

**ARTICLE 4
ZONING DISTRICTS AND DIMENSIONAL REGULATIONS**

Summary: This Article divides the Town into districts for the purpose of regulating the use of lands within the districts, as well as dimensional requirements and other standards applicable to construction, reconstruction and alterations of such uses. This Article establishes a series of basic zoning districts, overlay districts (Floodplain Overlay, Corridor Overlays, Historic Overlays, and River/Stream Overlays) within which additional standards may apply, and “floating zones” (PUD, TND, and TOD districts) which may be designated by request. Refer to Article 5 for additional regulations applicable to particular uses.

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4.1. PURPOSE STATEMENT FOR ZONING DISTRICTS.

4.1.1. Purpose.

The Town is hereby zoned and divided into districts.
The purpose of establishing these districts is:

- 4.1.1.1.** To implement the Comprehensive Plan;
- 4.1.1.2.** To promote the health, safety, morals, or the general welfare;
- 4.1.1.3.** To provide for the orderly growth and development of the Town and for the efficient use of our resources (land, water, roads, etc.);
- 4.1.1.4.** To lessen congestion in the streets;
- 4.1.1.5.** To secure safety from fire, panic, and other dangers.
- 4.1.1.6.** To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

4.2. ESTABLISHMENT OF ZONING DISTRICTS.

4.2.1. PURPOSE AND INTENT.

In accordance with the requirement of NCGS § 160A-382 that zoning regulation be by districts, the Town Council, as shown on the Official Zoning Map accompanying this Ordinance and incorporated herein by this reference, is hereby divided into the following zoning districts which shall be governed by all of the uniform use and area requirements of this Ordinance, the respective symbol for each type of district being set forth opposite its title:

- AG Agricultural District
- RE Rural Estate District
- RL Residential Low Density
- RM-1 Residential Medium Density
- RM-2 Residential Medium Density
- RV Residential Village
- RC Residential Compact
- B-1 Neighborhood Commercial/Office District
- O-I Office-Institutional District
- CC City Center District
- C-1 Light Commercial and Office District
- C-2 General Commercial District
- CD Campus Development District
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- PID Public Interest District
- PUD Planned Unit Development District
- TND Traditional Neighborhood Development District
- TOD Transit Oriented Development District

4.2.2. REPEAL OF DISTRICTS.

4.2.2.1. Zoning District RM-2 Residential Medium Density, and any corresponding Conditional Zoning districts, are repealed effective March 10th, 2008. Notwithstanding, the Town Council by this section will continue to permit all development pursuant to this chapter for which a complete application was submitted prior to March 10th, 2008. These provisions will remain in the text of the Unified Development Ordinance for such limited purposes.

4.2.3. OVERLAY DISTRICTS.

In accordance with the authority provided by NCGS § 160A-382, the Town hereby establishes the

following overlay districts which shall be governed by all of the uniform use and area requirements of this Ordinance. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The symbol for each type of district is as follows:

- H Historic Overlay District
- F Flood Plain Overlay District
- MH-1 Manufactured Home Overlay
- MH-2 Manufactured Home Overlay
- MHP Manufactured Home Park Overlay
- TOZ Thoroughfare Overlay District

4.2.4. CONDITIONAL ZONING DISTRICTS.

In addition to the base zoning districts established in § 4.2.1, above, the following conditional zoning districts are established which correspond to the above-referenced base zoning districts, and which are identical to the base zoning districts with the exception that a site plan is required as a prerequisite to any use or development therein, as provided for in this Article and in § 3.4 of this Ordinance.

- AG-CZ Agricultural Conditional Use District
- RE-CZ Rural Estate Conditional Use District
- RL-CZ Residential Low Density Conditional Use District
- RM-1-CZ Residential Medium Density Conditional Use District
- RM-2-CZ Residential Medium Density Conditional Use District
- RV-CZ Residential Village Conditional Use District
- RC-CZ Residential Compact Conditional Use District
- B-1-CZ Neighborhood Commercial/Office District Conditional Use District
- CC-CZ City Center Conditional Use District
- C-1-CZ Light Commercial and Office District Conditional Use District
- C-2-CZ General Commercial District Conditional Use District
- CD-CZ Campus Development Conditional Use District
- I-1-CZ Light Industrial District Conditional Use District

I-2-CZ Heavy Industrial District Conditional Use District
PUD-CZ Planned Unit Development District
TND-CZ Traditional Neighborhood Development District
TOD-CZ Transit-Oriented Development District
PID-CZ Public Interest Development District

4.2.5. ADDITIONAL ZONING DISTRICTS.

Additional zoning districts may be added from time to time upon the recommendation of the Planning and Zoning Board to the Town Council pursuant to § 3.3 of this Ordinance.

4.3. ZONING DISTRICT PURPOSE STATEMENTS

4.3.1. PURPOSE STATEMENT.

The purpose of this Article is to implement the land use policies of the Comprehensive Plan. Pursuant to NCGS § 160-A-383, all zoning ordinances or regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans of the Town Council if any, as adopted under NCGS Article 19 of Chapter 160A. This Section describes the relationship between the various zoning districts and the Comprehensive Plan and a summary of each development district in tabular form. However, to the extent that there is any inconsistency between the tabular summary and the specific provisions of § 4.7 et seq. of this Ordinance, the provisions of § 4.7 et seq. shall prevail.

4.3.2. PURPOSE STATEMENTS FOR BASE ZONING DISTRICTS.

4.3.3. AG AGRICULTURAL DISTRICT.

The AG (Agricultural) district is established to provide areas for low intensity agricultural operations as well as agri-business and supportive industrial and commercial uses. Industrial operations which require large expanses of land area and which generate low traffic levels are also suitable for this district. AG zoning protects and preserves valuable agricultural areas, implements agricultural protection zoning, establishes performance standards for rural businesses, preserves rural areas, preserves pasture land and agriculture, sets maximum permissible densities or new zoning districts, defines specific areas for rural commercial uses, and identifies areas appropriate for agricultural preservation.

4.3.4. RE RURAL ESTATE.

The RE district is established to provide areas for low density single family uses, with a maximum of one (1) dwelling unit per acre. Property zoned RE should include only those tracts which abut or are in close proximity to existing large-lot single family development, making RE an appropriate transition district between rural, agricultural, and suburban uses.

4.3.5. RL RESIDENTIAL LOW DENSITY DISTRICT.

The RL district is established to provide areas for low density single family uses, with a maximum of two (2) dwelling units per acre, which may provide buffers between the agricultural and RE classifications and the higher density areas of the Town. It includes flexible density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.6. RM-1 RESIDENTIAL MEDIUM DENSITY DISTRICT.

The RM-1 district is established to provide areas for medium density, single-family residential uses, with a maximum of three (3) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.7. RM-2 RESIDENTIAL MEDIUM DENSITY DISTRICT.

The RM-2 district is established to provide areas for medium density, single-family residential uses, with a maximum of four (4) dwelling units per acre, where adequate public facilities and services exist with capacity to serve development. Residential Medium Density provides flexible minimum lot size and density requirements in order to allow for market and design flexibility while preserving the neighborhood character and permitting applicants to cluster development in order to preserve environmentally sensitive and agricultural land areas.

4.3.8. RV RESIDENTIAL VILLAGE DISTRICT.

The RV district is established to provide areas for detached and attached single family homes, with a maximum of eight (8) dwelling units per acre, in areas where large-lot development is discouraged and

adequate public facilities and services are available. RV supports the principles of concentrating urban growth and reinforcing existing community centers. Design controls are required for single-family attached projects as set forth in Article 11.

4.3.9. RC RESIDENTIAL COMPACT DISTRICT.

The RC district is established to provide a high density residential district allowing compact development consisting of the full spectrum of residential unit types where adequate public facilities and services are available. Unit types may include single family attached dwellings, townhouses, duplexes and apartments, with a maximum of fifteen (15) dwelling units per acre except as otherwise provided in this Ordinance. RC may serve as a transitional district between lower density residential and low intensity commercial uses. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility. Design controls are required for multi-family and/or single-family attached projects as set forth in Article 11.

