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;

4. Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or

5. Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.

Formatted: Indent: Left: 0.44", No bullets or numbering

Formatted: Indent: Left: 0.63", First line: 0.38", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Indent at: 1.75", Tab stops: 1.38", Left

Formatted: Indent: Left: 1.25", No bullets or numbering

Formatted: Indent: Left: 1", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 1" + Indent at: 1.25", Tab stops: 1.75", Left

(I) Term, transfer, renewal, and the like. Permits issued in accordance with the provisions of this section shall:

1. Be issued annually;
2. Be in addition to the annual privilege license; and
3. Not be transferable or assignable.

(5) Definitions. For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PEDESTRIAN WAY.** An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.

Formatted: Font: Bold

**RESTAURANT.** An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants, cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

Formatted: Font: Bold

**RESTAURANT OPERATOR.** The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.

Formatted: Font: Bold

**SIDEWALK.** That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.

Formatted: Font: Bold

(S) **Pawn Shop.** Any establishment engaged in the loaning of money on the security of personal property pledged in the keeping of the pawnbroker, and the sale of such property.

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left + Not at 1"

Formatted: Not Highlight

1. Outdoor storage may be allowed subject to Planning Board approval (see § 155.405).

Field Code Changed

(T) **Radio or Television Studio.** An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services, broadcasting or telecommunication facilities.

Formatted: Not Highlight

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Font: Bold, Italic

(U) **Restaurant, Drive Through.** An establishment equipped to sell food and beverages in one of the following methods: drive-through sales to patrons in automobiles for take out who place orders through a window or remote transmission device; or sales to patrons for take out or dining in, that includes three or more of the following: food or beverage choices are advertised on a menu board; countertop sales where payment is made prior to consumption; disposable containers and utensils; limited service dining facilities with no hostess or waiters; and self service or prepackaged condiments.

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Font: Bold, Italic, Not Highlight

Formatted: Not Highlight

Formatted: Left, Indent: Left: 0.5", Space After: 10 pt, Line spacing: Multiple 1.15 li, No bullets or numbering, Tab stops: Not at 0.63"

(V) **Retail, General.** An establishment with no drive-through, equipped to sell food and beverages, served and consumed primarily on the premises, that includes three or more of the following: host or hostess assists patrons upon entry; food and beverage choices are offered from a printed menu provided by wait staff at a table; orders are taken at the table; food is served on dishes and metal utensils are provided; and, payment is made after meal consumption.

Formatted: Font: Bold, Italic

(W) **Retail, General.** A facility involved in the wholesale or retail sale, lease, or rental of new or used products to through traffic as well as the surrounding neighborhood. General retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; printed materials; sporting goods; or any similar use. The retail sale of automobile parts shall be considered retail general provided no on-site automobile service or repair is provided. This definition does not include any adult entertainment establishment.

Formatted: Normal, No bullets or numbering

1. Outdoor storage and display may allowed subject to Planning Board approval (see § 155.405).

Formatted: List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 2" + Indent at: 2.25", Tab stops: 1", Left

(X) **Retail, Neighborhood.** A facility involved in the sale, lease, or rental of new or used products primarily to local traffic in the surrounding neighborhood. Neighborhood retail shall include the selling, leasing or renting of the following goods: books; health and beauty products; photo finishing; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; stationery; tobacco; videos or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections and similar products whose preparation does not require installation of an exhaust hood.

Formatted: Font: Bold, Italic

Formatted: Font: Bold

Formatted: Font: Bold, Italic

1. Outdoor storage and display may allowed subject to Planning Board approval (see § 155.405).

Formatted: Normal, No bullets or numbering, Tab stops: Not at 1"

Formatted: Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: Not at 0.63"

2. Outdoor seating and dining may be allowed subject to Planning Board approval (see § 155.305(D)(2)).

Formatted: Font: Bold, Italic

Formatted: Font: 11 pt

Formatted: Font:

(Y) **Self Storage Facility.** A facility consisting of individual, self-contained units that are leased for the storage of business or personal goods.

(1) All storage shall be contained within a fully-enclosed building. However, outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial occasional use vehicles may allowed subject to Planning Board approval (see § 155.405).

Formatted: List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left + Not at 0.63"

(2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left + Not at 0.63"

(3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left + Not at 0.63"

(4) The following activities shall be prohibited on the premises:

Formatted: Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left + Not at 0.63"

Formatted: Indent: Left: 1.25", No bullets or numbering

(a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.

**Formatted:** Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(b) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.

(c) Operation of a transfer-and-storage business.

(d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.

(e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.

(f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.

(g) Habitation of storage units by humans or animals.

**Formatted:** Indent: Left: 0.63", First line: 0.38", Tab stops: 1.38", Left

(Z) **Service, General.** A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: animal grooming; photographic; photography, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; moped, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult entertainment establishment. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

(1) Outdoor storage may allowed subject to Planning Board approval (see § 155.405).

**Formatted:** List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

(AA) **Service, Neighborhood.** A facility involved in providing limited personal services to local traffic in the surrounding neighborhood. Neighborhood services shall include the following: personal care services such as hair, nail, tanning, massage therapy; pack and ship facility; or any similar use. All activity shall be conducted entirely within a fully-enclosed building, except for the following:

**Formatted:** List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

**Formatted:** Font: Bold, Italic

**Formatted:** Font: Bold, Italic

(1) Outdoor storage may allowed subject to Planning Board approval (see § 155.405).

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

(BB) **Tattoo Parlor.** An establishment whose principal business activity is the practice of one or more of the following:

**Formatted:** List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

**Formatted:** Font: Bold, Italic

**Formatted:** Font: Bold, Italic

(1) Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin.

(2) Piercing of the body of a person (other than the ear) for the purpose of inserting jewelry or other decoration.

(CC) **Towing Service and Storage.** The use of a lot for the temporary storage of operable or inoperable vehicles in conjunction with a commercial towing service, with no sales or repair or salvage activity occurring on the lot and subject to the following standards;

(1) Outdoor storage may allowed subject to Planning Board approval (see § 155.405).

(DD) **Vehicle Repair.** An establishment engaged in the repair of new or used motorized vehicles, equipment.

(1) No vehicle sales shall be permitted.

(2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

(3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.

(4) All repair or service operations, excluding washing, shall be conducted entirely within a fully-enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation.

(5) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

(6) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.405).

(7) There shall be no dismantling of vehicles for salvage.

(8) The storage of impounded vehicles shall not be permitted.

(EE) **Vehicle Sales and Rental.** An establishment engaged in the sale, rental, or lease of new or used motorized vehicles, equipment, or mobile homes as defined by the Department of Motor Vehicles. Typical uses include auto and truck rental, lease and sales; boat rental and sales; mobile home and recreational vehicle sales; construction equipment rental yards; moving trailer rental, and large implement sales or rental.

(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.

(2) Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.

**Formatted:** Font: Bold, Italic

**Formatted:** List Paragraph, Indent: Left: 0.25", Tab stops: 0.63", Left

**Formatted:** Font: 11 pt, Underline

**Formatted:** List Paragraph, Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Font: Bold, Italic, No underline

**Formatted:** Normal, No bullets or numbering, Tab stops: Not at 0.63"

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

**Field Code Changed**

**Formatted:** Indent: Left: 0", First line: 0.25", Don't add space between paragraphs of the same style, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Font: 11 pt

**Formatted:** Indent: Left: 0.25", Don't add space between paragraphs of the same style, Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0.25", First line: 0.38", Don't add space between paragraphs of the same style, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left

**Formatted:** Indent: First line: 0.25", Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0.25"

**Formatted:** Font: 11 pt

**Formatted:** Font:

**Formatted:** Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left + Not at 0.63"

(3) The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see § 155.405).

(4) Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).

(FF) *Veterinary Clinic.* An establishment engaged in providing medical care, treatment and temporary boarding for animals.

(1) Outdoor runs may be permitted subject to Board of Adjustment approval (see § 155.710).

(2) All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.

~~(F) *Manufacturing, limited.*~~

~~(1) All manufacturing activity shall be conducted entirely within a fully enclosed building.~~

~~(2) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.405).~~

~~(3) Uses shall not emit smoke, odor or objectionable waste materials.~~

~~(4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.~~

~~(5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.~~

~~(A) *Recreational club, private.* A recreational club shall be located on a parcel of land not less than three acres in size.~~

~~(B) *Retail, neighborhood or general.* All activity shall be conducted entirely within a fully enclosed building, except for the following:~~

~~(1) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.405).~~

~~(2) Outdoor seating and dining may be allowed subject to Planning Board approval (see § 155.305(D)(2)).~~

~~(3) For shopping centers see § 155.301 for additional requirements.~~

~~(C) *Self storage facility.*~~

~~(1) All storage shall be contained within a fully enclosed building. However, outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial occasional use vehicles may allowed subject to Planning Board approval (see § 155.405).~~

**Formatted:** No bullets or numbering

**Formatted:** Font: Bold

**Formatted:** Font: 11 pt

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Font: Not Italic

**Formatted:** Indent: Left: 0.63", No bullets or numbering

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Indent: Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(2) A Class C buffer (see § 155.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use.~~

~~(3) Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.~~

~~(4) The following activities shall be prohibited on the premises:~~

~~(a) Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with state regulations.~~

~~(b) Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.~~

~~(c) Operation of a transfer and storage business.~~

~~(d) Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.~~

~~(e) Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.~~

~~(f) Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.~~

~~(g) Habitation of storage units by humans or animals.~~

~~(D) Service, neighborhood or general. All activity shall be conducted entirely within a fully enclosed building, except for the following:~~

~~(1) Outdoor storage may allowed subject to Planning Board approval (see § 155.405).~~

~~(2) For shopping centers see § 155.301 for additional requirements.~~

~~(E) Vehicle repair.~~

~~(1) No vehicle sales shall be permitted.~~

~~(2) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.~~

~~(3) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.~~

**Formatted:** Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

**Formatted:** Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88"

**Formatted:** Indent: Hanging: 0.38", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44"

~~(4) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.~~

~~(5) Operable vehicles may be parked on site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right of way.~~

~~(6) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.405).~~

~~(7) There shall be no dismantling of vehicles for salvage.~~

~~(8) The storage of impounded vehicles shall not be permitted.~~

~~(F) Vehicle sales.~~

~~(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.~~

~~(2) Operable vehicles may be parked on site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right of way.~~

~~(3) The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see § 155.405).~~

~~(4) Vehicle sales displayed for rental or sale visible from the public right of way shall provide a parking buffer as set forth in § 155.402(E)(2)(b).~~

~~(G) Vehicle service.~~

~~(1) A Class C buffer (see § 155.402) shall be established along any side of the property adjacent to a residential use.~~

~~(2) If the facility has more than one service bay, the additional service bay doors shall not be oriented toward the right of way or a residential use, or the service bays shall be screened from view from the right of way or adjacent property using landscaping.~~

~~(3) All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. The term fully enclosed building shall not be construed to limit open bay doors during hours of operation.~~

~~(4) Operable vehicles may be parked on site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right of way.~~

~~(5) The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see § 155.405).~~

**Formatted:** Indent: Hanging: 0.38",  
Numbered + Level: 1 + Numbering Style: A, B,  
C, ... + Start at: 1 + Alignment: Left + Aligned  
at: 0.19" + Indent at: 0.44"

~~(6) — There shall be no dismantling of vehicles for salvage.~~

~~(7) — The storage of impounded vehicles shall not be permitted.~~

~~(H) — Veterinarian, animal hospital.~~

~~(1) — Outdoor runs may be permitted subject to Board of Adjustment approval (see § 155.710).~~

~~(2) — All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.~~

~~(I) — Sidewalk cafes.~~

~~(1) — Application. — Any restaurant seeking to operate a sidewalk cafe shall, in addition to acquiring all necessary health and sanitation permits and inspection and applicable ABC and other business licenses, prepare and file an application with the Town Manager or his designee, on a form for this purpose provided by the Town Manager.~~

~~(2) — Site plan requirement. — A drawing or site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian use, and depicting the proposed placement of tables, chairs, and other furnishings on the sidewalk or pedestrian way.~~

~~(3) — Insurance and indemnification. — Applicants must show proof of meeting minimum criteria for general liability insurance and must execute an indemnification statement in favor of the Town, each as approved by the Town Attorney.~~

~~(4) — Issuance of permit. — No permit for the operation of a sidewalk cafe may be issued unless the application is complete and unless the following requirements are met:~~

~~(a) — The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities and other customer convenience facilities as the restaurant and does not exceed 50% of the interior seating for the associated restaurant.~~

~~(b) — The sidewalk cafe must be operated under the same name as the restaurant and may not be opened or operated at any time when the restaurant is not open for business.~~

~~(c) — The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business.~~

~~(d) — The placement of tables, chairs and other furnishings, as shown in the drawing submitted with the site plan, must be done in such a manner not to extend more than five feet from the property line, provided that at least four feet of unobstructed space (as measured from the street side edge of the sidewalk) remains on the sidewalk or pedestrian way for the passage of pedestrians. Trees, poles, signs, sandwich board signs, planters, benches, hydrants, trash receptacles, and the like are all considered obstructions.~~