4.3.10. B-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

The B-1 district is established to provide small areas for office and professional services combined with shopfront retail uses, shops for artisans and craftsmen, designed in scale with surrounding residential uses. This district provides a balance of residential and non-residential land use opportunities reflecting the economic needs of residents and business owners. Location of B-1 districts should include: (a) Lots, parcels or tracts located at the intersections of collector streets, including collector/collector and minor thoroughfare/collector, except where an existing building or structure used as permitted in the B-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning. The distance shall be measured between the closest boundaries of the two (existing and proposed) districts

4.3.11. CC CITY CENTER DISTRICT.

The CC district is established to provide concentrated downtown retail, service, office and mixed uses (including residential uses) in the existing central

business districts. Shopping centers are permitted, but urban design standards as set forth in Article 11 are required in order maintain a neighborhood commercial scale, to promote pedestrian activity, and to maintain the unique character of the center. Pedestrian circulation is required as are common parking areas. The CC district promotes the long-term vitality of the central business districts. No rezoning to a CC or a CC-CZ District shall be approved unless the lot, parcel or tract subject to the application adjoins an existing CC, or CC-CZ zoning district.

4.3.12. O-I OFFICE AND INSTITUTIONAL DISTRICT.

4.3.12.1.The Office and Institutional District is established to provide for agencies and offices rendering specialized services and traditional institutional functions (both public and private) including, but not limited to, governmental facilities, cultural and recreational facilities, educational facilities and charitable institutions. To protect the low intensity character of this district, retail and wholesale trade are prohibited as permitted principal uses.

4.3.13. C-1 LIGHT COMMERCIAL DISTRICT.

The C-1 district is established to provide areas for indoor retail, service and office uses. The purpose of the C-1 district is to accommodate well-designed development sites that provide excellent transportation access, make the most efficient use of existing infrastructure and provide for an orderly transition between uses. C-1 Zones should be located in areas which continue the orderly development and concentration of moderate commercial uses. C-1 zones should be located on or within proximity to major and/or minor thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.14. C-2 GENERAL COMMERCIAL DISTRICT.

The C-2 district is established to provide areas for general commercial activities designed to serve the community such as shopping centers, repair shops, wholesale businesses, and retail sales with limited outdoor display of goods and limited outdoor

operations. This district promotes a broad range of commercial operations and services necessary for large regions of the County, providing community balance. Rezoning to the C-2 zone should be avoided adjacent to any Single Family Residential Zoning District (RE, RL, RM-1 or RM-2). C-2 zones should be located on or within proximity to major thoroughfares. This shall not apply where an existing building or structure used as permitted within the C-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.15. CD CAMPUS DEVELOPMENT DISTRICT.

The CD district is established to provide for a high-quality mixture of employment and/or institutional uses of varying types in a single coordinated development. The district may include light manufacturing, office, warehousing, distribution, institutional and limited retail and service uses in an attractive campus or corporate park setting with architectural design standards, landscaping, screening and buffering. It is not intended that this district be used to accommodate single-use, single building developments which can be located in other zoning classifications. Development within the district shall conform to specific supplemental design standards of Article 11. Further, the district provides significant flexibility in internal arrangement of uses while assuring a satisfactory integration of the district into the surrounding area. Emphasis will be placed on the project's relationship to existing and future public facilities such as roads and greenways. The district is intended for application in select areas of the Town primarily for new development on previously undeveloped land. However, the district may also be applied to areas which are appropriate for redevelopment or conversion where it is apparent that all of the development standards may be fulfilled.

4.3.16. I-1 LIGHT INDUSTRIAL DISTRICT.

The I-1 district is established to provide for areas that contain a mix of light manufacturing uses, office park and limited retail and service uses that service the industrial uses in an attractive business park setting with proper screening and buffering, all compatible with adjoining uses. I-1 districts should include areas which continue the orderly development and concentration of light industrial uses. I-1 zones should be located so as to have direct access to or

within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-1 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.17. I-2 GENERAL INDUSTRIAL DISTRICT.

The I-2 district is established to provide for areas of heavy and concentrated fabrication, manufacturing and industrial uses which are suitable based upon adjacent land uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. I-2 should be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. The I-2 district is established in order to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the I-1 district. I-2 districts should not be located adjacent to any property that is zoned for residential use, including mixed-use developments with an adjacent residential designation. I-2 zones should be restricted so as to have direct access to or within proximity to a major or minor thoroughfare. This shall not apply where an existing building or structure used as permitted within the I-2 District has been established prior to the adoption of this Ordinance on a parcel subject to an application for rezoning.

4.3.18. STANDARDS FOR BASE DISTRICTS.

4.3.18.1. Permitted Uses are listed in Table 4.6-1. Uses permitted by right, uses permitted as conditional uses and uses for which there are supplemental use regulations in Article 5 are indicated in the table. Accessory Uses shall be regulated in accordance with § 5.2 of this Ordinance.

4.3.18.2. Dimensional and density regulations, including setbacks, are listed in Table 4.7-1 and described in detail in § 4.7.

4.3.18.3. Standards for landscaping, screening and buffering are described in detail in Article 7.

4.3.18.4. Standards for off-street parking and loading

facilities, and vehicular access are described in detail in Article 8.

4.3.18.5. Environmental control regulations, including those for stormwater and soil erosion and sedimentation control are described in detail in Article 9.

4.3.18.6. Design and improvement standards for some types of development are regulated in accordance with Article 11. In addition, Article 11 contains specific design standards for the CC Center City District, the CD Campus Development District, and the I-1 Light Industrial District that are unique to the respective districts.

4.3.18.7. Sign regulations are described in detail in Article 12.

4.3.18.8. Adequate public facilities standards are described in detail in Article 14.

4.3.19. PURPOSE STATEMENT FOR OVERLAY ZONING DISTRICTS.

The overlay zone creates special siting, use and compatibility issues which require use development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater setbacks, or otherwise imposes greater standards than those required by the base zoning district, the more restrictive standard applies. See §§ 4.12 - 4.17 and §§ 15.1 - 15.3 for the purpose statements and regulations applicable to the overlay zoning districts.

4.3.20. PURPOSE STATEMENTS FOR FLOATING ZONES.

Certain floating zones, such as PUD, TND, TOD and PID are established in order to provide design flexibility and for special design regulations for mixed use development or large uses which provide special public benefits. The purpose statement for each floating zone is set forth in the regulations pertaining to the district. (See §§ 4.9-4.11, 4.18).

4.4. ZONING MAP.

4.4.1. BOUNDARIES OF ZONING DISTRICT

4.4.1.1. The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the Town of Harrisburg. These maps and all references and dates shown thereon shall be certified by the Mayor.

4.4.2. LOCATION OF OFFICIAL ZONING MAP.

4.4.2.1. The Official Zoning Map shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the Town Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map.

4.4.2.2. The Official Zoning Map shall bear a stamp showing the effective date of this Ordinance, shall be certified by the Administrator, shall be identified by the signature of the Mayor, shall be attested by the Town Clerk, and bear the seal of the Town under the words: "Official Zoning Map, Town of Harrisburg, North Carolina". Said map is composed of a series of sheets properly identified as such, which shall be on file in the office of the Administrator, and shall be the official record of zoning status of areas within the Town. Land within zoning districts on the Official Zoning Map shall be classified with a zoning district designation, which shall supersede any contrary designation on the Former Official Zoning Map. Regardless of the existence of any purported copy of the Official Zoning Map, the zoning map which shall be located in the office of the Administrator shall be the final authority as to the current zoning status of land, wet areas, buildings, and other structures.

4.4.2.3. If a zoning district is eliminated and there is no corresponding zoning district classification on the Official Zoning Map, the property shall remain subject to all restrictions, regulations and conditions imposed under the zoning ordinance in effect at the time that the Former Official Zoning Map was effective unless and until the zoning classification of the property is amended pursuant to this Ordinance.

4.4.2.4. If a property is zoned "PUD" or "UROD" at the time of adoption of this ordinance, it shall remain subject to all terms, conditions, and restrictions of approval under the zoning ordinance in effect when the

PUD or UROD classification was approved, including any specific modifications of the then-existing PUD or UROD or general regulations, and any approved final plans, unless and until the zoning classification of such property is amended pursuant to this Ordinance.

4.4.3. OFFICIAL ZONING MAP.

4.4.3.1. The Official Zoning Map is hereby incorporated by reference as if set forth in its entirety herein, and may be referred to as Article Four, Section 4.4 of the UDO.

4.5. DISTRICT BOUNDARIES.

4.5.1. ZONING DISTRICT BOUNDARIES.

Unless otherwise provided, zoning district boundaries shall be located on municipal corporate lines, section lines, parcel lines, natural boundary lines or on the center lines of highways, streets, alleys, or railroad rights-of-way. In cases where these lines are not used, the zoning district lines shall be as determined by using the scale of the Official Zoning Map. If a parcel of land is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments thereto, the appropriate standards and uses for each zone shall apply on the portion of the parcel covered by that zone.

4.5.2. BOUNDARY OR LOCATION DISPUTES.

Any dispute as to the boundary or location of property within a zoning district shall be resolved in accordance with the following:

4.5.2.1. When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream or watercourse, the boundary shall be deemed to be the center line of such feature.

4.5.2.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

4.5.2.3. Boundaries indicated as approximately following established municipal limits and county borders shall be construed as following such lines.

4.5.2.4. Boundaries indicated as separated from but approximately parallel to any of the features indicated in sections 4.5.2.1 through 4.5.2.3 above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.

4.5.2.5. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

4.5.2.6. Where a street, highway, railroad or other

physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Official Zoning Map, the physical monument or marker located on the ground shall control.

4.5.2.7. Where physical or cultural features, such as flood plains, vary from those shown on the Official Zoning Map, or in other circumstances not covered by subsections 4.5.2.1 through 4.5.2.6 above, the Administrator shall determine the district boundaries. Any aggrieved person may appeal such determination to the Planning and Zoning Board, acting as Board of Adjustment, pursuant to § 3.7 of this Ordinance.

4.6. USE REGULATIONS.

4.6.1. GENERALLY.

4.6.1.1. No use shall be permitted pursuant to this Ordinance, and no Development Permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use is listed as a permitted or conditional use in this Section 4.6 and all applicable permits and approvals have been issued by the agency or official with final decision-making authority. Those uses permitted as Primary Uses or Buildings within each zoning district shall be those uses listed in the Use Matrix (Table 4.6-1) and as forth in § 4.6.2, below.

4.6.1.2. Permitted Accessory Uses are set forth in § 5.2 of this Ordinance, while permitted Temporary Uses are set forth in § 5.22 of this Ordinance. If a Primary use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is an accessory.

4.6.2. PRIMARY USES.

4.6.2.1. Use Matrix. No zoning clearance permit shall be issued for a Primary use not specifically mentioned or described by category in the Use Matrix (Table 4.6-1). Evaluation of these uses shall be as set forth in § 4.6.2.2, below. Notwithstanding any provision of this Section to the contrary, uses which are preempted by state statute are not listed in the Use Matrix, and may be permitted in accordance with state law.

4.6.2.2. PUD, TND, TOD and PID Excluded. Uses in the PUD, TND, TOD, and PID districts shall be governed by their respective Sections in this Ordinance and not be included in Table 4.6-1.

4.6.2.3. Use Determinations. The Administrator shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. It is the intent of this Article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a conditional use permit.

Uses not listed as a permitted or conditional use shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Section. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the decision may be appealed to the Board of Adjustment. The Administrator may determine that a use is materially similar if it falls within the same industry classification of the *North American Industry Classification Manual* (Executive Office of the President, Office of Management and Budget, 1997) ("NAICS") (subject to § 4.6.2.4, below), and if the proposed use does not generate trips exceeding other uses proposed in the zoning district by more than ten percent (10%), as determined by the Institute of Transportation Engineers, *Trip Generation* (5th ed., 1991), which documents are hereby incorporated by this reference. The Administrator may also refer to similar studies relating to trip generation for the specific use prepared by a licensed professional engineer associated with a firm listed on the NCDOT "register of Firms" pursuant to 19A NCAC 2E.0702.

4.6.2.3.1 In the event that the parties do not agree upon the Administrator's interpretation, the determination may be appealed to the Board of Adjustment.

4.6.2.4. NAICS numbers. In order to assist in interpretation of the Use Matrix, the NAICS numbers follow each use in Table 4.6-1. In interpreting the Use Matrix, the following rules of construction shall apply:

4.6.2.4.1. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use. The specific classification governs use.

4.6.2.4.2. Some uses are listed separately, but

fall within the same NAICS classification. The uses within one such classification are not permitted in all of the zoning districts as the others simply because they fall within the same NAICS classification.

4.6.2.5. Matrix Symbols. The use categories listed in the first column of Table 4.6-1 are defined in this Ordinance, the NAICS, or in other resources cross-referenced in this Ordinance.

P **Permitted Uses.** The letter “P” indicates that the listed use is permitted by-right within the zoning district. Permitted uses are subject to all other applicable standards of this Ordinance.

S **Permitted Uses with Supplemental Regulations.** The letter “S” indicates that the listed use is either a use permitted by-right or a conditional use within the zoning district. However, the use is also subject to specific design regulations as prescribed in Article Five and/or Article Eleven. The specific reference is indicated in (§ ___) behind a specific use as listed in the Use column of Table 4.6-1.

C **Conditional Uses.** The letter “C” indicates that the listed use is permitted within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review procedures of § 3.5 of this Ordinance, or as part of a rezoning to a Conditional Zoning District, in accordance with the review procedures of § 3.4 of this Ordinance. Conditional Uses are subject to all other applicable standards of this Ordinance and those requirements that may reasonably be imposed by the Town consistent with the criteria set forth in § 3.5 of this Ordinance and any Supplementary Use Regulations which apply to said use.

- **Prohibited Uses.** A dash (“-”) indicates that the listed use type is not allowed within the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Ordinance.

4.6.3.1. Regulations pertaining to the permissible location of Accessory Uses, Signs, and Temporary Uses are set forth in the Accessory Use Regulations (Article 5, § 5.2), the Sign Regulations (Article 12), and the Temporary Uses Regulations (Article 5, § 5.22) of this Ordinance.

4.6.3.2. If a use is listed as prohibited in a Zoning District, but is permitted as an Accessory Use in § 5.2 of this Ordinance, the use is permitted only as an Accessory Use to a Principal Use or Principal Building on the same lot, tract or parcel. Such uses cannot be established unless and until there is a Principal Use or Principal Building on the same lot, tract or parcel to which that use is accessory

4.6.3. ACCESSORY USES, SIGNS, AND TEMPORARY USES.

4.7. DIMENSIONAL AND DENSITY REGULATIONS.

4.7.1. PURPOSE.

4.7.1.1. This Section establishes minimum and maximum standards for the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings pursuant to NCGS §160A-381(a).

4.7.1.2. PUD, TND and PID Excluded. Developments in the PUD, TND, and PID districts shall be governed by their respective Sections in this Ordinance and not be subject to the dimensional and density regulations of this § 4.7 or Table 4.7-1.

4.7.2. DENSITY IN RESIDENTIAL DISTRICTS.

4.7.2.1. This Section is applicable only to districts in which residential dwelling units are permitted, as listed in Table 4.6-1. For conventional developments, density shall be regulated by the minimum lot area in accordance with Table 4.7-1. For cluster developments, see § 4.8.

4.7.2.2 Every single-family dwelling unit shall be located on an individual lot of record, except as otherwise provided for in this ordinance.

4.7.3. DENSITY IN NONRESIDENTIAL DISTRICTS.

4.7.3.1. Unless otherwise stated, all references to non-residential intensity shall refer to Floor Area Ratio (FAR). FAR is the ratio of enclosed gross floor area to the gross acreage of the lot.

4.7.4. DIMENSIONAL STANDARDS FOR LOTS.

4.7.4.1. No permit for development shall be issued for a lot that does not meet the lot area requirements of Table 4.7-1 of this Ordinance except in the following instances:

4.7.4.1.1. Lots for public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards. Exempted utility lots which

exceed 2,500 square feet may be permitted subject to review and approval by the Administrator.

4.7.4.1.2. Nonconforming Lots of Record as defined in § 13.1.2 are exempt from minimum lot standards. Permits may granted for structures to be built a nonconforming lot, except that such structure shall conform to all dimensional setbacks as required in Table 4.7-1 and as set forth in § 4.7.5.1, below.

4.7.5. DIMENSIONAL STANDARDS FOR STRUCTURES.

4.7.5.1. Setbacks.

4.7.5.1.1. Setbacks for buildings or structures are measured as the area between the furthestmost projection of a principal structure and the property line of the lot on which the structure is located, except as modified by the standards of this Section. Setbacks shall be unobstructed from the ground to the sky except as specified in this Section. Building setbacks for each zoning district are set forth in Table 4.7-1.

4.7.5.1.2. The following features may encroach into a required building setback:

- Bay windows or other structural overhang, not to exceed three (3) feet;
- Chimneys, not to exceed two (2) feet;
- Heating and cooling units, not to exceed (3) feet;
- Overhanging roof, eave, gutter, cornice, or other architectural feature and awnings, not to exceed 2 feet;
- Steps, stairs or fire escapes (non-enclosed), not to exceed 6 feet;
- Uncovered, unenclosed decks, terraces, stoops or porches, but in no case closer than five (5) feet to any property line;
- Fences and Garden/Yard Walls;
- Any accessory building or use customarily incidental to the permitted primary use or

building as allowed in accordance with § 5.2 “Accessory Uses and Structures”.

elevator, water tank, or to any similar structure or necessary mechanical appurtenance extending above the roof of any building if such structure does not occupy more than 33 percent of the area of the roof.