**Formatted:** Indent: Hanging: 0.38",  
Numbered + Level: 1 + Numbering Style: A, B,  
C, ... + Start at: 1 + Alignment: Left + Aligned  
at: 0.19" + Indent at: 0.44"

**Formatted:** Indent: Hanging: 0.38",  
Numbered + Level: 1 + Numbering Style: A, B,  
C, ... + Start at: 1 + Alignment: Left + Aligned  
at: 0.19" + Indent at: 0.44"

~~(e) — The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant.~~

~~(f) — The tables, chairs, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours' notice from the Town. If such items are not removed upon 24 hours' notice, the Town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The Town shall also have the right to remove such items immediately in an emergency situation. The Town shall not be responsible for damage to the public sidewalk cafe barricades and furnishings under any circumstances.~~

~~(g) — Except as elsewhere permitted, the operation or furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe.~~

~~(h) — The sidewalk cafe shall only be open when the restaurant is open. No person shall consume alcoholic beverages in a sidewalk cafe after such hours.~~

~~(i) — Alcoholic beverages. — Alcoholic beverages may be served and consumed at sidewalk cafes providing the following requirements are met:~~

~~1. — The sidewalk cafe shall be part of a standard restaurant and shall otherwise be authorized, permitted or licensed under the state law and Town codes to serve and sell alcoholic beverages for on premises consumption.~~

~~2. — The portion of the sidewalk cafe where alcohol is or may be served shall be enclosed by clearly visible barricades and shall have not more than two points of ingress or egress.~~

~~3. — The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to G.S. 5-18B-1001 for the purposes of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.~~

~~4. — Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages in open and unsealed containers from the premises.~~

~~5. — The restaurant operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the five years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.~~

~~(j) — Denial. A permit may be denied if it is found that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement, outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to the Town Council within 30 working days after the date of the written denial and the Town Council may take such corrective action as it shall find necessary. The findings and determination of the Town Council shall be final.~~

~~(k) — Permit revocation. — The Town Manager or his designee may revoke a permit issued pursuant to this section, if he finds that the restaurant operator has:~~

~~1. — Deliberately misrepresented or provided false information in the permit application;~~

~~2. — Violated any provision of this code;~~

~~3. — Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;~~

~~4. — Operate the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare, specifically including failure to keep the sidewalk cafe area clean and free of refuse; and/or~~

~~5. — Failed to maintain any health, business or other permit or license required by law for the operation of a restaurant business. Before the revocation of a permit, the Town Manager shall notify the permit holder of his intent to revoke the permit and the reasons therefor and shall afford the permit holder a reasonable opportunity to appear and be heard on the question of such revocation. After the hearing, the Town Manager shall notify permit holder in writing of the decision and the reasons therefor. A decision of the Town Manager to revoke permit may be appealed to the Town Council in accordance with the provision of this section.~~

~~(l) — Term, transfer, renewal, and the like. — Permits issued in accordance with the provisions of this section shall:~~

~~1. — Be issued annually;~~

~~2. — Be in addition to the annual privilege license; and~~

~~3. — Not be transferable or assignable.~~

~~(5) — Definitions. — For purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~**PEDESTRIAN WAY.** — An improved walk or passageway intended for use by pedestrians, but not adjacent to any Town street.~~

~~**RESTAURANT.** — An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises, including businesses that are referred to as restaurants,~~

cafeterias, cafes, lunch stands, grills, snack bars, fast food businesses and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises. This definition does not include food vendors selling food as part of a festival or nonprofit event.

~~**RESTAURANT OPERATOR.** The person, firm or corporation operating a restaurant and associated sidewalk cafe. As used in this section, this definition includes the owner and manager, if different from the owner of the restaurant and associated sidewalk cafe.~~

~~**SIDEWALK.** That portion of a public street between the curb line, or the lateral lines of the roadway if there is no curb and the adjacent property line that is intended for the use of pedestrians.~~

### § 155.306 INDUSTRIAL USE STANDARDS.

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) **Building Supplies, Wholesale.** An establishment engaged in the sale or fabrication and allied products to contractors for the construction, maintenance, repair and improvement of real property.

(1) Retail sales of lumber and allied products to the consumer may be conducted, but must be clearly accessory to the primary use.

(B) **Crematorium.** A place used and dedicated to the cremation of human remains or pet animal remains.

(C) **Gas and Fuel, Wholesale.** The use of land for bulk storage and wholesale distribution of 2,500 gallons or more of flammable liquid, or 2,000 gallons water capacity or more of flammable gas, excluding below-ground storage which is clearly accessory to the principal use on the site.

(D) **Laboratory, Research.** An establishment engaged in industrial, scientific or medical research, bio-manufacturing, testing, and analysis, including support services and structures. Typical uses include natural science/manufacturing research facilities and product testing/quality control facilities.

(1) Outdoor manufacturing, processing or testing shall be limited to industrial districts only.

(E) **Manufacturing, limited.** A facility conducting light manufacturing operations within a fully-enclosed building, generally serviced by trucks no longer than 24 feet in length. Limited manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; photo-finishing laboratory; repair

- Formatted: None, Indent: First line: 0.25"
- Formatted: Font: 11 pt, Not Bold
- Formatted: Font: 11 pt
- Formatted: Indent: Left: 0", First line: 0.25"
- Formatted: Font: Bold
- Formatted: Indent: Left: 0.25", No bullets or numbering
- Formatted: Font: 11 pt
- Formatted: List Paragraph, Indent: Left: 0.25", First line: 0.38", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.63" + Indent at: 0.88", Tab stops: 1", Left
- Formatted: Indent: Left: 0", First line: 0.25", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left
- Formatted: Font: Font color: Auto
- Formatted: Font: Not Bold
- Formatted: Font: 11 pt
- Formatted: Font: 11 pt
- Formatted: List Paragraph, Left, No bullets or numbering, Tab stops: Not at 0.63"
- Formatted: Font: 11 pt, Italic
- Formatted: Normal, Justified, Indent: Left: 0", First line: 0.25", Tab stops: 0.63", Left
- Formatted: Font: 11 pt
- Formatted: Font:
- Formatted: Font: 11 pt
- Formatted: Font: Bold
- Formatted: Font: Bold, Not Italic

of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.

(1) All manufacturing activity shall be conducted entirely within a fully-enclosed building.

(2) Outdoor storage and display may allowed subject to Planning Board approval (see § 155.405).

(3) Uses shall not emit smoke, odor or objectionable waste materials.

(4) No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.

(5) No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

(F) **Manufacturing, General.** A facility conducting manufacturing with some operations conducted outside. General manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; laundry or dry cleaning plant; photo-finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.

(G) **Manufacturing, Heavy.** A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

(H) **Research and Development.** A facility focused primarily on the research and development of new products. Research and development shall include: offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of scientific input;

**Formatted:** Indent: Left: 0.25", First line: 0.38"

**Formatted:** Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

**Formatted:** Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

**Formatted:** Indent: Left: 0.25", First line: 0.38", Tab stops: 1", Left

**Formatted:** Indent: Left: 0", First line: 0.25"

**Formatted:** Indent: Left: 0.25", No bullets or numbering

**Formatted:** Indent: Left: 0", First line: 0.25"

**Formatted:** Indent: Left: 0.44", No bullets or numbering

**Formatted:** Font: Bold, Italic

**Formatted:** Indent: Left: 0", First line: 0.25", Space After: 10 pt, Line spacing: Multiple 1.15 li, Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.19" + Indent at: 0.44", Tab stops: 0.63", Left

**Formatted:** Font: Bold, Italic

facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

(I) ***Warehouse and Freight Movement.*** A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

- Formatted: Font: Italic
- Formatted: Font: Bold
- Formatted: Font: Bold

### **§ 155.306 UTILITIES USE STANDARDS.**

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Use Regulations Table (Table 2-1 § 155.202(B)). Additional design considerations may be outlined in the Clayton General Design Guidelines.

(A) ***Recycling Center.*** A permanent facility designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The use may include construction debris recycling or other intensive recycling processes such as chipping and mulching.

Formatted: Indent: Left: 0", First line: 0.25"

(1) To ensure compatibility with surrounding uses, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed.

Formatted: Indent: Left: 0.63", No bullets or numbering, Tab stops: 1", Left + Not at 0.63"

(B) ***Renewable Energy Facility.*** A facility that renewable energy sources such as solar, wind uses or other systems with a principal use of producing electric, thermal power or mechanical power.

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Indent: Left: 0", First line: 0.25"

Formatted: Font: Bold, Italic

Formatted: Indent: Left: 0.25", No bullets or numbering

(C) ***Telecommunication Facility.*** Any tower whose principal use is to facilitate transmissions for AM/FM radio, television, microwave and cellular telephone transmission towers, antennae and accessory equipment and buildings. Specific standards for communication towers are set forth in § 155.309.

Formatted: Font: Bold, Italic

Formatted: Indent: Left: 0.25", No bullets or numbering

(D) ***Utility, Major.*** A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

Formatted: Indent: Left: 0", First line: 0.25"

Formatted: Font: Bold, Italic

(E) ***Utility, Minor.*** All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

Formatted: Left, Indent: Left: 0.5", No bullets or numbering, Tab stops: Not at 0.63"

Formatted: Font: Bold, Italic

Formatted: Indent: Left: 0", First line: 0.25"

Formatted: Left, Indent: Left: 0.5", No bullets or numbering, Tab stops: Not at 0.63"

(F) **Waste Service.** A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-05-02, passed 5-7-07; Am. Ord. 2007-05-03, passed 5-7-07)

**§ 155.3075 ACCESSORY STRUCTURES AND USES.**

(A) *General.* Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Clayton General Design Guidelines.

- (1) Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
- (2) Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
- (3) Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
- (4) Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
- (5) An accessory use shall contribute to the comfort, convenience or necessity of occupants of the primary use served.
- (6) An accessory use shall be located within the same district as the principal use.
- (7) Tractor trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

(B) *Accessory structures.* Accessory structures, not including accessory dwelling units (see (C)(1) of this section) shall be subject to the following requirements:

- (1) *Zoning permit required.* It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see § 155.709).
- (2) *Setbacks.*

(a) No accessory structure shall be located closer than ten feet to any other building or manufactured home.

(b) No accessory structure shall extend in front of the front line of the principal structure, except in the B-1 District, where the Board of Adjustment may approve a conditional use permit for an accessory use or structure to be placed in any yard other than the rear yard.

(c) No accessory structure may extend within five feet of any lot line in R-6 and R-8 Districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

(3) *Height.* The height of an accessory structure shall not exceed the height of the principal structure, unless approved as a conditional use by the Board of Adjustment, as provided in § 155.710.

(4) *Number.* No more than one accessory structure shall be permitted on the same lot as any primary structure in R-6, R-8, and R-10 Residential Districts, and no more than two accessory structures shall be permitted on the same lot as any primary structure in all other zoning districts.

(C) *Accessory uses in residential districts.*

(1) *Accessory dwelling units.* One accessory dwelling shall be permitted as a conditional use by the Board of Adjustment (see § 155.710) subject to their approval and the following requirements:

(a) The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.

(b) The accessory dwelling shall not have a separate electrical meter.

(c) The owner of the property shall occupy either the primary structure or the accessory dwelling.

(d) The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.

(e) All principal structure setbacks and yard requirements shall be met.

(f) One additional parking space on the same premises shall be required for the accessory dwelling unit.

(g) A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.

(h) An accessory dwelling shall either be located within the principal structure; or meet the following standards:

1. The accessory dwelling shall be located on the same lot as the principal structure.
2. The accessory dwelling shall be separated by at least ten feet from the principal structure.
3. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.
4. Total building coverage and impervious surface area shall not exceed that permitted in the district.
5. The height of a principal structure shall not be exceeded by any accessory dwelling.
6. The accessory dwelling unit shall be architecturally consistent with the principal structure.

(2) *Home occupations.*

(a) Prohibited home occupations. The following uses are not permitted as home occupations:

1. Vehicle and/or body and fender repair.
2. Outdoor repair.
3. Commercial nursery or truck farming.
4. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.
5. Medical or dental lab.
6. Restaurant.
7. Sale or repair of firearms.
8. Bulk storage of flammable liquids.
9. Funeral homes and mortuaries.
10. Animal hospitals and kennels.

(b) Class A. The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the

residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

1. The use of the dwelling unit for Class A Home Occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.
3. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.
4. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
5. No display of products shall be visible from the street.
6. A Class A Home Occupation shall be subject to all applicable licenses and business taxes.
7. No persons other than members of the family residing on the premises shall be engaged in the home occupation.
8. Storage space and the operation of the business inside the dwelling unit shall not exceed 25% of the first floor area of the residence.
9. Customers and employees coming to the residence to conduct business shall not be permitted.
10. No signage shall be permitted.

(c) Class B. A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. A Class B Home Occupation shall be permitted as a conditional use provided that the Board of Adjustment shall determine in its judgment that:

1. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.
2. No more than 20% of the total actual floor area of the dwelling shall be in the conduct of the home occupation.
3. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.

4. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.

5. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.

6. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.

7. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

8. The use will not create undue traffic congestion or create a traffic hazard.

9. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

(3) *Swimming pools.* When allowed, in-ground and above ground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

(a) *Private pools.* Private swimming pools (as well as the decking and equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to the any property line.