4.7.5.1.3. Setbacks for Lots with more than One Street Frontage. Structures shall meet the front yard setback from all abutting street rights-of-way unless otherwise provided in this Ordinance. For undeveloped lots, the developer has the option to determine which yard shall be considered the “front” so long as the structure to be constructed on said lot shall have its front facing the same yard. For the purposes of applying setbacks to an existing developed lots, the front yard setback shall be defined as the yard with the shortest amount of street frontage. All other frontages shall be considered street side yards.

4.7.5.1.4. Provisions for Reduced Front Yard Setback in Developed Areas. The minimum front yard setback may be reduced for any lot where the average established front setback on developed lots located within 300 feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the front setback on such a lot may be less than the required front setback but not less than the average of the existing front setbacks on the developed lots within 300 feet of each side.

4.7.5.2. Height regulations.

4.7.5.2.1. Building height is measured as the vertical distance between the average natural grade between the lowest and highest grades along the foundation and 1) the average height level between the eaves and ridge line of a gable, hip or gambrel roof; or 2) the highest point of a mansard roof; or 3) the highest point of the coping of a flat roof. (See Figure 4.7-1)

4.7.5.2.2. The construction, maintenance, or establishment of any building, tree, smokestack, chimney, flagpole, wire, tower or other structure or appurtenances thereto, which may constitute a hazard or obstruction to safe air navigation, landing, or take-off of aircraft near an airport, is prohibited.

4.7.5.2.3. Exceptions to Height Restrictions. Zoning district height limits shall not apply to belfries, cupolas, spires, domes, monuments, airway beacons, structures for essential services, windmills, flagpoles, chimneys, or chimney flues. Height limits shall not apply to any bulkhead,

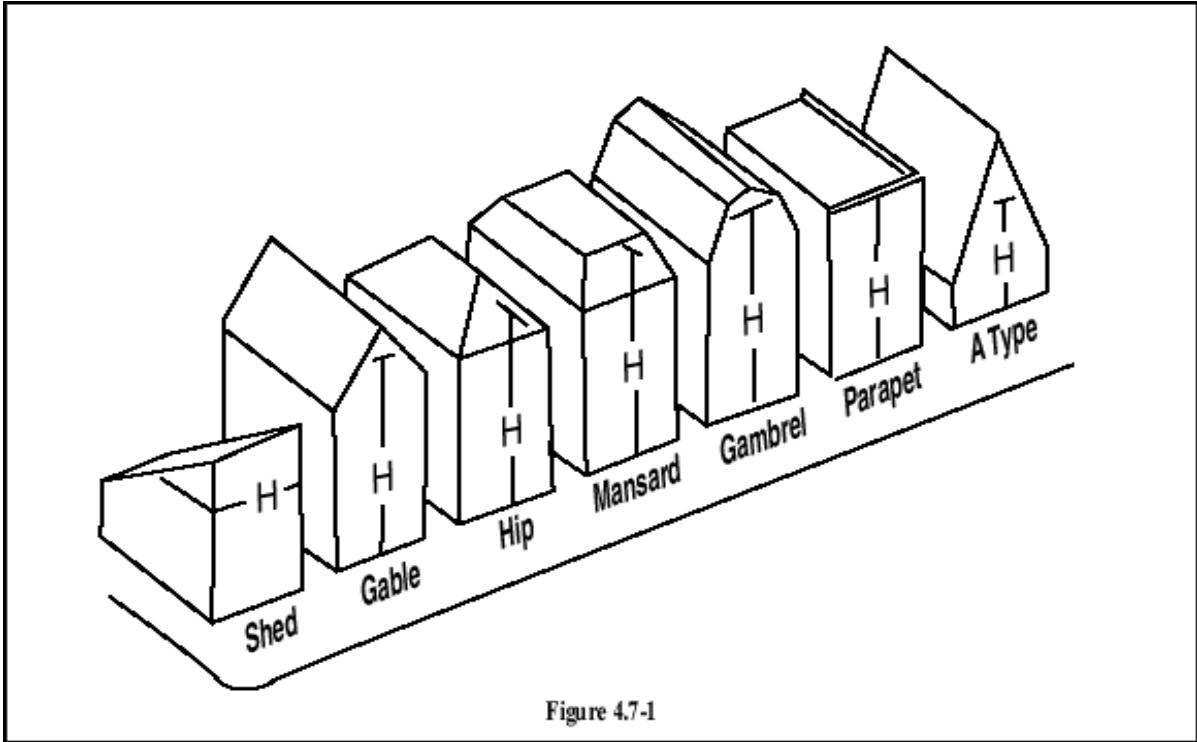


Figure 4.7-1

4.8. CONSERVATION DISTRICTS.

4.8.1. PURPOSE.

The Conservation Districts provisions provide an alternative to standard residential development practices. This land development technique involves siting clusters of home sites on smaller lots than those permitted under conventional development regulations with the remaining “saved” land being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and/or recreational facilities for the benefit of the Conservation District. A perimeter buffer defines the edges of a Conservation District to provide visual screening and separation from adjoining properties and streets.

4.8.2. CONSERVATION DISTRICTS PERMITTED.

A Conservation District shall be considered a conditional zoning district and shall be processed in accordance with Section 3.4 of the Unified Development Ordinance. In any residential zoning district where conservation districts are permitted, a developer may create lots that are smaller and arranged differently than those required by the standard zoning district regulations if the developer complies with the provisions of this Section. Conservation district developments are permitted only in the following zoning districts:

AG-CZ Agricultural Conditional District
 RE-CZ Rural Estate Conditional District
 RL-CZ Residential Low Density Conditional District
 RV-CZ Residential Village Conditional District
 RC-CZ Residential Compact Conditional District

4.8.3. ON-SITE PRE-SUBMITTAL MEETING REQUIRED

4.8.3.1. Prior to plan submittal, a pre-submittal meeting shall be required. This meeting shall include the Administrator or the Administrator’s designee, the applicant, and any site planners or engineers involved with the development. The purpose of this meeting shall be to determine the location of conservation areas, as well as to devise a strategy for overall site development.

4.8.3.2. The Administrator shall provide to the applicant, in writing, notes from this meeting, outlining to the developer where the conservation areas should be located. This written notification shall be included in the staff report to the decision-making body during the Conditional Zoning process.

4.8.4. PUBLIC WATER & SEWER.

4.8.4.1. The development shall be served by a public water system and a public sewer system.

4.8.5. MINIMUM STANDARDS AND OPEN SPACE DEDICATIONS.

4.8.5.1. Minimum Project Area

4.8.5.1.1. A Conservation District shall be a minimum of forty (40) acres in size.

4.8.5.2. Common Open Space Required

4.8.5.2.1. At least thirty (30) percent of the total project area shall be set aside as common open space, which shall allow a thirty (30) percent reduction in the standard minimum lot size, minimum lot width, and the minimum structure setbacks of the associated general zoning district. For every additional one percent of land area devoted to common open space above the required thirty (30) percent, a one-percent decrease in the minimum dimensional requirements shall be allowed.

4.8.5.2.1.1. In no event shall these dimensional reductions exceed fifty (50) percent of the zoning district requirements.

4.8.5.2.1.2. In no event shall a lot for single family detached housing fall below 10,000 square feet, regardless of zoning district.

4.8.5.3. Conservation District developments shall not exceed the permissible density and the maximum impervious surface area per lot of the zoning district described in Table 4.7-1.

4.8.5.4. Any lots that are to have principal structure side yard setbacks less than five (5) feet shall comply with the standards of § 11.4.

4.8.6. OPEN SPACE STANDARDS

4.8.6.1. The areas intended to be open space dedications shall be designated on the subdivision plat as “Common Open Space.” Principal and Accessory residential structures shall not be permitted on such lots.

4.8.6.2. Dedicated open space shall comply with the requirements of the Section 6.5 of this Ordinance in addition to the standards set forth herein. Notwithstanding, the fee-in-lieu of open space dedications described in § 6.5.5 shall not be applied to any conservation district. Where there are conflicts, the more restrictive standard shall apply. In addition, § 6.5.2.2 shall not apply to Conservation Districts.

4.8.6.3. To the maximum extent practicable, streets and single family detached dwellings should be arranged to frame open space as shown in Figure 4.8-2.

4.8.6.4. Active open space shall be located a minimum of fifty (50) feet from any residential lot line within the Conservation District.

4.8.7. PROJECT LANDSCAPING AND BUFFERING REQUIREMENTS.

4.8.7.1. A Class “D” Buffer yard pursuant to the Article 7 of this Ordinance shall be established around the entire perimeter of all Conservation Districts and designated as either undisturbed, conservation easements or common open space on a subdivision plat. Per Table 7.4-2, a Class “D” Buffer Yard shall be either 50’ in width, or 25’ in width with a 6’ high berm. The following additional provisions shall apply to any buffer yard:

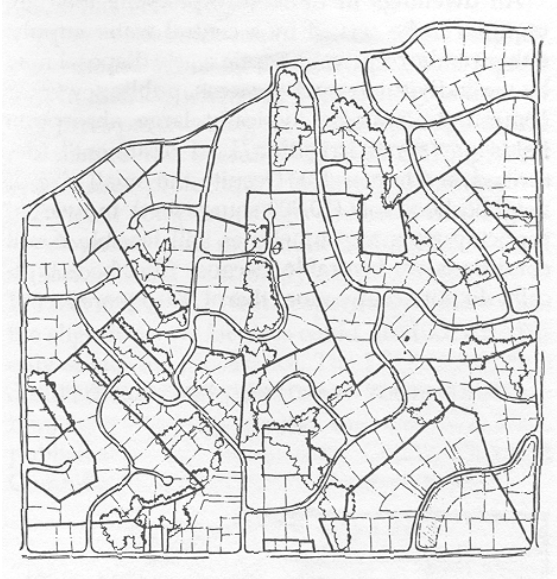
4.8.7.1.1. A Perimeter Buffer yard may be designated as common open space on a subdivision plat and may be used in calculating the required common open space. However, no more than 20% of the total required open space may be within the perimeter buffer yard.

4.8.7.1.2. The use of existing vegetation to meet the requirements will be judged on field observation by the Administrator.

4.8.8. PERMITTED USES

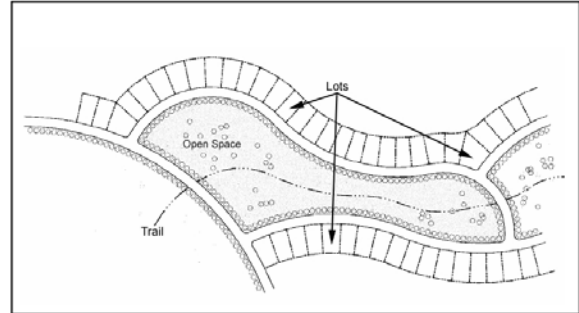
4.8.8.1. Conservation Districts shall be subject to Table 4.6-1 (Table of Permitted Uses), except that single-family attached units shall be permitted in any zoning district within a Conservation District.

Figure 4.8-1 Example of Conservation District Development



Conventional Development style

Figure 4.8-2 Example of Framing Open Space



Development using conservation techniques

4.9. PLANNED UNIT DEVELOPMENT (PUD).

4.9.1. PURPOSE

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensity. PUD zoning is intended to permit flexibility in the design, construction and processing of residential and non-residential developments of a quality that could not be achieved under conventional zoning approaches. While the conventional zoning districts and the requirements of those districts set forth in the UDO are reasonable, there may be circumstances in which it is in the community's best interests to allow unique and/or creative designs and techniques that:

4.9.1.1. promote the most appropriate use of a parcel,

4.9.1.2. allow diversification of use,

4.9.1.3. facilitate the adequate and economical provision of streets, parks, open space, schools, storm drainage and sewer and water utilities,

4.9.1.4. preserve and utilize open space,

4.9.1.5. offer recreational opportunities close to residential uses,

4.8.1.1. enhance neighborhood appearance,

4.9.2. PROCESSING PROCEDURES.

A PUD shall be considered a conditional zoning district and shall be processed in accordance with § 3.4 of this Ordinance. Applications for PUD are also eligible for the expedited rezoning process as prescribed in § 3.3.

4.9.3. PERMITTED USES.

4.9.3.1. The uses permitted in a PUD district shall be the permitted uses as set forth in the approved site plan.

4.9.3.1.1. The site plan shall designate land use categories consistent with the zoning district classifications of this Ordinance. Within each land use category, proposed uses shall be subject only to

the permitted uses in Tables 4.6-1 for each land use category and the maximum density for each land use category in Table 4.7-1. No conditional use permit shall be required for any conditional use listed for said land use category in Tables 4.6-1 within an approved PUD district.

4.9.4. LAND USE COMPOSITION.

4.9.4.1. No site plan for a PUD district shall be approved unless the following minimum percentages of land uses are provided for within the boundaries of the district.

4.9.4.1.1. Residential uses = 20%; which must meet the following minimum requirements:

4.9.4.1.1.1. Medium density residential (4-7 units per acre) = 10%

4.9.4.1.1.2. high density residential (8 or more units per acre) = 5%

4.9.4.1.2. commercial uses as permitted in the B-1, C-1 or C-2 zones = 10%

4.9.4.2. Open space shall be required in accordance with § 6.5 of this Ordinance.

4.9.5. DESIGN STANDARDS.

4.9.5.1. The land uses within a PUD shall not be subject to any of the dimension and density provision of § 4.7, except that a perimeter setback of 25 feet shall be maintained.

4.9.5.2. PUD designs shall be subject to the recommended design elements for Table 4.9-1. The design elements in Table 4.9-1 are for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the design elements of Table 4.9-1 shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

4.9.6. PROFESSIONAL DESIGN TEAM REQUIRED.

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of each of the following professions will be used in the planning and design process for the proposed development:

4.9.6.1. Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect planner certified by the American Institute of Certified Planners (AICP), or a registered land surveyor;

4.9.6.2. Landscaping design by a certified nurseryman or licensed North Carolina landscape architect; and,

4.9.6.3. Site engineering by a North Carolina Registered Engineer.

4.9.7. MODIFICATION OF APPROVED FINAL SITE PLAN.

Following approval of the CZ district, no modification of the land use category designations, design standards, uses, densities or any other condition of the site plan shall be permitted unless an amendment to the CZ district is approved, except as provided for in Section 4.9.8 below. However, the Administrator may approve the following modifications in writing without a new site plan:

4.9.7.1. A change in the location of not more than ten percent (10%) of the dwelling units or floor area;

4.9.7.2. A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage;

4.9.7.3. A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage;

4.9.7.4. An increase or decrease of any setback by not more than five (5) feet for setbacks of less than fifty (50) feet, or ten percent (10%) for setbacks exceeding fifty (50) feet.

4.9.8. AMENDMENTS TO A PREVIOUSLY APPROVED PLANNED UNIT DEVELOPMENT.

By their nature, PUDs are often large and complex

developments that contain a variety of uses and are typically developed over many years. As a result, the conditions and circumstances that existed and were considered when the PUD was planned and approved may change over time. Therefore, in certain circumstances, it may be appropriate to consider alterations or amendments to the previously approved PUD. PUDs that have been approved by the Town of Harrisburg prior to the adoption of the Unified Development Ordinance and PUDs that have been approved under the provisions of the Unified Development Ordinance are bound by the provisions and conditions of the original approval and may be completed in a fashion that is consistent with the prior approval without any further action by the Town. However, the Town may consider alterations and amendments to previously approved PUDs based on the criteria listed below.

4.9.8.1. Internal Amendments. Amendment to the area of an approved PUD that does not fall within 100 feet of the exterior boundary of the PUD may be considered upon the application by the owner of the property that would be affected. Such an amendment may not alter the originally approved uses of the property and may not alter the placement of transportation infrastructure network for the overall PUD unless alternative transportation improvements are proposed as part of the amendment application. If the area of the amendment is at least 200 feet away from the exterior boundary of the PUD, then the applicant may propose amendments to the originally permitted uses. All owners of the land included in the original PUD shall be notified in accordance with the Town’s normal procedures.

4.9.8.2. Site Specific Amendment. Amendment of an area of an approved PUD that lies within 100 feet of the exterior boundary of the PUD may be proposed by the owner of the property that would be affected. Such an amendment may propose a change in the uses and for the development layout of the site. The amendment may not alter the placement of transportation infrastructure network for the overall PUD unless alternative transportation improvements are proposed as part of the amendment application. All owners of the land included in the original PUD and all adjoining property owners shall be notified in accordance with the Town’s normal procedures.