(b) *Outdoor community pools, private club pools, or pools in multi-family complexes.*

1. Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

2. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(4) *Vehicle repair.* Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

(5) *Vehicle sales.* Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

(D) *Accessory uses in nonresidential districts.*

(1) *Drive-thru.* Drive-thru facilities shall be subject to the following requirements:

(a) A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.

(b) Drive-thru windows and lanes shall be screened in accordance with § 155.402(G).

(2) *Outdoor seating and dining.* Outdoor seating and dining may be allowed subject to major site plan approval by the Planning Board (see § 155.707).

(3) *Swimming pools.*

(a) Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.

(b) Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

(c) When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

(E) *Accessory uses for places of worship.* Accessory uses are permitted for a place of worship in accordance with the following standards.

(1) The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

- (a) Offices for the place of worship;
- (b) Rooms for religious instruction or counseling;
- (c) Meeting rooms for intermittent community meetings or instruction;
- (d) Fellowship hall;
- (e) Kitchen facilities;
- (f) Senior center, neighborhood arts center or other community center;
- (g) Temporary child care during religious services or events;
- (h) Outdoor play area;

(i) Columbarium;

(j) "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and

(k) Residence for clergy employed by the place of worship.

(2) The following accessory uses are subject to approval of a major site plan by the Planning Board (see § 155.707).

(a) Gymnasium or similar indoor recreational facility;

(b) Cemetery;

(c) Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;

(d) Child care center;

(e) School;

(f) Soup kitchen or other social service facility; and

(g) Athletic field or similar facility.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07)

### § 155.3068 TEMPORARY USES.

(A) *General requirements.* Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

(B) *Temporary uses exempt from permit.* The following permitted temporary uses are exempt from these requirements.

(1) Christmas tree sales lots.

(2) Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.

(3) Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

(C) *Temporary use permit required.* The following temporary uses are allowed in the frequency stated below, except that no property shall have more than four of the events listed below in one calendar year.

(1) *Commercial circuses, carnivals or fairs.* Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

(2) *Temporary religious or revival activities.* Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

(3) *Non-profit special events.* Special events run by non-profit, charitable organizations occurring no longer than seven consecutive days once every three months.

(4) *Tent sales.* Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

(5) *Grand opening sales.* Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

(6) *Outdoor vehicle show or sale.* Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

(7) *Other temporary uses.* Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

(D) *Temporary outdoor display of merchandise.* ~~Commentary: The temporary outdoor display of merchandise should not be confused with the p~~ Permanent outdoor display of merchandise may be approved as part of major site plan (see § 155.405).

(1) Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.

(a) Merchandise shall only be displayed in front of the premises occupied by the merchant.

(b) Merchandise shall not be displayed closer than five feet to any entrance to the premises.

(c) Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.

(d) The display of merchandise shall not exceed eight feet in height.

(e) Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.

(f) Merchandise shall only be displayed in an area not wider than 50% of the total linear foot frontage of the building occupied by the merchant.

(g) The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.

(h) A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.

(2) Any temporary use permit issued under (C)(1) through (7) of this section shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.

(3) The requirements of this section do not supersede the permanent outdoor storage or display requirements of § 155.405.

(E) *Manufactured home or trailer for temporary use.* After approval by the Planning Director, a manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. In no event shall the use continue more than six months without the further approval of the Planning Director. The temporary use shall be approved only upon finding that actual construction is continuing.

(F) *Temporary use in conjunction with special event permit.* Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

(G) *Real estate development projects.*

(1) A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.

(2) When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.

(3) The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.

(4) The following uses in connection with such a project require a temporary use permit:

(a) Offices for sale of real estate or for persons engaged in the development.

(b) Construction materials storage, general contractor's business office, processing, or fabrication.

(c) Equipment storage.

(d) Model homes or sample apartments.

(Ord. 2005-11-02, passed 11-21-05)

**§ 155.3097 ~~WIRELESS~~ TELECOMMUNICATION FACILITIES.**

(A) *Purpose and legislative intent.*

(1) The Telecommunications Act of 1996 affirmed the Town authority concerning the placement, construction and modification of wireless telecommunications facilities. North Carolina General Statutes governing the regulation of wireless telecommunication facilities, Chapter 160A, Article 19, Part 3E, provide for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.

(2) The Town finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants, including but not limited to adjacent and nearby property owners. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to insure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, wireless telecommunications facilities application and permitting process. The intent of this section is to minimize the physical impact of wireless telecommunications facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town.

(B) *Definitions.* For purposes of this section, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and

words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

**ACCESSORY FACILITY OR STRUCTURE.** An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

**AMEND or AMENDED.** Any change in an application made subsequent to the submission of the application from that which was originally submitted, regardless of the reason.

**ANTENNA.** A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

**APPLICANT.** Any wireless service provider submitting an application for a special use permit for wireless telecommunications facilities.

**APPLICATION.** All necessary and required documentation that an applicant submits in order to receive a special use permit or a building permit for wireless telecommunications facilities.

**CO-LOCATION.** The use of an approved telecommunications structure to support antenna for the provision of wireless services.

**COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE.** The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

**CONSULTANT FEE(S).** Set by Town Council and set forth in the Town's schedule of fees.

**COMPLETED APPLICATION.** An application that contains all necessary and required information and/or data necessary to enable an informed decision to be made with respect to an application.

**DAS or DISTRIBUTIVE ACCESS SYSTEM.** A technology using antenna combining technology allowing for multiple carriers or wireless service providers to use the same set of antennas, cabling or fiber optics.

**FAA.** The Federal Aviation Administration, or its duly designated and authorized successor agency.

**FCC.** The Federal Communications Commission, or its duly designated and authorized successor agency.

**HEIGHT.** When referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

**MAINTENANCE.** Plumbing, electrical or mechanical work that may require a building permit but that does not constitute a modification to the WTF.

**MODIFICATION or MODIFY.** The addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification.

**NECESSARY.** What is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in prohibiting or acting in a manner that prohibits the provision of service as intended and described in the narrative of the application. **NECESSARY** does not mean what may be desired or preferred technically.

**NIER.** Non-ionizing electromagnetic radiation.

**PERSON.** Any individual, corporation, estate, trust, partnership, joint stock company, association of two or more persons having a joint common interest, or any other entity.

**PERSONAL WIRELESS FACILITY.** See definition for **WIRELESS TELE- COMMUNICATIONS FACILITIES**.

**PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PTS.** Have the same meaning as defined and used in the 1996 Telecommunications Act.

**REPAIRS AND MAINTENANCE.** The replacement or repair of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

**SPECIAL USE PERMIT.** The official document or permit by which an applicant is allowed to file for a building permit to construct and use wireless telecommunications facilities as granted or issued by the Town.

**STEALTH or STEALTH TECHNOLOGY.** A design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances. Stealth technology includes such technology as DAS or its functional equivalent or camouflage where the tower is disguised to make it less visually obtrusive and not recognizable to the average person as a WTF.

**STATE.** The State of North Carolina.

**TELECOMMUNICATIONS.** The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**TELECOMMUNICATION SITE.** See definition for **WIRELESS TELE- COMMUNICATIONS FACILITIES**.

**TELECOMMUNICATIONS STRUCTURE.** A structure used in the provision of services described in the definition of **WIRELESS TELE- COMMUNICATIONS FACILITIES**.

**TEMPORARY.** Temporary in relation to all aspects and components of this section, something intended to, or that does, exist for fewer than 90 days.

**TOWER.** Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

**WIRELESS TELECOMMUNICATIONS FACILITIES or FACILITIES (WTF OR WTFS).** Includes a telecommunications site and personal wireless facility. It means a structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types, kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the facility. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

(C) *Overall procedure and desired outcomes for approving and issuing permits for wireless telecommunications facilities.* In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the Town's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this section, the Town hereby adopts an overall policy with respect to the review, approval and issuance of permits for wireless telecommunications facilities for the express purpose of achieving the following outcomes:

- (1) Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility as required or otherwise specified in this section.
- (2) Implementing an application process for person(s) seeking approval of wireless telecommunications facilities.
- (3) Establishing a procedure for examining an application and issuing a special use permit and/or building permit for wireless telecommunications facilities that is both fair and consistent.
- (4) Promoting, and requiring wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
- (5) Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth technology.

(6) In approving a wireless tele- communications facility, the Town shall find that the facility shall be the most appropriate site in regards to being the least visually intrusive among those available in the Town given the facts and circumstances.

(D) *Exceptions from a special use permit for wireless telecommunications facilities.*

(1) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless telecommunications facility as of the effective date of this section without having first obtained a special use permit for a wireless telecommunications facility as defined in division (B) of this section or an administratively granted authorization (building permit) as defined in division (G) of this section, whichever is applicable. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those noncommercial exceptions noted in division (E), unless deemed in the public interest by the Town.

(2) If constructed as required by permit, all legally permitted wireless telecommunications facilities that existed on or before the effective date of this section shall be allowed to continue as they presently exist, provided however, that they are operating as originally permitted and that any modification of an existing wireless telecommunications facility not permitted under this section will require the complete facility and any new installation to comply with this section, as will anything changing the structural load.

(3) Any repair and maintenance of a wireless telecommunications facility that does not increase the height of the structure, alter the profile, increase the footprint or otherwise exceed the conditions of the special use permit does not require an application for a special use permit but may require a building permit. However, no additional construction or site modification shall be considered to be repair and maintenance.

(E) *Exclusions.* The following shall be exempt from this section:

(1) Any facilities expressly exempt from the Town's siting, building and permitting authority.

(2) Any reception or transmission devices expressly exempted under the Telecommunications Act of 1996.

(3) Facilities used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial telecommunications.

(4) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility does not require a new tower or increase the height of the structure being attached to.

(F) *Special use permit application and other requirements for a new wireless telecommunications facility or for increasing the footprint, height, profile or number of co-locations of the structure to be attached to.*

(1) (a) All applicants for a special use permit for wireless telecommunications facilities, including new towers or support structures or that otherwise increases the footprint, height, profile or number of co-locations or any modification of such facility beyond the conditions of an approved special use permit shall comply with the requirements set forth in this section. The Town Council is the officially designated agency or body of the Town to whom applications for a special use permit for wireless telecommunications facilities must be made,

and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking special use permits for wireless telecommunications facilities. The Town Council may at its discretion delegate or designate the Planning Board or other official agencies or officials of the Town or outside consultants to accept, review, analyze, evaluate and make recommendations to Town Council with respect to the granting or not granting or revoking special use permits for wireless telecommunications facilities. However, outside consultants shall have no authority to make or change policy for the Town.

(b) Placement of wireless telecommunications towers and facilities within major subdivisions or within intended service areas with existing or planned medium to high residential density, or areas identified as potential high density area, must employ stealth or camouflage techniques, such as DAS, or its functional equivalent.

(c) Note: Medium density, high density or potentially high density residential areas shall be defined by planning staff in its discretion.

(2) All applicants shall closely follow the instructions for preparing an application for a wireless telecommunications facility prior to the submittal of an application for special use permit. Not closely following the instructions without permission to deviate from such shall result in a tolling of the otherwise required 45 day notification period until the receipt of a complete and properly completed application. The applicant shall be notified in writing within 45 days of submission of an application as to the completeness of the wireless telecommunications facility application and any deficiencies. An amended application shall be required to correct any deficiencies.

(3) When placing wireless facilities on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this section.

(4) The Town may deny applications not meeting the requirements stated herein or which are otherwise not complete. In the event the application is denied, the portion of the wireless telecommunications facility application fee remaining from the consultant fee shall be refunded, but the special use permit application fee is not refundable.

(5) No wireless telecommunications facilities shall be installed, constructed or modified until the application is reviewed and approved by Town Council, and the special use permit has been approved and a building permit has been issued.

(6) Any and all representations made by the applicant to Town Council on the record during the application process, whether written or verbal, shall be deemed to have been relied upon in good faith by the Town. Any verbal representation shall be treated as if it were made in writing.

(7) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person vested with the authority to bind and commit the applicant to the conditions of the special use permit and the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

(8) The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

(9) The applicant shall include a statement in writing:

(a) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by Town Council in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and

(b) That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

(10) Where a certification is called for in this section, such certification shall bear the signature and seal of a professional engineer licensed in the state.

(11) In addition to all other required information as stated in this section, all applications for the construction or installation of new wireless telecommunications facilities or modification of an existing facility shall contain the information hereinafter set forth prior to the issuance of a building permit.

*Ownership and Management:*

(a) The name, address and phone number of the person preparing the application;

(b) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

(c) The postal address and tax map parcel number of the property;

(d) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

(e) Written acknowledgment that any new telecommunications tower shall be structurally designed to accommodate a minimum of six antenna arrays and shall be managed so as to not restrict, prevent or prohibit competition among carriers;

(f) The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunications tower that it constructs;

*Zoning and Planning:*

- (g) The Zoning District or designation in which the property is situated;
- (h) The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- (i) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;
- (j) A site plan showing the footprint and type, location and dimensions of access drive, landscaping and buffers, fencing and any other requirement of site plans;
- (k) Elevations showing the profile or the vertical rendition of the wireless telecommunications facility identifying proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the pre-existing grade, materials, color and lighting;
- (l) When considering a modification to an existing wireless telecommunications facility, provide all users and attachments to the facility, including all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (m) The azimuth, size and center line height location of all proposed and existing antennas on the supporting structure;
- (n) The type and design of the wireless telecommunications facility, the number of antenna arrays proposed and the basis for the calculations of the wireless telecommunications facility's capacity to accommodate the required number of antenna arrays for which the structure must be designed;
- (o) The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs;
- (p) Technical information regarding noise and/or sound generated by any generators or other equipment to be used on site; if multiple generators are to be used, then the data should show the cumulative impact of noise generated.