4.9.8.3. Overall Amendment. An amendment to the overall plan may propose changes to uses, to site

layout, and to the conditions and restrictions of the approved PUD plan. It may be applied for only upon the application of the owners of all of the property included within the approved PUD or a master developer action on behalf and with the consent of all of the owners. Such an amendment would be limited to the alteration of the uses on 50% or less of the overall land area of the PUD but the amendments proposed to the conditions or restrictions of the original approval could impact all of the property within the PUD. The amendment may not alter the placement of transportation infrastructure network for the overall PUD, unless alternative transportation improvements are proposed as part of the amendment application. All owners of the land included in the original PUD and all adjoining property owners shall be notified in accordance with the Town's normal procedures.

4.9.8.4. Site Opt Out. The owner of any property within the boundaries of the originally approved PUD may apply for that owner's property to be removed from the PUD by filing for a rezoning of their individual property to another zoning category. This is the most significant type of action for a property in a previously approved PUD and would be evaluated based on the Town's current plans, ordinances, and the effect that the removal of the property from the PUD would have on the remaining property within the PUD. The amendment may not alter the placement of transportation infrastructure network for the overall PUD unless alternative transportation improvements are proposed as part of the rezoning application. Any such application would have to be in the form of a conditional zoning and it would be reviewed in accordance with all applicable standards and procedures for conditional rezoning applications. The Town will review the application to assess if the proposed zoning category would be compatible with the adjoining uses in the approved PUD and that the adjoining uses within the approved PUD would not be negatively impacted by virtue of the operations of the ordinance, such as the provision of buffers or setbacks that had not been part of the original PUD approval for the adjoining property. All owners of the land included in the original PUD and all adjoining property owners shall be notified in accordance with the Town's normal procedures and the normal rezoning provisions for a protest petition shall be in effect.

4.9.8.5. Reinstatement. Under limited

circumstances, the owner of any property which has been removed from an approved PUD may petition the Town to be reinstated into the PUD. A petition to be reinstated into a previously approved PUD may be initiated at any time up to 24 months from the time that the property was removed from the PUD and shall be submitted in the form of a rezoning petition. All previous standards, commitments, and restrictions that had originally been applicable to the property will be included as standards, commitments, and restrictions for the property to be reinstated into the PUD. All owners of the land included in the original PUD and all adjoining property owners shall be notified in accordance with the Town's normal procedures and the normal rezoning provisions for a protest petition shall be in effect. The right to seek reinstatement of a parcel to a previously approved PUD will be limited to one application per parcel of land, even if the ownership of the parcel has changed.

Table 4.9-1. - Recommended Design Elements for a PUD Planned Unit Development

As indicated in § 4.9.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. Therefore, the following elements are recommended for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the following elements shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

Architectural elements

- Building height, rhythm, articulation, massing and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front entries, covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling, or principle structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood compositions, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor plan should be provided. Not more than three (3) adjacent homes should contain the same front facade, and not more than three (3) adjacent homes should contain the same rear facade visible from arterial street view, on any block front. Homes facing one another (across the street) shall not have the same facade. No adjacent home should contain the same elevation.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include: variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.
- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house. This should be accomplished by providing side access garages, detached “in-line” garages, and/or L-shaped floor plans on not less than fifty percent (50%) of the lots. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front facades.

Recreation elements

- Not less than 20 percent (20%) of the residential units are located within 660 feet of a pedestrian, equestrian and bicycle trail.
- Recreation and open space facilities should be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans.
- Neighborhood scale recreation facilities and amenities should be provided which are functional, not retention/detention or basin-like in design. Retention basins used in conjunction with recreational facilities or amenities should be designed in accordance with the Stormwater Management Standards of this Ordinance. Such areas should include turf or landscaping within all areas not permanently covered with standing water.
- Gateway treatments may be incorporated at appropriate locations along an open space network.

Transportation elements

- Park-and-ride lots may be incorporated with planned facilities.
- Bicycle lanes should be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.
- Bicycle parking facilities should be provided for all uses except single family detached and duplex residences.
- A customized entrance may be provided at the entry street intersecting a thoroughfare or collector which features a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence wall details, boulevard median or other similar treatment.

Landscaping and Buffering elements

- Higher density or intensity developments abutting lower density or intensity areas include buffering and should substantially mitigate any negative impacts consistent with the Landscaping Standards of this Ordinance.

Other design considerations

- Homeowner or property owners associations should be required to maintain all roadway/right-of-way landscaping, pedestrian-bicycle, and equestrian paths (arterial, collector and local as proposed) to the standards of this Ordinance.
- Areas designated for industrial land uses should be designed to create a campus-style environment.

4.10. The TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND).

4.10.1 PURPOSE AND INTENT.

4.10.3.1. The TND option is designed to permit the development of land in a manner consistent with traditional neighborhoods. Its provisions adapt the urban conventions which were normal in the United States from colonial times until the 1940's. The TND ordinance prescribes the following physical conventions:

- The neighborhood is spatially understood and limited in size.
- Residences, shops, workplaces, civic buildings and parks are interwoven within the neighborhood, all in close proximity and connected by a system of sidewalks.
- The hierarchy, design and detailing of streets, serves equitably the needs of pedestrians, bicycles and automobiles.
- Carefully placed civic buildings and squares reinforce the identity of the neighborhood.
- Spatially defined squares and parks are distributed and designed as specialized places for social activity and recreation.
- Civic buildings provide places of assembly for social, cultural and religious activities, becoming symbols of community identity through their architectural clarity.
- Private buildings form a disciplined edge, spatially delineating the public street space and the private block interior.
- Architecture and landscape respond to the unique character of the region and traditional design principles with attention toward a classic sense of timelessness. Designs shall preserve the charm and unity of the neighborhood as a whole.
- By providing a full range of housing types and workplaces, residents of all ages are blended

together, forming the bonds of an authentic community.

- The provision of comfortable public spaces such as streets and squares, residents may come to know each other to watch over their collective security.
- By bringing within walking distance most of the activities of daily living, including dwelling, shopping and working, the elderly and the young gain independence of movement.
- The compact layout of TND reduces the requirements for infrastructure, automobile use and traffic congestion. By organizing appropriate building densities, public transit becomes a viable alternative mode for local travel.

4.10.3.2. For further guidance on the principles set forth herein, the following documents may be useful to the applicant: Reid Ewing, *Best Development Practices: Doing the Right Thing and Making Money at the Same Time* (American Planning Association, 1996 & Florida Department of Community Affairs, 3d. Printing 1997); C. Alexander, et al., *A Pattern Language* (New York: Oxford University Press, 1977); R. Arendt, et al., *Rural by Design* (Chicago: American Planning Association, 1994); P. Calthorpe, *The Next American Metropolis: Ecology, Community, and the American Dream* (New York: Princeton Architectural Press, 1993); Duany, A. & Plater-Zyberk, E., eds., *Towns and Town-Making Principles* (1991); Duany, A. & Plater-Zyberk, E., "Zoning for Traditional Neighborhoods," *Land Development* (a publication of the National Association of Home Builders), vol. 5, no. 2 (Fall 1992), at 20-26; and A. Nelessen, *Visions for a New American Dream: Process, Principles, and Ordinance to Plan and Design Small Communities* (Jan. 1994); Michael Leccese and Kathleen McCormick, *Charter of the New Urbanism* (New York: McGraw-Hill, 1999); Werner Hegemann and Elbert Peets, *Civic Art 1922* (New York, Princeton Architectural Press, reprinted 1988).

4.10.3.3. A set of Restrictive Covenants and Design Codes shall be established for each TND by the Developer and shall be binding on all property owners.

4.10.3.4. A Property Owners Association, shall be formed to guide the growth, enforce the Restrictive Covenants, and govern the citizens of the TND.

4.10.3.5. No parcel shall be removed from an approved and platted TND.

4.10.3.6. This Section contains procedures and standards for the processing of TND's both in new subdivisions and site plan applications on large, undeveloped parcels (referred to as "Greenfield" sites), and on existing parcels surrounded by developed areas (referred to as "Infill" sites).

4.10.4. TND DISTRICT DEFINED.

4.10.4.1. The TND district is hereby established as a floating zone and shall be processed as a Conditional Zoning District pursuant to § 3.4 and is eligible to be reviewed under the procedures for expedited rezoning pursuant to § 3.3 of this Ordinance.

4.10.4.2. Applications for a TND district shall be classified as either (a) TND GREENFIELD (b) TND INFILL.

4.10.5. APPLICATION PROCEDURES.

4.10.5.1. There are two procedures for approval of a TND:

4.10.5.1.1. First, the applicant may seek approval of a TND district as a Conditional Zoning pursuant to § 3.4, with site design and architectural guidelines which supplement this Section.

4.10.5.1.2. Second, the applicant may seek approval of a TND subdivision in accordance with the guidelines set forth in this Section. Such applications shall be labeled "TND Subdivision" and may be processed and approved in accordance with the subdivision plat approval procedures set forth in Article 6 of this Ordinance without first seeking a rezoning to the TND District.

4.10.6. APPLICABILITY OF ADEQUATE PUBLIC FACILITIES STANDARDS.

4.10.6.1. The Town Council hereby finds that the proximity of jobs and retail uses to housing in a TND development can achieve significant trip reductions produced by the internal capture of home-work and home-retail trips. The Town Council further finds and determines that there is a compelling public interest to encourage new development to occur in accordance with the criteria set forth in this Section. Accordingly, the transportation review requirements of Article 14 Adequate Public Facilities of this Ordinance shall be applied differently for TND developments in consideration of the different travel characteristics provided by mixed uses, pedestrian amenities and grid street systems, and also to create incentives for TND design.

4.10.6.2. The requirements of Article 14 Adequate Public Facilities of this Ordinance shall not apply to any development defined as a TND Infill.

4.10.6.3. The requirements of Article 14 Adequate Public Facilities of this Ordinance shall not apply to any development defined as a TND Greenfield in accordance with this Section where the applicant provides a phasing schedule consistent with the following:

4.10.6.3.1. Following approval of a final site plan and subdivision plat, the first seventy five percent (75%) of all certificate of zoning compliance for dwelling units may be issued prior to the establishment of any non-residential use.

4.10.6.3.2. No certificate of zoning compliance may be issued for the remaining dwelling units until a zoning clearance permit has been for the remaining non-residential floor area.

4.10.7. TND GREENFIELD.

All applications for a TND Greenfield site shall comply with the following development parameters.

4.10.7.1. Size and Location of Site.

4.10.7.1.1. The minimum size of the site shall be forty (40) acres and the maximum size shall not exceed six-hundred forty (640) acres excluding areas devoted to greenways. Larger parcels shall be developed as multiple TNDs, each individually

subject to all the provisions of this subsection. A TND may be located adjacent to, but shall not be bisected by, a thoroughfare.

4.10.7.1.2. The Site shall be divided into the following subareas:

- A Town Center consisting of civic, retail, office, and multi-family uses. The size of the Town Center is based on the size of the entire site (see § 4.10.7.8.1, below).
- A Neighborhood or series of neighborhoods consisting of blended multi-family and single-family uses, small-scale Retail and workshop uses, and public outdoor gathering places. It is the intent of this Ordinance that all areas within a Neighborhood are within a five-minute walking distance from edge to center (radius of 1320 feet).
- Greenway areas which provide a greenway system for the community, open space for community residents, and natural areas for stormwater management. Greenways may border and/or traverse the TND site.

4.10.7.2.Land Use.

4.10.7.2.1. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.7.2.2, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

4.10.7.2.2. The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional;

- Retail uses include shops, restaurants, entertainment and lodging .
- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail.
- Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.
- Civic may abut institutional, multi-family, office or retail.
- Civic uses include governmentally owned or funded uses that include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.

4.10.7.2.3. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

4.10.7.2.4. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

4.10.7.2.5. Prohibited Uses anywhere within a TND:

- Automatic food, drink and newspaper vending machines;
- Any commercial use which encourages patrons to remain in the their automobile while receiving goods or services, except gasoline stations;
- Chemical manufacturing, storage or distribution as a primary use;

- Enameling, painting or plating, except artist’s studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal are yard, except delivery goods to businesses within a TND;
- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the Adult Entertainment use category;
- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

4.10.7.3.Lots and Buildings.

4.10.7.3.1. All lots shall include frontage abutting a street, square or common open space.

4.10.7.3.2. The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

4.10.7.3.3. All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

4.10.7.3.4. Front or sideyard porches of at least eight (8) feet in depth and twelve (12) feet in width shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

4.10.7.3.5. The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for

buildings, excluding buildings which face a Park, Square or common open space (of at least 20’ in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses - 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family “Build-To” line along the frontage established on the approved TND plan . Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

4.10.7.4.Retail and Office Uses.

4.10.7.4.1. Retail and Office use buildings within or fronting on the "Town's Center" shall conform to the Master Plan approved at the time of rezoning. Retail and Office Uses shall be situated on the Master Plan such that buildings create a "downtown streetscape" through building design and placement. The Planning and Zoning Board shall approve major changes to the building Master Plan.

4.10.7.5.Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.

4.10.7.5.1. The Connectivity Ratio set forth in the Article 6 shall apply to the TND.

4.10.7.5.2. The street standards for TND roadways are based on proven techniques for traffic calming and acceptable levels of vehicular circulation. Reduced roadway widths are also based on a comprehensive approach of streets and alleys.

- Neighborhood Center Street:

ROW	60’
BOC	38’ w/st. parking
Design Speed	20 mph
Curb Radius	15’ w/25’ toe
- Neighborhood Street:

ROW	50’
BOC	25’
Design Speed	20 mph
Curb Radius	15’ w/25’ toe

- Alley:

ROW	20'
Pavement	16'
DS	15 mph
Curb Radius	15' (optional)

4.10.7.5.3. There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead end length of over 100'.

4.10.7.5.4. An on-site transit stop shall be provided where the proposed TND is within the service area of a Town bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

4.10.7.5.5. Sidewalks in residential areas shall be located on both sides of the street and shall be separated from the roadway by a planting strip and/or designated parallel parking. If a planting strip is provided, it shall be a minimum of six (6) feet in width. Sidewalks located in the Retail/Office/Town center area may extend from the back of curb to the buildings and/or plaza areas, without a planting strip. Where this option is used by the developer, planting beds for trees and /or designated areas of landscaping shall be incorporated into sidewalk areas to create a "downtown streetscape". All proposed sidewalks shall be delineated and noted on the Master Plan at the time of rezoning.

4.10.7.5.6. Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within a area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

4.10.7.5.7. Street furnishings shall include but

not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

4.10.7.5.8. To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage, but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

4.10.7.6. Parking.

4.10.7.6.1. All areas proposed to accommodate parking for the overall development must be shown on the Master Plan and must be approved at the time of rezoning.

4.10.7.6.2. On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single family area) can be accommodated without additional pavement width or delineation.

4.10.7.6.3. On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

4.10.7.6.4. For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major arterials may located primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected

on the frontage line where primary parking lots are located.

4.10.7.6.5. Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.

4.10.7.6.6. Adjacent parking lots shall have vehicular connections from an alley.

4.10.7.6.7. Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

4.10.7.6.8. Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

4.10.7.6.9. Shared parking may be used for multiple sites if a written agreement between the owners and lessees is executed for a minimum of 10 years, approved by the Administrator, recorded and a copy maintained for the project file. A recorded subdivision final plat showing shared parking may be submitted in lieu of the written agreement. Regardless of the agreement, all parking standards must be met.

4.10.7.7.Landscaping and Buffering.

4.10.7.7.1. A Landscape Master Plan shall be approved at the time of rezoning for the overall development. The Master Plan must show that the proposed landscape meets the intent of the ordinance

and includes the different types of planting yards, as defined in Article 7, for each project area or parcel, whichever is applicable. In instances where the buffer width and intensity defined in Article 7 may not be appropriate, the Administrator may make reductions or adjustments as deemed necessary. However, the adjustment or reduction may not be such that it includes the deletion of any of the planting yards.

4.10.7.7.2. The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at a average center to center spacing based on the mature spread of the particular street tree.

4.10.7.8.Town Center.

4.10.7.8.1. Land Allocation and Location. The Town Center shall have a minimum area of (500) square feet per square foot of gross site area of the entire TND site (excluding Greenway areas. Commercial areas shall only be permitted where designated on the Site Plan. A town center shall be located only on a street with adequate capacity to serve it.

Example: A proposed TND has a gross site area of 300 acres, with an additional 8 acres of greenway running through the site. The minimum square footage for the Town Center is 26,136 square feet (13,068,000 square feet gross site area ÷ 500 square feet per gross site area).

4.10.7.8.2. Retail and Office. The character of the Town Center is primarily aimed at small-scale retail, service and office uses. However, larger anchor stores or uses may be included as part of an overall commercial package. Such proposals will be evaluated on a case-by case basis.

4.10.7.9.Open Space.

4.10.7.9.1. The proposed development shall include at least the amount of open space as prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1.