*Safety:*

- (q) If modifying an existing wireless telecommunications facility:
  - 1. The age of the facility in years, including the date of the grant of the original permit;

2. A description of the type of tower, e.g. guyed, self-supporting lattice or monopole;

3. The make, model, type and manufacturer of the facility and the structural design calculations, certified by a professional engineer licensed in the state, proving the facility's capability to safely accommodate the facilities of the applicant without change or modification or if any change or modification of the facility is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made;

4. A copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure;

5. For a tower that is five years old or older, or for a guyed tower that is three years old or older, a copy of the latest ANSI report done pursuant to the latest edition of ANSI-EIA/TIA 222F-Annex E for any self-supporting tower. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application. No building permit shall be issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has been completed or a schedule for the remediation work has been approved by the Planning Department;

(r) A structural report signed by a professional engineer licensed to do business in the state and bearing that engineer's currently valid stamp, showing the structural adequacy of the proposed structure to accommodate the proposed wireless telecommunications facility, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building;

(s) If attaching to a structure other than a tower or where the proposed attachment is within 30 feet of areas to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF radiation (i.e. NIER or non-ion-emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers. Such report or analysis shall be signed and sealed by a professional engineer licensed in the state; or

(t) In an instance involving a tower where the new wireless facilities will be ten meters or more above ground level and not within 30 feet of areas to which the public has or could reasonably have or gain access to, signed documentation such as the FCC's "Checklist to Determine whether a Facility may Categorically Excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance

with the current FCC's RF emissions regulations. If not categorically excluded, a complete RF emissions study is required to enable verification of compliance including providing all calculations so that such may be verified prior to issuance of a building permit;

(u) In certain instances, the Town may deem it appropriate to have an RF survey of the facility done after the construction or modification and activation of the facility, such to be done under the direction of the Town or its designee, and an un-redacted copy of the survey results provided, along with all calculations prior to issuance of a certificate of compliance;

(v) If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with yellow and black plastic chain and striped warning tape, as well as placing RF radiation signs as needed and appropriate to warn individuals of the potential danger;

(w) A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

(12) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed wireless telecommunications facility is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any where the application increases the height of the wireless telecommunications facility. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

(13) Application for new wireless telecommunications facility versus co-location. Placement of wireless telecommunications towers and facilities within major subdivisions or within intended service areas with existing or planned medium to high residential density, or areas identified as potential high density areas, must employ stealth or camouflage techniques, such as DAS, or its functional equivalent.

Note: Medium density, high density or potentially high density residential areas shall be defined by planning staff in its discretion.

(a) The applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing wireless telecommunications facilities or the use of alternative buildings or other structures within the town that are at or above the surrounding tree height or the tallest obstruction and are within one mile of the proposed tower. Copies of written requests and responses for shared use shall be provided to the Town in the application, along with any letters of rejection stating the reason for rejection.

(b) Telecommunications towers shall be prohibited in Residential Districts, Historic Districts or Renaissance Districts, unless the applicant provides documentation (i.e. clear and convincing evidence) to demonstrate that the telecommunications tower is necessary, that the area cannot be served from outside the district, that no existing or previously approved wireless telecommunications facility can reasonably be used for the antenna placement

instead of the construction of a new wireless telecommunications facility or instead of increasing the height of an existing wireless telecommunications facility, and that no alternative wireless telecommunications facility or alternative type of wireless telecommunications facility can be used to provide wireless telecommunications service to the district.

(c) In order to better inform the public, in the case of a new telecommunication tower, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten foot in length, a brightly colored balloon at the maximum height of the proposed new tower.

(d) At least 14 days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign shall be at least four feet by eight feet in size and shall be readable from the road by a person with 20/20 vision.

(e) Such sign shall be placed off, but as near to, the public right-of-way as is possible.

(f) Such sign shall contain the times and date(s) of the balloon test and contact information.

(g) The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the town and as agreed to by the Town. The applicant shall inform the Town in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours between 10:00 a.m. and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.

(h) The applicant shall notify all property owners and residents located within 1,500 feet of the nearest property line of the subject property of the proposed construction of the tower and wireless facility and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by first class mail.

(i) The wireless telecommunications facility shall be structurally designed to accommodate at least six additional antenna arrays as regards the load and stress created on the structure, with each array to be sited in such a manner as to provide for flush attachments to the greatest extent possible with the minimum separation required without causing interference. An intermodulation study shall be submitted to justify design claims as related to interference. A claim of interference because of a need to have greater than six feet of vertical clearance between facilities, measured from the vertical centerline of one array to the vertical centerline of another, must be proven by technical data showing that there is no technological alternative that would enable the service to be provided that would require less vertical space, and not merely verbal or written assertions. This requirement may be waived, provided

that the applicant, in writing, demonstrates that the provisions of future shared usage of the wireless telecommunications facility is not reasonably feasible if co-location is technically or commercially impractical or impracticable. The applicant shall provide information necessary to determine whether co-location is reasonably feasible based upon:

1. The kind of wireless telecommunications facilities site and structure proposed;
2. Available space on existing and approved wireless telecommunications facilities;

(j) The owner of a proposed new wireless telecommunications facility, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed wireless telecommunications facility by other wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use applicant;
2. Negotiate in good faith concerning future requests for shared use of the new wireless telecommunications facility by other telecommunications providers;
3. Allow shared use of the new wireless telecommunications facility if another telecommunications provider agrees in writing to pay reasonable charges;
4. Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit.

(14) The applicant shall provide certification with documentation (i.e. structural analysis) including calculations that the telecommunication facility and foundation and attachments, rooftop support structure, water tank structure, or any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) guidelines.

(15) All applications for proposed wireless telecommunications facilities shall contain a demonstration that the facility is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved, and thereby will have the least adverse visual effect on the environment and its character, on existing vegetation, and on the community in the area of the wireless telecommunications facility. The Town expressly reserves the right to require the use of stealth or camouflage technology or techniques such as DAS (Distributive Antenna System technology) or its functional equivalent to achieve this goal and such shall be subject to approval by Town Council.

(16) The applicant shall furnish a visual impact assessment, which shall include:

- (a) A computer-generated "Zone of Visibility Map" at a minimum of one-mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage;

(b) Pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the town as may be appropriate and required, including, but not limited to, state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;

(c) A written description of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

(17) The applicant shall demonstrate and provide in writing and by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility.

(18) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technology as may be required by the Town.

(19) All utilities at a wireless telecommunications facility site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(20) At a wireless telecommunications facility site an access road, turn around space for an emergency vehicle and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

(21) All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, state, or United States, including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(22) A holder of a special use permit granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.

(23) There shall be a pre-application meeting for all intended applications. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process and certain issues or concerns the Town may have. A pre-application meeting shall also include a site visit, if there has not been a prior site visit for the requested facility. Costs of Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a consultant fee based on the fixed hourly rate to be set in the Town's fee schedule applied to the anticipated time customarily required for the review of similar applications.

(24) An applicant shall submit to the Town the number of completed applications determined to be needed at the pre-application meeting. However, applications will not be transmitted to Town Council for consideration until the application is deemed complete.

(25) If the proposed site is within two miles of another jurisdiction, written notification of the application shall be provided to the legislative body of all such adjacent municipalities as applicable and/or requested.

(26) The holder of a special use permit shall notify the Town of any intended modification of a wireless telecommunication facility and shall apply to the Town to modify, relocate or rebuild a wireless telecommunications facility.

(27) A building permit shall not be issued for construction of the wireless telecommunications facility until there is an application for a specific carrier that documents that the facility is necessary for that carrier to serve the community and that co-location on an existing telecommunications structure is not feasible within the applicant's search ring. Collocation on an existing structure is not reasonably feasible if co-location is technically or commercially impractical or impracticable or the owner of the wireless telecommunications facility is unwilling to enter into a contract for such use at fair market value. Sufficient documentation in the form of clear and convincing evidence to support such claims shall be submitted with a wireless telecommunications facility application for the first carrier to determine whether co-location on existing structures is reasonably feasible and to document the need for a specific height and that less height will serve to prohibit or have the effect of prohibiting the provision of service.

(G) *Requirements for an application for the first antenna to be attached to an approved wireless telecommunications structure within the parameters of an approved special use permit.*

(1) The fixed application fee for review of wireless telecommunications facilities applications for locating an antenna array on an approved wireless telecommunications facility within the parameters of an approved special use permit shall be as set forth in the Town's schedule of fees.

(2) An application to increase the parameters or size of an approved wireless telecommunications facility as relates to conditioned height, profile, number of co-locations or footprint shall not qualify for treatment as an attachment to an approved wireless

telecommunications facility within the parameters of an approved special use permit under this section.

(3) There shall be no special use permit required for an application to attach the first antenna array on an approved wireless telecommunications facility within the parameters of an approved special use permit, unless for good cause such shall be required by Town Council or the Planning Director. Instead, approval shall result in issuance of a building permit by the appropriate administrative officer.

(4) Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.

(5) A pre-application meeting shall be held. Before the pre-application meeting, the applicant shall be provided instructions for completing an application. Said instructions are to be controlling as regards the form and substance of the issues addressed in the instructions and must be followed. Prior to the pre-application meeting, the applicant shall prepare and submit a project information form provided by the Town and submit the consultant fee, but shall not prepare or submit the application until after the pre-application meeting.

(6) The applicant shall include a written statement that:

(a) The applicant's proposed wireless telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and

(b) The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

(7) An application for the first antenna to be attached to an approved wireless telecommunications facility subsequent to the issuance of the special use permit and prior to issuance of a building permit for construction of the wireless telecommunications facility shall contain the requirements of the streamlined process for review of co-locations in division (H) and the following information:

*Facility Description and Documentation of the Facility as Necessary*

(a) A detailed narrative description and explanation of the specific objective(s) for the new wireless telecommunications facility, expressly including and explaining the purpose for the facility, such as coverage and/or capacity, technical requirements, and the identified boundaries of the specific geographic area of intended coverage;

(b) Technical documentation that proves the design of the wireless telecommunications facility is what is necessary to provide type and coverage of the service

primarily and essentially within the Town. Such documentation shall include a propagation study of the proposed site and all adjoining planned, proposed or existing sites, that demonstrates a significant gap in coverage and/or, if a capacity issue is involved, to include an analysis of the current and projected usage (traffic studies) using generally accepted industry methods and standards so as to conclusively prove the need for what is proposed. To enable the Town to make its decision as regards to the design of the wireless tele- communications facility, the Town may require the provision of all technical or engineering data and information used by the applicant that is necessary to enable an informed decision to be made to assure compliance with the intent of this section and that is based upon a written record, not to include information that by applicable law or regulation is deemed to be confidential or proprietary;

(c) All of the modeling information (i.e. data) inputted into the software used to produce the propagation studies, including, but not limited to any assumptions made, such as ambient tree height, which shall include the completion of the Town's Propagation Study Data Form;

(d) A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the five and ten year build-out plan required by the FCC;

(e) The frequency, modulation and class of service of radio or other transmitting equipment;

(f) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier;

(g) The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts;

(h) A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved special use permit.

*Ownership and Management:*

(i) The name, address and phone number of the person preparing the application;

(j) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

(k) The postal address and tax map parcel number of the property;

(l) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities.

(H) *Streamlined requirements for an application to co-locate on an existing telecommunications facility within the parameters of an approved special use permit.*

(1) The fixed application fee for review of wireless telecommunications facilities applications for co-locating an antenna array on an existing wireless telecommunications facility shall be as set forth in the Town's schedule of fees.

(2) An application to increase the parameters of an approved wireless telecommunications facility as relates to conditioned height, profile, number of co-locations or footprint shall not qualify for treatment as an attachment to an existing tower or other structure under this section.

(3) There shall be no special use permit required for an application to modify or to co-locate an antenna array on an existing and properly permitted wireless telecommunications facility so long as the co-location or modification does not exceed the parameters of the conditions of the approved special use permit, unless for good cause such shall be required by Town Council or the Planning Director. Instead, approval shall result in issuance of a building permit by the appropriate administrative officer.

(4) Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.

(5) A pre-application meeting shall be held. Before the pre-application meeting, the applicant shall be provided instructions for completing an application. Said instructions are to be controlling as regards the form and substance of the issues addressed in the instructions and must be followed. Prior to the pre-application meeting, the applicant shall prepare and submit the project information form and submit the consultant fee, but shall not prepare or submit the application.

(6) The applicant shall include a written statement that:

(a) The applicant's proposed wireless telecommunications facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and

(b) The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

(7) An application for attaching an antenna array under this section shall contain the following information:

*Facility Description:*

(a) A detailed narrative description and explanation of the specific objective(s) for the new facility, or the modification of an existing wireless facility, expressly including and explaining the purpose for the facility, such as lack of coverage, and/or capacity, requirements, and the identified boundaries of the specific geographic area of intended coverage;

(b) Documentation that the design of the facility is what is necessary for the design service to serve the community (i.e. that the placement on the wireless telecommunications structure is the lowest available height necessary and that the design produces the least visual and is designed to operate within the conditions of the approved special use permit as regards to height, profile, type and number of co-locations and footprint);

(c) A copy of the FCC license applicable for the intended use of the wireless telecommunications facility, as well as a copy of the five and ten year build-out plan required by the FCC;

(d) The frequency, modulation and class of service of radio or other transmitting equipment;

(e) The maximum transmission power capability of all radios, as designed, if the applicant is a cellular or functional equivalent carrier, or the maximum transmission power capability, as designed, of all transmission facilities if the applicant is not a cellular or functional equivalent carrier;

(f) The actual intended transmission power stated as the maximum effective radiated power (ERP), both in dBm's and watts;

(g) A statement certifying that the wireless telecommunications facility and all attachments thereto are in compliance with the conditions of the approved special use permit;

*Ownership and Management:*

(h) The name, address and phone number of the person preparing the application;

(i) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided;

(j) The postal address and tax map parcel number of the property;

(k) A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities;

*Zoning and Planning:*

- (l) The Zoning District or designation in which the property is situated;
- (m) The size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- (n) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;
- (o) A site plan showing the footprint, location and dimensions of access drives, landscaping and buffers, fencing and any other requirements of site plans;
- (p) Elevations showing the vertical rendition of the wireless telecommunications facility identifying all users, attachments, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (q) The azimuth, size and center line height location of all proposed and existing antennae on the supporting structure;
- (r) The number, type and model of the antenna(s) proposed, along with a copy of the specification sheet(s) for the antennas;

*Safety:*

- (s) The age of the tower in years, including the date of the grant of the original permit or authorization for the tower;
- (t) A description of the type of tower, e.g. guyed, self-supporting lattice or monopole;
- (u) The make, model, type and manufacturer of the telecommunications structure and the structural design calculations, certified by a professional engineer licensed in the state, proving the structure's capability to safely accommodate the facilities of the applicant without change or modification, or if any change or modification of the structure is needed, a detailed narrative explaining what changes are needed, why they are needed and who will be responsible to assure that the changes are made;
- (v) A copy of the installed foundation design, as well as a geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for the tower site or other structure;
- (w) For a tower that is five years old or older, or for a guyed tower that is three years old or older, a copy of the latest ANSI report done pursuant to the latest edition of ANSI-EIA/TIA 222F - Annex E for any self-supporting tower. If an ANSI report has not been done pursuant to the preceding schedule, an ANSI report shall be done and submitted as part of the application. No building permit shall be issued for any wireless facility where the structure being attached to is in need of remediation, unless and until all remediation work needed has

been completed or a schedule for the remediation work has been approved by the Planning Department;

(x) A structural report signed by a professional engineer licensed to do business in the state and bearing that engineer's currently valid stamp, showing the structural adequacy of the wireless telecommunications facility to accommodate the proposed modification or antenna array co-location, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building;

(y) If attaching to a structure other than a tower or where the proposed attachment is within 30 feet of areas to which the public has or could reasonably have or gain access to, documentation shall be provided, including all calculations, proving that the potential exposure to RF radiation (i.e. NIER or non-ion-emitting radiation), will be in compliance with the most recent Federal Communications Commission regulations governing RF radiation and exposure thereto, and further denoting the minimum distance from any antennas an individual may safely stand without being exposed to RF radiation in excess of the FCC's permitted standards and any portion(s) of the structure that would be exposed to RF radiation in excess of the FCC's permitted standards. In compliance with the FCC's regulations, in such an instance the RF radiation from all wireless facilities at that location shall be included in the calculations to show the cumulative effect on any area of the building or structure deemed accessible by the public or workers. Such report or analysis shall be signed and sealed by a professional engineer licensed in the state;

(z) In an instance involving a tower where the new wireless telecommunications facility will be ten meters or more above ground level, signed documentation such as the FCC's "Checklist to Determine whether a Facility may be Categorized Excluded" shall be provided to verify that the wireless telecommunication facility with the proposed installation will be in full compliance with the current FCC's RF emissions regulations. If not categorically excluded, a complete RF emissions study is required to enable verification of compliance, including providing all calculations so that such may be verified prior to issuance of a building permit;

(aa) If any section or portion of the structure to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with yellow and black striped warning tape or a suitable warning barrier, as well as placing RF radiation signs as needed and appropriate to warn individuals of the potential danger; or

(bb) A signed statement that the applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.

(8) To protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.

(9) If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the applicant can prove that to locate elsewhere will prohibit or have the effect of prohibiting the provision of service. The provisions of the preceding division (H)(8) of this section shall also apply to any attachment to a water tank.

(10) The applicant shall provide a certification by a professional engineer licensed in the state, along with documentation (a structural analysis), including calculations, that prove that the wireless telecommunications facility and its foundation as proposed to be utilized are designed and were constructed to meet all local, Town, state, federal and ANSI structural requirements for loads, including wind and ice loads and the placement of any equipment on the roof a building after the addition of the proposed new facilities.

(11) So as to be the least visually intrusive wireless telecommunications facility reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect and create the least intrusive or lowest profile or visual silhouette reasonably possible, unless it can be proven that such would be technologically impracticable, all antennas attached to a tower or other structure shall be flush mounted or as near to flush mounted as is possible without prohibiting or having the effect of prohibiting the provision of service so as to minimize the visual profile of the antennas, or prove technically, with hard data and a detailed narrative, that flush mounting cannot be used and would serve to prohibit or have the effect of prohibiting the provision of service.

(12) Unless it is deemed inappropriate or unnecessary by the Town given the facts and circumstances, the applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively buffer and screen from view the base and all related equipment and structures of the proposed wireless telecommunications facility up to a height of ten feet.

(13) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth, camouflage or concealment technology as may be required by the Town and as is not impracticable under the facts and circumstances.

(14) All utilities installed for a new wireless telecommunications facility shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(15) If deemed necessary or appropriate, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion and shall comply with any local or state regulations for the construction of roads. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.

(l) *Location of wireless telecommunications facilities.*

(1) Applicants for telecommunications towers shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, in the following order:

- (a) On existing wireless telecommunications facilities on Town-owned property without increasing the height of the tower or structure.
- (b) On other existing wireless telecommunications facilities without increasing the height of the tower or structure.
- (c) On Town owned properties or facilities.
- (d) On properties in areas zoned for business use.
- (e) On properties in areas zoned for rural use.
- (f) On properties in areas zoned for residential use.
- (g) On properties in designated Historic Districts.

(2) Applicants for all other wireless telecommunications facilities (e.g. distributed antenna systems or buildings) shall locate, site and construct said wireless telecommunications facilities in accordance with the following priorities, in order:

- (a) On existing wireless telecommunications facilities on Town-owned property without increasing the height of the tower or structure.
- (b) On other existing wireless telecommunications facilities without increasing the height of the tower or structure.
- (c) On Town owned properties or facilities.
- (d) On properties in areas zoned for business use.
- (e) On properties in areas zoned for rural use.
- (f) On properties in areas zoned for residential use.
- (g) On properties in designated Historic Districts.

(3) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and justification must be provided as to why a site of all higher priority designations was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the wireless telecommunications facility as proposed.

(4) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected or because there is an existing lease with a landowner. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Town why co-location is technically or commercially impracticable. Agreements between wireless telecommunications facility owners limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

(5) Notwithstanding the above, the Town may approve any site located within an area in the above list of priorities, provided that the Town finds that the proposed site is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. Conversely, the Town may direct that the proposed location be changed to another location that is more in keeping with the goals of this section and the public interest as determined by the Town.

(6) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Town may disapprove an application for any of the following reasons:

- (a) Conflict with safety and safety-related codes and requirements;
- (b) Conflict with the historic nature or character of a neighborhood or district;
- (c) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
- (d) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;
- (e) The placement and location of a wireless telecommunications facility would result in a conflict with or compromise in or change the nature or character of the surrounding area;
- (f) Conflicts with the provisions of this section;
- (g) Failure to submit a complete application as required under this section.

(7) Notwithstanding anything to the contrary in this section, for good cause shown, such as the ability to utilize a shorter or less-intrusive facility elsewhere and still accomplish the primary service objective, the Town may require the relocation of a proposed site, including allowing for the fact that relocating the site chosen by the applicant may require the use of more than one site to provide substantially the same service if the relocation could result in a less intrusive facility or facilities, singly or in combination. The existence of a lease entered into prior to the approval of an application shall not be deemed justification for the requested location.

(J) *Shared use of wireless telecommunications facilities structures.*

(1) The Town requires the co-location of antenna arrays on existing wireless telecommunications facilities as opposed to the construction of a new wireless telecommunications facility or increasing the height, footprint or profile beyond the conditions of the approved special use permit for an existing wireless telecommunications facility, unless such is proven to be technologically impracticable. The applicant shall submit a comprehensive report inventorying all existing wireless telecommunications facilities and other suitable structures within one mile of the location of any proposed new wireless telecommunications facility, unless the applicant can show that some other distance is more appropriate and reasonable and demonstrate conclusively why an existing wireless telecommunications facility or other suitable structure cannot be used.

(2) An applicant intending to locate on an existing wireless telecommunications facility shall be required to document the intent of the existing owner to permit its use by the applicant.

(3) Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

(K) *Type and height of wireless telecommunications facilities.*

(1) All new towers, except stealth and DAS facilities, shall be of the monopole type, unless such is able to be proven to be technologically impracticable. No new towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.

(2) The applicant shall submit documentation justifying the total height of any wireless telecommunications facility or antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to produce the studies at the requested height and a minimum of ten feet lower height to enable verification of the need for the requested height.

(3) For a new wireless telecommunications facility a reduction in the identified size of the identified service area of 10% or less of the predicted service area shall not be deemed justification for exceeding the otherwise maximum allowable height of a wireless telecommunications facility.

(4) The maximum permitted total height of a new wireless telecommunications facility shall be 120 feet above pre-construction ground level, unless it can be proven that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the community. The maximum permitted height is not an as-of-right height, but rather the maximum permitted height, absent proof of the technological need for a greater height.

(5) For a wireless facility to be located on an existing wireless telecommunications facility, such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown. A reduction in the size of the identified service area of 10% or less of the predicted service area shall not be deemed justification for increasing the height of a facility.

(6) Notwithstanding the preceding division (K)(4) of this section, wireless telecommunications facilities shall be no taller than the minimum height technologically necessary to enable the provision of wireless service coverage or capacity as needed within the community (i.e. the Town, and its jurisdiction).

(7) Documentation substantiating the height necessary to provide for the placement of an antennal array to provide wireless service to the community shall be submitted by the applicant prior to issuance of a building permit for a new wireless tele- communications facility, i.e. tower, but shall not be required prior to the issuance of the special use permit, unless the requested height exceeds the 120 foot maximum height. Such documentation shall be provided with an application for the first attachment of an antenna array and for any proposed increase in the previously permitted height.

(8) Relief from the maximum height for new wireless telecommunications facilities shall only be considered where evidence substantiates a taller height is necessary for the provision of wireless service to the community, to the exclusion of any alternative option that is not technologically or commercially impracticable, and where denial of a taller height would have the effect of prohibiting the provision of wireless service to the community. Such documentation shall be provided prior to consideration of a special use permit when the requested height exceeds the 120 foot maximum height.

(9) Prior to issuing a building permit for the co-location of an antenna array on an existing wireless telecommunications facility, an applicant shall demonstrate that the co-location is located appropriately on the wireless telecommunications facility with the overall goal being to preserve the carrying capacity of the wireless telecommunications facility for future co-locations and to minimize the visual intrusiveness and impact, including the profile of the wireless telecommunications facility.

(10) In determining the necessary height for a wireless telecommunications facility, or the height or placement of a co-location on a wireless telecommunications facility, the signal strengths analyzed shall be the threshold or lowest signal strength at which the customer equipment is designed to function, which may be required to be determined by the manufacturer's published specifications for the customer equipment.

(11) As the Town has made the policy decision that more towers of a shorter height is in the public interest, as opposed to fewer taller towers, spacing, or the distance between towers, shall be such that the service may be provided without exceeding the maximum permitted height.

(L) *Visibility and noise of wireless telecommunications facilities.*

(1) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by federal regulations.

(2) Stealth. All new wireless telecommunications facilities, including, but not limited to, towers, shall utilize stealth or camouflage techniques and technology, unless such can be shown to be either commercially or technologically impracticable.

(3) Dual mode. In order to minimize the number of antenna arrays and thus the visual impact, the Town may require the use of dual mode antennas to be used, including by two different

carriers, unless it can be proven that such will not work technologically and that such would have the effect of prohibiting the provision of service in the Town.

(4) Wireless telecommunications facilities finish/color. Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this section.

(5) Lighting. If lighting is legally required or proposed, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. For any wireless telecommunications facility for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.

(6) In the event a wireless telecommunications facility that is lighted is modified, at the time of the modification the Town may require that the tower be retrofitted with the technology set forth in the preceding division (L)(5) of this section.

(7) Flush mounting. All new or replacement antennas, except omni-directional whip antennas, shall be flush-mounted or as close to flush-mounted as is technologically possible on any wireless telecommunications facility, so long as such does not have the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), unless the applicant can prove that it is technologically impracticable.

(8) Placement on building - facade. If attached to a building, all antennas shall be mounted on the fascia of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.

(9) All facilities at a wireless telecommunications facility, regardless of the owner of the facilities, shall comply with the Town's noise control and abatement regulations, without exception.

(10) As part of the final inspection prior to the grant of the certificate of completion, the applicant shall demonstrate compliance with the Town's noise control and abatement regulations in the presence of a Town representative by running all equipment, including any standby or backup electrical generator. Noise levels in decibels shall be taken at all property lines adjacent to the site using standard and general accepted equipment for determining noise levels.

(M) *Security of wireless telecommunications facilities.* All wireless telecommunications facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

(1) All wireless telecommunications facilities, including antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to

individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

(2) Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(N) *Signage.* Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

(O) *Setbacks.*

(1) All proposed telecommunication towers and any other proposed wireless telecommunications facility attachment structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the proposed tower or other wireless telecommunications facility structure plus 10% of the height of the telecommunications structure, otherwise known as the fall zone, or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located within the footprint as approved in the special use permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile. Further, the nearest portion of any access road leading to a wireless telecommunications facility shall be no less than 15 feet from the nearest property line.

(2) There shall be no development of habitable buildings within the fall zone set forth in the preceding division (O)(1) of this section.

(P) *Retention of expert assistance cost to be borne by applicant.*

(1) The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.

(2) To prevent the taxpayers from having to bear the cost related to the issue of the regulation of wireless telecommunications facilities, an applicant shall pay the Town's consultant fee based on the fixed hourly rate and the amount to be set forth in the Town's fee schedule. The amount of the fee shall be based on what has been usual and customary in the Town for the review and permitting assistance related to wireless telecommunications towers and facilities and shall be based upon the anticipated time customarily required for the review of similar applications to cover all reasonable costs of consultant and expert evaluation and consultation with the Town in connection with the submittal, review and permitting of any application, and where applicable, any lease negotiation, pre-approval evaluation and including any construction and modification of the

site, once permitted. The placement of the initial consultant fee with the Town shall precede the pre-application meeting or any work being done as regards to processing an application. The Town will maintain accounting for the expenditure of all such funds. The Town's consultants/experts shall invoice the Town for all time expended for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this consultant fee has a balance of less than one-fourth of the initial consultant fee due to an incomplete application, incorrect information contained in the application or non-compliance with the requirements of this section, the applicant shall immediately, upon notification by the Town, provide a consultant fee equivalent to one-half of the initial consultant fee. Such additional funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount paid to the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant subsequent to the issuance of a certificate of completion, unless the application is abandoned or withdrawn, in which case there shall be no refund.

(3) There shall be four categories of consultant fees, such being: lease negotiations fee; application assistance and review fee; application amendment fee; and public hearing fee. Said fees shall be set forth in the Town's published schedule of fees and may be adjusted from time to time by Town Council.

(4) The fixed fee shall be based on the hourly rate of the consultant, which may be adjusted from time to time, multiplied by the number of hours that have been usual and customary in the Town for similar applications for wireless telecommunications structures and facilities, which number of hours may also be adjusted from time to time based on experience. The total amount of the funds needed as set forth in division (P)(3) above may vary with the scope of what is requested (e.g. lease negotiations in addition to any application review) and the complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

(5) Records of all outside costs associated with the review and permitting process shall be maintained and available for public inspection, in compliance with applicable North Carolina law.

(Q) *Procedural requirements for a special use permit.*

(1) The procedures established for special uses in § 155.711 shall apply where wireless telecommunications facilities require a special use permit as required or otherwise specified in this section.

(2) The Town shall schedule the required public hearing once it finds the application is complete and is not required to set a date if the application is not complete. The Town, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary as such relates to the issue of the siting, construction or modification of a wireless telecommunications facility.

(3) A special use permit shall be issued for a wireless telecommunications structure upon Town Council review and approval, but the building permit for said telecommunications structure shall not be issued until an applicant has provided substantiating documentation under the section

governing the placement of the first antenna array prior to construction of a new wireless telecommunications facility.

(R) *Action on an application for a special use permit for wireless telecommunications facilities.*

(1) The Town will undertake a review of an application pursuant to this subchapter in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(2) The Town may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.

(3) After the public hearing and after formally considering the application, the Town may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

(4) If the Town approves the special use permit for the wireless telecommunications facility, then the applicant shall be notified of such approval in writing within 30 calendar days of the Town's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary construction plan documents, building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional site plan or zoning approvals, shall be required by the Town for the wireless telecommunications facilities covered by the special use permit. Each modification or co-location of an antenna array shall require the submission of a wireless telecommunications facility application and building permit application.

(5) If the Town denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial at the Town Council meeting and in writing within 30 calendar days of the Town Council's action and shall set forth in writing the reason or reasons for the denial.

(S) *Extent and parameters of special use permit for wireless telecommunications facilities.* The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

(1) Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification to the Town.

(2) Following an opportunity to cure and, if not cured within the time frame set forth in the notice of violation, a hearing upon due prior notice to the applicant, such special use permit may be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this section or other applicable law, rule or regulation. Notice of a violation and of the date, time and place of a hearing shall be provided by registered mail to the last known address of the holder of the special use permit.

(T) *Application fee.* At the time that a person submits an application for a special use permit for a new wireless telecommunications facility, such person shall pay a non-refundable application fee set forth in the Town's fee schedule as may be amended or changed from time to time.

(U) *Removal and performance security.* The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the Town a bond, or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount of at least \$75,000 for a tower and with such sureties as are deemed sufficient by the Town to assure the faithful performance of the terms and conditions of this section and conditions of any special use permit issued pursuant to this section. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original special use permit.

(V) *Reservation of authority to inspect wireless telecommunications facilities.* In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

(W) *Liability insurance.*

(1) A holder of a special use permit for wireless telecommunications structures shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

(a) Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

(b) Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate;

(c) Umbrella coverage: \$3,000,000; and

(d) Workers compensation and disability: statutory amounts.

(2) For a wireless telecommunications facility on Town property, the commercial general liability insurance policy shall specifically name the Town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional insured.

(3) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

(4) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of the cancellation of the insurance.

(5) Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

(6) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days prior to the grant of the building permit, the holder of the special use permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

(7) A certificate of insurance that states that it is for informational purposes only and does not confer rights upon the Town shall not be deemed to comply with this section.

(X) *Indemnification.*

(1) Any application for wireless telecommunication facilities that is proposed for Town property, pursuant to this section, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the ordinance, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

(2) Notwithstanding the requirements noted in division (a) above, an indemnification provision will not be required in those instances where the Town itself applies for and secures a special use permit for wireless telecommunications facilities.

(Y) *Fines.*

(1) In the event of a violation of this section or any special use permit issued pursuant to this section, the Town may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the Town, fines or penalties as set forth in § 155.720.

(2) Notwithstanding anything in this section, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this section or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The Town may also seek injunctive relief to prevent the continued violation of this section, without limiting other remedies available to the Town.

(Z) *Default and/or revocation.* If a wireless telecommunications structure or facility is repaired, rebuilt, placed, and moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this section or of the special use permit, then the Town shall notify the holder of the special use permit in writing of such violation. A permit holder in violation may be considered in default and subject to fines as in division (Y) of this section and if a violation is not corrected to the satisfaction of the Town in a reasonable period of time the special use permit is subject to revocation.

(AA) *Removal of wireless telecommunications facilities.*

(1) The owner of any wireless telecommunications facility or wireless facility shall be required to provide a minimum of 30 days written notice to the Town Clerk prior to abandoning any wireless telecommunications facility or wireless facility.

(2) Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities.

(a) Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days of abandonment;

(b) Permitted wireless telecommunications structures or facilities fall into such a state of disrepair that it creates a health or safety hazard;

(c) Wireless telecommunications structures or facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization and the special permit may be revoked.

(3) If the Town makes such a determination as noted in division (AA)(1) above, then the Town shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed, the Town may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

(4) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Town. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town.

(5) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit

holder has received notice, then the Town may order officials or representatives of the Town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(6) If the Town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the Town may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

(7) Notwithstanding anything in this section to the contrary, the Town may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Town, and an agreement to such plan shall be executed by the holder of the special use permit and the Town. If such a plan is not developed, approved and executed within the 90 day time period, then the Town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section and utilize the bond in this division (AA).

(BB) *Relief.* Any applicant desiring relief, waiver or exemption from any aspect or requirement of this section may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its wireless telecommunications facility and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the Town, its residents and other service providers.

(CC) *Periodic regulatory review by the Town.*

(1) The Town may at any time conduct a review and examination of this entire section.

(2) If after such a periodic review and examination of this section, the Town determines that one or more provisions of this section should be amended, repealed, revised, clarified, or deleted, then the Town may take whatever measures are necessary in accordance with applicable ordinance in order to accomplish the same. It is noted that where warranted, and in the best interests of the Town, the Town may repeal this entire section at any time.

(3) Notwithstanding the provisions of subdivisions (1) and (2) above, the Town may at any time and in any manner (to the extent permitted by federal, state, or local law), amend, add, repeal, and/or delete one or more provisions of this section.

(DD) *Adherence to state and/or federal rules and regulations.*

(1) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal

agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

(2) To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

(EE) *Bi-annual meeting.* In order to develop a logical, rational plan of deployment and siting of wireless telecommunications facilities within the Town that provides reasonable coverage within the Town based on the needs of the Town and its residents, while minimizing the number and intrusiveness of the facilities and the most efficient use of wireless telecommunications facilities sites, twice annually within the months of January and June of each calendar year, the Town shall hold a meeting of all carriers and tower companies who have filed applications the previous year or anyone who has expressed an interest in filing an application to construct a wireless telecommunications facility. The Town shall notify each party of the date, time and place of the meeting no later than 30 days prior to the meeting at the last known address of the party and attendance shall be expected. In order to allow the allocation of the Town's resources to those applications deemed urgent or critical so that they may be permitted and service provided as expeditiously as is reasonably possible, lack of attendance shall be deemed as evidence of a lack of urgency or any critical need for the facility and subject the party not attending to a longer review process than for those attending. Consideration of applications by those not attending shall be addressed and considered by the Planning Board twice annually, at dates to be established by the Planning Board. Exceptions to this policy may be granted by the Director of Planning based on facts and circumstances deemed sufficient to warrant exception that are shown to be in the interest of the Town and its residents.

(FF) *Conflict with other laws.* Where this section differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, state or federal government, this section shall apply.

(GG) *Effective date.* This section shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

(HH) *Authority.* This section is enacted pursuant to applicable authority granted by the state and federal government.

(II) *Severability.*

(1) If any word, phrase, sentence, part, section, subsection, or other portion of this section or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this

section, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(2) Any special use permit issued under this section shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2008-10-03, passed 10-6-08)

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5e

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF ZONING MAP AMENDMENT; SLATED FOR PUBLIC HEARING ON MONDAY, APRIL 2, 2012.**

**DESCRIPTION: Attached are the Official Town of Clayton Map adopted June 19, 2006, and Official Town of Clayton Overlay District Zoning Map.**

**This item is slated for evidentiary hearing at the Monday, April 2, 2012, Council meeting.**

**RELATED GOAL: Manage Growth Producing Quality Developments**

**ITEM SUMMARY:**

Date:

Action:

Info. Provided:

3-19-12

Presentation.

Zoning map & Zoning overlay Map.

# Official Town of Clayton Zoning Map

Adopted June 19, 2006

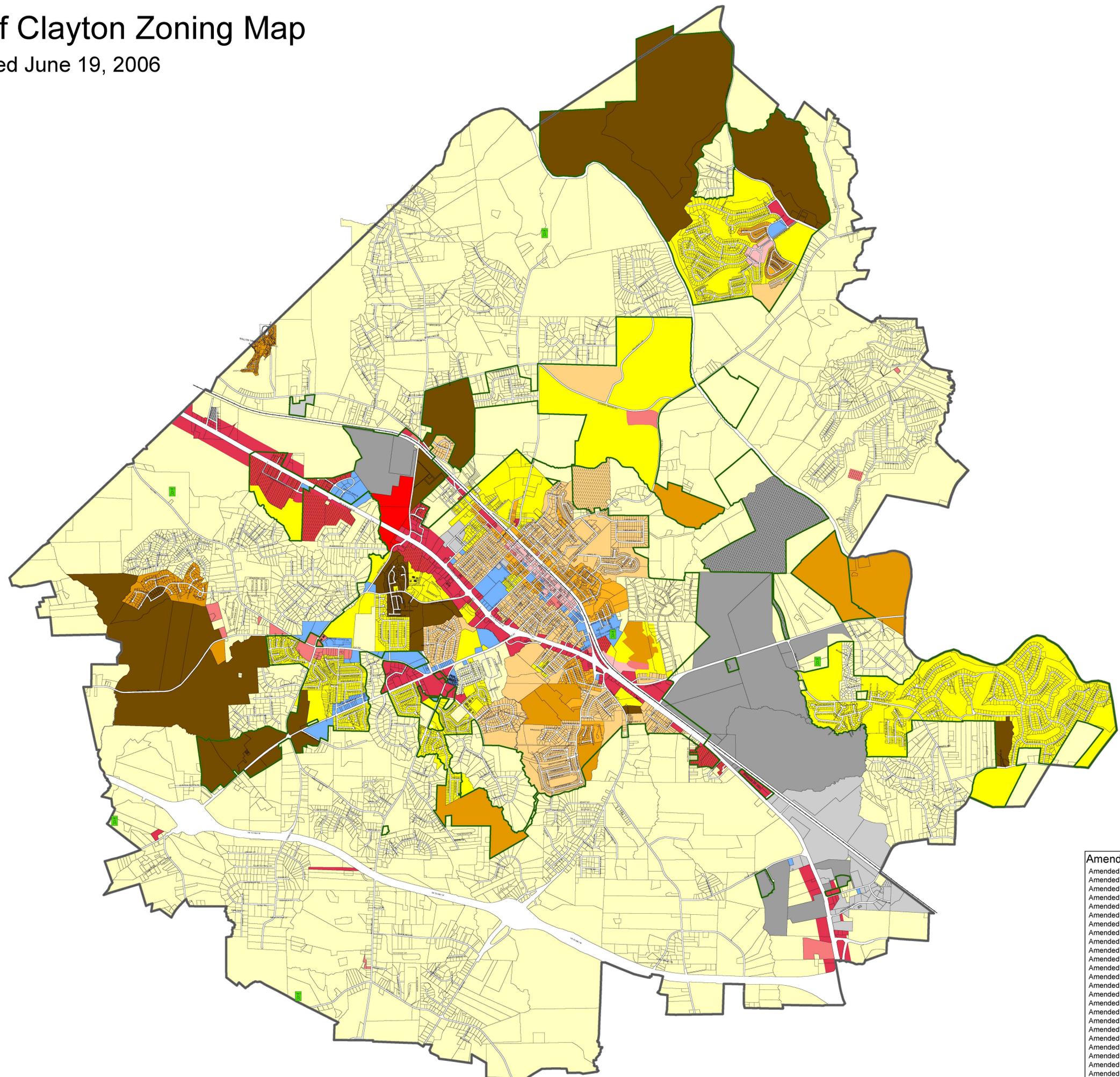


**Legend**

-  Clayton Town Limits
-  Clayton ETJ
-  Parcels
-  R-E
-  R-10
-  R-8
-  R-6
-  PD-R
-  B-1
-  B-2
-  B-3
-  PD-C
-  I-1
-  I-2
-  O-1
-  PD-MU
-  SUD
-  Private Roads
-  Railroad
-  Cell Towers SUD

Scale: 1 inch = 1,400 feet

**Note: Extended ETJ As Adopted By The Clayton Town Council On March 3, 2008**



### Amendments to the Zoning Map

- Amended 08/31/2006
- Amended 09/22/2006
- Amended 03/19/2007
- Amended 05/21/2007
- Amended 08/06/2007
- Amended 09/04/2007
- Amended 10/01/2007
- Amended 11/05/2007
- Amended 11/19/2007
- Amended 03/03/2008
- Amended 08/04/2008
- Amended 09/02/2008
- Amended 10/06/2008
- Amended 11/03/2008
- Amended 12/01/2008
- Amended 01/05/2009
- Amended 04/06/2009
- Amended 05/04/2009
- Amended 08/03/2009
- Amended 10/05/2009
- Amended 01/04/2010
- Amended 08/02/2010
- Amended 12/06/2010
- Amended 03/07/2011
- Amended 09/06/2011

 Map produced by TOC/Planning  
Date: February 13, 2012  
Disclaimer: Town of Clayton assumes no legal responsibility for the information represented here.

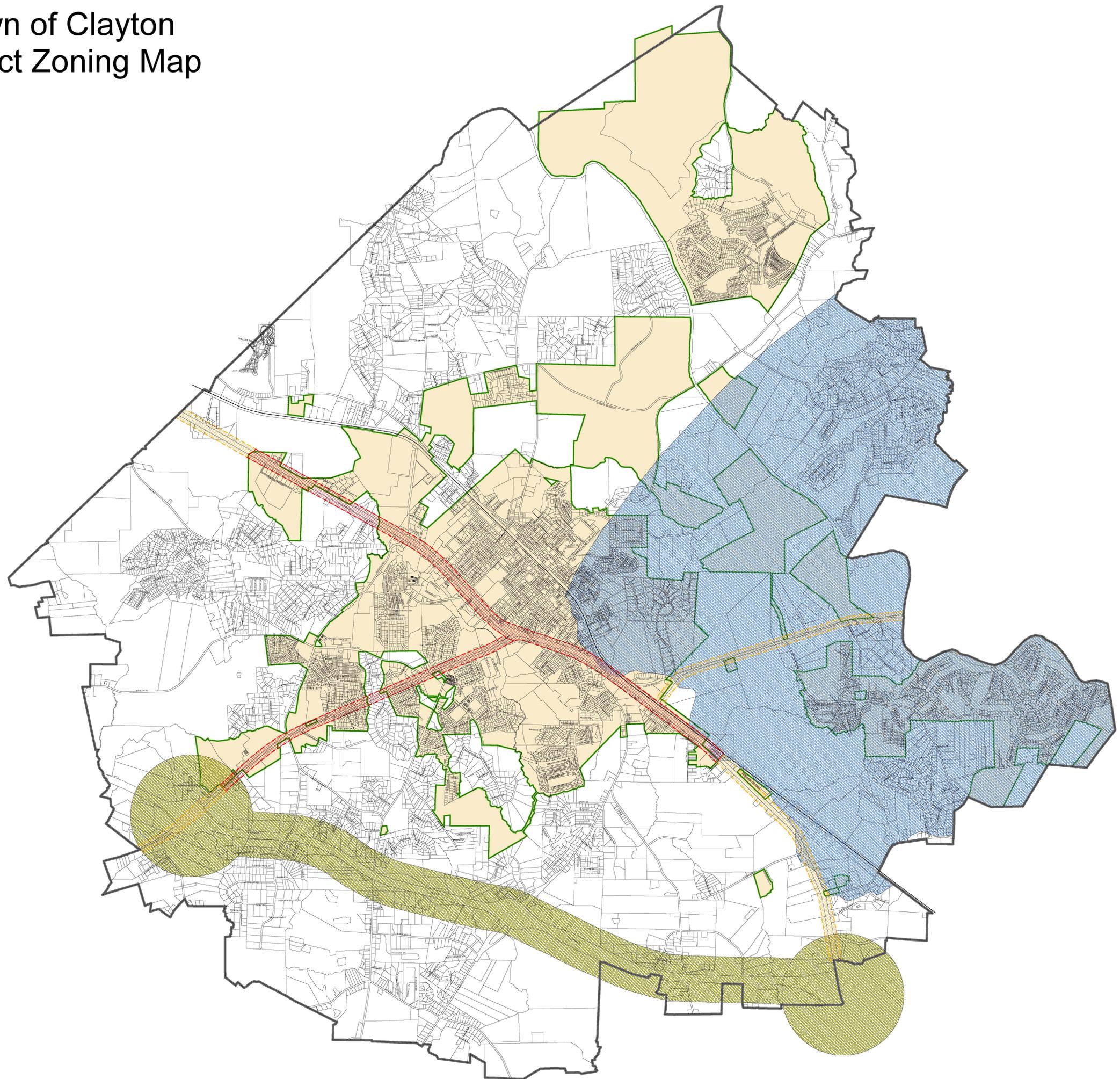
# Official Town of Clayton Overlay District Zoning Map



## Legend

-  Clayton Town Limits
-  Clayton ETJ
-  Parcels
- Thoroughfare Overlay Districts**
-  TOD I
-  TOD II
-  Scenic Highway Overlay
-  Watershed Protection Overlay
-  Railroad
- Scale: 1 inch = 1,400 feet

**Note: Extended ETJ As Adopted By The Clayton Town Council On March 3, 2008**



**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5f

Meeting Date: 3/19/12

TITLE: PRESENTATION OF PROPOSED UTILITY DEPOSIT CHANGES.

DESCRIPTION: Attached.

RELATED GOAL: Financially Responsible Town Government Providing Quality Service

ITEM SUMMARY:

Date:

Action:

Info. Provided:

3-19-12

Presentation.

Memorandum.

## Proposed Deposit Changes

1. To avoid posting a deposit a customer can provide proof of their social security number and provide a Statement of Account History from their current utility provider demonstrating good payment history with no late payments, no returned checks, no returned drafts and no disconnects for nonpayment within the immediate preceding 12 months.
2. **Participating Deposit:** To qualify for the Participating Deposit, a new customer must provide proof of their social security number and sign up for bank draft and budget bill when they establish service. Their deposit, collected prior to establishing utilities, is as follows:

<b>Electric</b>	<b>\$150</b>
<b>Water</b>	<b>\$50</b>
<b>Sewer</b>	<b>\$50</b>
<b>Irrigation (if applicable)</b>	<b>\$50</b>

**Total** **\$250 - \$300**

After 6-months of successful bank drafts, the customer's deposit will be applied to their account. If after 6 month of service the deposit cannot be credited to the customer's account due to unsuccessful bank drafts, the account will be subject to review on the Budget Bill anniversary date.

3. **Non-Participating Deposit:** To qualify for a Non-Participating Deposit, a customer must provide proof of their social security number and may decline participation in the bank draft and budget bill programs. A higher deposit will apply to the customer's account and will be collected prior to establishment of service. In addition, a premium deposit will be added to the customer's bill over the next 12 months.

<b>Electric</b>	<b>\$300</b>
<b>Water</b>	<b>\$50</b>
<b>Sewer</b>	<b>\$50</b>
<b>Irrigation (if applicable)</b>	<b>\$50</b>

\$400 - \$450 collected at time of account creation

**Premium - billed over 12 month period**

<b>Electric</b>	<b>\$100</b>
<b>Water</b>	<b>\$10</b>
<b>Sewer</b>	<b>\$10</b>
<b>Irrigation (if applicable)</b>	<b>\$10</b>

Additional \$10/month for 1-year

The deposit shall be refunded, net of any outstanding bill, only at the time of account closing.

4. **High Risk Deposit:** Customers who choose not to provide proof of their social security numbers are classified as high risk and are subject to a higher deposit:

<b>Electric</b>	\$800
<b>Water</b>	\$120
<b>Sewer</b>	\$120
<b>Irrigation`</b>	\$120

Participation in budget billing or bank draft will not have any impact on deposit levels for customers in the high risk category. The deposit shall be refunded, net of any outstanding bill, only at the time of account closing.

At any time, based on payment history, disconnects for nonpayment, and returned checks, customers may be required to pay a higher deposit.

TOPIC	OLD POLICY	NEW POLICY	COMMENTS
Deposits – residential	Electric \$150  Water/Sewer \$50	Participating Deposit <ul style="list-style-type: none"> <li>• Electric \$150</li> <li>• Water \$50</li> <li>• Sewer \$50</li> <li>• Irrigation \$50</li> </ul> Non-Participating Deposit <ul style="list-style-type: none"> <li>• Electric \$300 + \$10/month*</li> <li>• Water \$50 + \$10/month*</li> <li>• Sewer \$50 + \$10/ month*</li> <li>• Irrigation \$50 + \$10/month*</li> </ul> High Risk Deposit <ul style="list-style-type: none"> <li>• Electric \$800</li> <li>• Water \$120</li> <li>• Sewer \$120</li> <li>• Irrigation \$120</li> </ul>	Under the old deposit structure, the Town had significant vulnerability related to bad debt. Additionally, deposits were “one size fits all.” We did not have a deposit structure for water only, sewer only or irrigation customers. Under the proposed structure, the Town reduces its exposure to bad debt and rewards customers for participation in bank draft and budget bill. In addition we have added deposits for all services.  *Additional deposit of \$120 is charged at \$10/month.
	a. Pay cash deposit OR b. Provide a Statement of Account History OR c. Get a co-signer	a. Pay a cash deposit OR b. Provide a Statement of Account History	We have eliminated the ability of a customer to have a co-signer for their deposit as well as strengthened the accepted items on the Statement of Account History.
Deposits – non residential	Electric \$150  Water \$50	2x average utility bill for similar business.	Under the old policy, the Town in many cases did not collect a sufficient deposit therefore leaving us more vulnerable to bad debt.
	a. Pay cash deposit OR b. Supply a Surety Bond OR c. Provide a Statement of Account History	Requiring all non-residential customers’s to pay cash deposit.	We eliminated the option of providing a Surety bond or a certificate of deposit which are very difficult to track. Also, we have eliminated the State of Account History as a deposit option for non-residential customers.

<p>Deposit refunds – residential</p>	<p>Credited to the customer’s account after 12 months of utility service with 2 or fewer late payments or at time the account is closed.</p>	<p>Participating Deposit refunded after 6 months of successful bank draft.</p> <p>Non-Participating Deposit refunded, net any outstanding bill, only at the time of account closing.</p> <p>High Risk Deposit refunded, net any outstanding bill, only at the time of account closing.</p>	<p>Under the old policy, the Town has significant bad debt exposure. Many customers’ refunds are applied to their account and in many cases, the account became delinquent. In changing the policy, we are seeking to limit the bad debt exposure.</p>
<p>Deposit refunds – non residential</p>	<p>Credited to the customer’s account after 12 months of utility service with 2 or fewer late payments or at time the account is closed.</p>	<p>All non-residential customers will have their deposit applied only at the time of account closing, net any outstanding balance owed.</p>	<p>Under the old policy, the Town had significant bad debt exposure. In changing the policy, we are seeking to limit our bad debt exposure.</p>
<p>Time extensions</p>	<p>No maximum length time for request.</p> <p>Can have 12 extensions per year.</p>	<p>Must be requested before cut off occurs.</p> <p>Maximum length allowed is 10 days past cut off day.</p> <p>Maximum extensions per year - 2</p>	<p>Under the old policy, customers could request an extension each month. With the new policy, we continue to limit the Town’s exposure to bad debt.</p>

**Deposit Comparison  
Other Municipalities/Towns**

<b>Town/Municipality</b>	<b>Residential</b>	<b>Non Residential</b>	<b>Comments</b>
Selma	Electric - \$300 Water - \$50 Sewer - \$50  Statements of account history not accepted.	All non-residential pay a \$500 deposit  Statements of account history not accepted.	Prepaid metering program being phased in. Prepay customers pay a \$50 deposit instead of \$300. Any existing customer who switches to prepay has \$250 of their deposit credited to their account.
Benson	Calculates deposit based on past 12 month history at the property. Maximum deposit \$300	Calculates deposit based on past 12 month history at the property. Maximum deposit \$500	
Smithfield	Electric - \$200 - \$400 Water - \$50 - \$100 *amount determined by running credit check Statements of account history not accepted.	Average 12 month history at the property and multiplies by 2. No maximum. Statements of account history not accepted.	
Apex	Electric & Water - \$200 Water only - \$50 In house credit checks done. Statements of account history not accepted.	Average 12 month history at the property and multiplies by 2. Statement of account history is accepted. Allows 2 late fees in a 12 month period.	
Wake Forest	To avoid deposit, must provide 2 letters of credit, a co-signer, or qualify thru in house credit check. Electric - \$200	Average 12 month usage at the property and multiplies by 2. Will accept statement of account history in lieu of deposit.	
New Bern	Average 2 months usage at the property. In house credit check done. Statement of account history accepted.	1.Average 12 months usage at the property 2.Surety bond up to \$10k 3.Statement of account history	
Greenville	Electric - \$100 Water - \$50 In house credit check done. If they do not qualify, deposit determined by average of last 12 months of service at the property.	Average 12 months usage at the property.	

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 5g

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF RESOLUTION SUPPORTING TOWN OF CLAYTON / CATERPILLAR NC RURAL CENTER GRANT ASSISTANCE.**

**DESCRIPTION: Attached.**

**RELATED GOAL: Grow the Local Economy**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Resolution.

**TOWN OF CLAYTON TOWN COUNCIL  
Economic Infrastructure Grants Program  
Project Bee Infrastructure Improvements Project Resolution**

**WHEREAS**, the North Carolina Rural Economic Development Center, Inc. (Rural Center) has authorized the awarding of grants from appropriated funds to aid eligible units of government in financing the cost of infrastructure activities needed to create jobs; and

**WHEREAS**, the Town of Clayton needs assistance in assisting Caterpillar in the financing of infrastructure project that may qualify for Rural Center funding; and

**WHEREAS**, the Town of Clayton intends to request Category B grant assistance for the Project Bee Infrastructure Improvements project from the Economic Infrastructure Grants Program;

**NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF CLAYTON:**

That the Town of Clayton will provide the required 5% local match and through Caterpillar will arrange financing for all remaining costs of the project if approved for a grant.

That Jody McLeod, Mayor and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Clayton with the Rural Center for a grant to assist in the above-named infrastructure project.

That Jody McLeod, Mayor, and successors so titled, is hereby authorized to execute and file an application on behalf of the Town of Clayton with the NCREDC (Rural Center) for a grant to assist in the above named infrastructure project.

That Steve Biggs, Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with an application or with the project proposed; to make assurances as contained in the application; and to execute such other documents as may be required in connection with the application.

That the Town of Clayton has substantially complied or will substantially comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the project and to the grants pertaining thereto.

Adopted this \_\_\_\_\_ day of April 2012, while in regular session.

Attest:

\_\_\_\_\_  
Jody L. McLeod,  
Mayor

\_\_\_\_\_  
Sherry L. Scoggins, MMC  
Town Clerk

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 6a

Meeting Date: 3/19/12

**TITLE: PRESENTATION OF BID OPENING FOR SPRING 2012 STREET PROJECT.**

**DESCRIPTION: Attached.**

**RELATED GOAL: Financially Responsible Town Government Providing Quality Service**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-19-12	Presentation.	Preliminary bid tabulation.

Preliminary Bid Tab

Town of Clayton

2010 Bond Street Improvements Phase 3

W&R PROJECT NO. 02110472.00

Bid Date: Tuesday, March 13, 2012 at 2:00 p.m.

No.	Plan Holder Information	Bid Bond	Addendum #1 Acknowledged	Base Bid Sections A, B & C	Section A - Work Order Alternate	Section B - Work Order Alternate
1	Sharon Corbett <b>Corbett Contracting, Inc.</b> 1030 Napoleon Rd. Selma, NC 27576 ncscorbett@att.net (p) 919.965.6008; (f) 919.965.6088					
2	Craig Taylor <b>ST Wooten Corp.</b> PO Box 2408 Wilson, NC 27894 craig.taylor@stwc Corp.com (p) 252.291.5615; (f) 252.243.0900	✓	✓	1,450,934 <sup>28</sup> =	11,130 <sup>-</sup>	1,719 <sup>-</sup>
3	Stefanie Griffin <b>Triangle Grading &amp; Paving, Inc.</b> 1521 S. Huffman Mill Rd. Burlington, NC 27215 sgriffin@trianglegradingpaving.com (p) 336.584.1745; (f) 336.584.0145	✓	✓	1,244,439 <sup>65</sup> =	17,808 <sup>-</sup>	6,685 <sup>-</sup>
4	Mike Sedlock <b>Fred Smith Co.</b> 6105 Chapel Hill Rd. Raleigh, NC mike.sedlock@fredsmithcompany.com (p) 919.582.3526; (f) 919.582.3527	✓	✓	1,188,550 <sup>50</sup> =	17,736 <sup>-</sup>	7,640 <sup>-</sup>
5	Mike Estrello <b>J.W. Grand, Inc.</b> 935 Shotwell Rd., Suite 106 Clayton, NC 27520 mestrello@jwgrand-inc.com (p) 919.829.5700; (f) 919.829.5704	✓	✓	1,655,789 <sup>34</sup> =	92,454 <sup>-</sup>	45,640 <sup>65</sup> =
5	Grayson Taylor <b>Gelder &amp; Associates</b> 3901 Gelder Dr. Raleigh, NC 27603 (p) 919.772.6895; (f) 919.772.2018 estimating@gelderandassociates.com	✓	✓	1,288,902 <sup>13</sup> =	9,664 <sup>20</sup> =	18,336 <sup>-</sup>
6						



*SHS*

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 6b

Meeting Date: 3/19/12

**TITLE: UPDATE ON JOHN STREET SEWER PROJECT.**

**DESCRIPTION: Continuation of discussion from the February 20, 2012, Council meeting.**

**RELATED GOAL: Administrative**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
2-20-12	Discussion.	PowerPoint presentation.
3-19-12	Discussion.	

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 7a

Meeting Date: 3/19/12

**TITLE: DISCUSSION OF REQUEST FROM THE CLAYTON VISUAL ARTS REQUESTING PERMISSION TO USE THE CLAYTON TOWN LOGO FOR AN ART POSTER CONTEST AND TO DEVELOP A LINE OF COMMEMORATIVE JEWELRY; CONTINUED FROM THE MARCH 5, 2012, COUNCIL MEETING.**

**DESCRIPTION: This item was continued from the March 5, 2012, Council meeting.**

The Town logo is a registered service mark with the NC Secretary of State.

**RELATED GOAL: Think Downtown**

**ITEM SUMMARY:**

<u>Date:</u>	<u>Action:</u>	<u>Info. Provided:</u>
3-05-12	Presentation.	Memorandum.
3-19-12	Discussion.	

**TOWN OF CLAYTON  
TOWN COUNCIL  
AGENDA COVER SHEET**

Agenda Item: 8c

Meeting Date: 3/19/12

TITLE: TOWN CLERK

DESCRIPTION: Calendar of Events:

- Sunshine Week – March 11 – 17, 2012
- Girl Scout Centennial – March 12, 2012
- Arbor Day (North Carolina) – Friday, March 16, 2012
- St. Baldrick's Day Event – Saturday, March 17, 2012, from 2 PM to 8 PM
- Board of Adjustment Mtg – Wednesday, March 21, 2012 @ 6 PM
- Council Retreat, Follow-up Meeting – Thursday, March 22, 2012, 3:30 PM, the Workforce Development Center at 135 Bestwood Drive
- Planning Board Mtg – Monday, March 26, 2012 @ 6 PM
- Good Friday Holiday – Friday, April 6, 2012
- Clayton Farm & Community Market [Season Opens] – Saturday, April 14, 2012 at the Town Square from 9 AM to 12 noon
- Board of Adjustment Mtg – Wednesday, April 18, 2012 @ 6 PM
- Planning Board Mtg – Monday, April 23, 2012 @ 6 PM
- Johnston County Household Hazardous Waste Disposal Day – Saturday, April 28, 2012, from 8 AM to 1 PM at the Johnston County Livestock Arena - 520 County Home Road in Smithfield
- Heart Chase (American Heart Association Event) – April 28, 2012, at Horne Square and Town Square
- Board of Adjustment Mtg – Wednesday, May 16, 2012 @ 6 PM
- Memorial Day Holiday – Monday, May 28, 2012
- Planning Board Mtg – **TUESDAY**, May 29, 2012 @ 6 PM
- Millstock Arts and Music Festival – Saturday, June 2, 2012, at Horne Square
- Town Hall Day – Wednesday, June 6, 2012
- Board of Adjustment Mtg – Wednesday, June 20, 2012 @ 6 PM
- Planning Board Mtg – Monday, June 25, 2012 @ 6 PM
- Independence Day Holiday – Wednesday, July 4, 2012
- NCLM Annual Conference hosted in Charlotte – October 21-23, 2012

Date:  
3-19-12

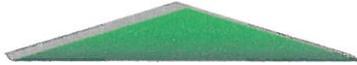
Action:  
N/A

Info. Provided:  
Calendar of Events



# Household Hazardous Waste

Pesticide Disposal  
Assistance Program



# Collection Day 2012

**Date and Time: Saturday, April 28<sup>th</sup>, 2012 from 8:00 AM until 1:00 PM.**

**Location: The Johnston County Livestock Arena, 520 County Home Rd., Smithfield, NC 27577 (Next to the Landfill)**

## ITEMS THAT WILL BE ACCEPTED:

Oil Based Paints and Aerosols\*\* Lubricants \*\*  
Solvents\*\* Strippers\*\* Polishes\*\* Waxes\*\* **Garden and  
Agricultural Chemicals from Home and Farm**\*\* Fluorescent  
Lamps & Bulbs\*\* Home Thermostats\*\* Swimming Pool  
Chemicals\*\* General Interior & Exterior Cleaning Chemicals\*\*  
Automotive Fluids: Brake, Transmission, Gear Oil & Windshield  
Washer\*\* Fuels: Gasoline, Diesel, Kerosene, Charcoal Lighter  
and LPG Tanks\*\* Household Batteries of All Types\*\* Home  
Pharmaceuticals.

## ITEMS THAT WILL NOT BE ACCEPTED:

Latex Paint (Please use absorbent to solidify and dispose in the  
landfill.)\*\* PCB Waste\*\* Commercial, Institutional or Industrial  
chemicals of any type\*\* Radioactive Materials (including smoke  
detectors.)\*\* Medical, Biological, Infectious or Septic Wastes\*\*  
Explosives, Ammunition and Shock Sensitive chemicals\*\*  
Cooking Oil and Grease\*\* Fire Extinguishers\*\* Any materials  
currently collected for recycling at the Convenience Sites and/or  
Landfill.

Co-sponsors for the event will be the Johnston County Cooperative Extension Service, the NCDA & CS Pesticide Disposal Assistance Program and the Johnston County Sheriff's Office.

For more details please view our "Frequently Asked Questions" document at [www.johnstonnc.com/recycling/dispose.cfm#hazhouse](http://www.johnstonnc.com/recycling/dispose.cfm#hazhouse). Or, contact the Johnston County Landfill at (919) 938-4750.