4.10.7.10. TND Site Plan.

4.10.7.10.1. In addition to the preliminary plat and conditional zoning requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- outline covenants and design codes;

4.10.8. TND INFILL.

All applications for a TND Infill site shall comply with the following development parameters:

4.10.8.1. Size and Location of Site. The maximum size of the site shall not exceed forty (40) acres, except as provided herein. The maximum size may be exceeded for sites zoned CC when the Application for Development Approval is filed.

4.10.8.2. Land Allocation and Density. A single land use category, as set forth in Table 4.10-1, may be approved as a TND Infill site. The requested densities shall conform to § Table 4.10-1.

4.10.8.3. Land Use.

4.10.8.3.1. The standards pertaining to abutting uses relate to the land use category of adjacent uses. The land use category may be determined from Table 4.11-1, below, where an adjacent site is developed as a TND Infill site, or from the Table below where the adjacent site is developed or within another zoning category. Uses listed in the Use Matrix within the zoning districts set forth in Column B, below, are within the “same land use category” as the corresponding TND land use category in Column A.

Table 4.11-1	
(A)	(B)
<u>TND Land Use Category</u>	<u>Zoning Category</u>
Civic	C-1, C-2
Retail	B-1, C-1
Office	C-2
Multi-family	RV, RC
Single-family	RE, RL, RM-1, RM-2

4.10.8.3.2. Carefully blended land uses form the essence of Traditional Neighborhood Development. Uses within different land use categories, may abut at rear lot lines or at side lot lines and facing (subject to subsection 4.10.8.3.3, below). Open space, such as parks, squares, greens and plazas shall be considered similar land uses with all TND use categories.

4.10.8.3.3. The following land use categories may abut at side lot lines or face across a street, square, park or common space:

- Single family may abut multi-family and small scale institutional;
- Multi-family may abut single-family, office, civic, institutional or retail;
- Retail may abut multi-family, office, civic or institutional. (Retail uses include shops, restaurants, entertainment and lodging.);
- Office may abut retail, institutional, civic, or multi-family.
- Institutional may abut single family (if the institutional use is small in scale), multi-family, office, civic or retail. (Institutional uses include privately owned uses including religious buildings, non-profit institutions, private recreational facilities, clubhouses, museums, cultural societies, visual and performance arts buildings.);
- Civic may abut institutional, multi-family, office or retail. (Civic uses include governmentally owned or funded uses that

include public schools, libraries, post offices, municipal offices and meeting halls. EMS, fire and police stations are also civic uses, but due to noise considerations are more restricted in their location.).

4.10.8.3.4. In order to provide a continuous pedestrian transition for residential neighborhoods and commercial areas, retail land use categories shall not be separated from Multi-family or Single-Family land use categories by berms or buffers. Adequate design measures shall be taken to minimize potential use conflicts. Limited fences and walls may be used when other design measures are ineffective.

4.10.8.3.5. Land use for corner lots which front on streets of dissimilar use shall be designated within the more intensive use category.

4.10.8.3.6. Prohibited Uses. Prohibited uses anywhere within a TND include:

- Automatic food, drink and newspaper vending machines;
- Any commercial use which encourages patrons to remain in their automobile while receiving goods or services, except gasoline stations;
- Chemical manufacturing, storage or distribution as a primary use;
- Enameling, painting or plating, except artist's studios;
- Outdoor advertising or billboard as a principal use;
- Carting, moving or hauling terminal area yard, except delivery goods to businesses within a TND;
- Prisons, detention centers or halfway house;
- Manufacture, storage, or disposal of hazardous waste materials;
- Scrap yards;
- Manufactured homes;
- Sand, gravel, or other mineral extraction;
- Kennels;
- Any use or business controlled under the Adult Entertainment use category;
- Any use which produces any of the adverse impacts defined as prohibited under the definition of Light Industrial Use.

4.10.8.4.Lots and Buildings.

4.10.8.4.1. All lots shall include frontage abutting a street, square or common open space.

4.10.8.4.2. The main entrance of all buildings (excluding outbuildings) shall open to a street, square or common open space of at least 20 feet.

4.10.8.4.3. All uses shall be conducted within completely enclosed buildings, unless otherwise specified herein.

4.10.8.4.4. Front or sideyard porches of at least eight (8) feet in depth and twelve (12) feet in width shall be provided on not less than 70% of all dwelling units within the Single-family land use allocation.

4.10.8.4.5. The height of the eave or parapet wall of buildings facing across streets shall be sufficient to achieve an Enclosure Ratio for buildings, excluding buildings which face a Park, Square or common open space (of at least 20' in width), shall conform to the following ratios (the first number is the building height, the second number is the measurement from building face to building face. The ground floor use shall designate the ratio:

- Civic, Retail, Office Uses – 1:3.5
- Multi-family, 1:4
- Single Family Uses shall have their building front elevation set according to a single family "Build-To" line along the frontage established on the approved TND plan . Adjacent houses shall vary their setback slightly (no more than 2 feet) so as not to perfectly align with the adjacent dwelling.

4.10.8.5.Retail and Office Uses.

4.10.8.5.1. Due to the limited scale of the infill TND, Retail and Office uses should be located at the edges of the TND development, but spatially well connected to the TND residential areas.

4.10.8.5.2. Retail and Office use buildings within the TND shall conform to §§ 11.5.2.4 and 11.5.2.7 of the CC District supplemental design standards. Retail and Office use buildings shall

conform to §§ 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District supplemental design standards.

4.10.8.6. Street, Alleys, Sidewalks, Street Trees, Street Furnishings and Utilities.

4.10.8.6.1. The Connectivity Ratio set forth in the Article 10 shall apply to the TND.

4.10.8.6.2. The street standards for TND roadways are based on proven techniques for traffic calming and acceptable levels of vehicular circulation. Reduced roadway widths are also based on a comprehensive approach of streets and alleys.

- Neighborhood Center Street:

ROW	60'
BOC	38' w/st. parking
Design Speed	20 mph
Curb Radius	15' w/25' toe
- Neighborhood Street:

ROW	50'
BOC	25'
Design Speed	20 mph
Curb Radius	15' w/25' toe
- Alley:

ROW	20'
Pavement	16'
DS	15 mph
Curb Radius	15' (optional)

4.10.8.6.3. There shall be a continuous network of alleys to the rear of building lots within the TND, except when topography or physical feature makes impractical and as otherwise permitted herein. Dead end alleys are strongly discouraged, but in no circumstances shall an alley have a dead end length of over 100'.

4.10.8.6.4. An on-site transit stop shall be provided where the proposed TND is within the service area of a Town bus system, a Public Transportation Authority or a Regional Public Transportation Authority.

4.10.8.6.5. Sidewalks shall be located on both sides of the street and separated from the roadway by a planting strip and/or designated parallel parking. If

a planting strip is provided, it shall be a minimum of 6 feet in width.

4.10.8.6.6. Canopy Street trees shall be planted on both sides of the street and shall be spaced according to species and to the standards established in the landscape section of this ordinance. No understory trees shall be used as street trees. A consistent variety and species of street tree shall be maintained by street, but adjacent streets shall diversify species as a precaution against blight. Street trees planted within the TND commercial district or within a area subject to heavy foot traffic, design measures (such as tree grates) shall be installed as a measure to protect the tree root system.

4.10.8.6.7. Street furnishings shall include but not limited to:

- Commercial Areas: Pedestrian scale decorative street lights, decorative street signs, benches, trash receptacles, water fountain and other appropriate decorative pedestrian oriented features.
- Residential Areas: Pedestrian scale decorative street lights, decorative street signs.

4.10.8.6.8. To the extent possible, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located within the alley ROW and not along the streetscape frontage. It is assumed that domestic water service and sanitary sewer will serve from the streetscape frontage, but will be located in such a way to cause the least impact on the planting strip and required street trees. Public Utility Departments, Companies and their contractors shall be required to cooperate with this effort.

4.10.8.7. Parking.

4.10.8.7.1. Except as otherwise provided by this subsection, parking requirements for all uses shall be in accordance with the Article 8 Parking Standards of this Ordinance.

4.10.8.7.2. On street parking is required where a particular land use will generate regular guest or customer parking use. Occasional on-street parking (such as within a single family area) can be

accommodated without additional pavement width or delineation.

4.10.8.7.3. On-street parking shall be provided on streets abutting squares, small parks or other urban open spaces.

4.10.8.7.4. For interior commercial parcels, no less than 75% of the parking space shall be located to the rear of the building being served. Commercial parcels fronting on non-pedestrian oriented major thoroughfares may located primary parking lots along this frontage. Where primary parking abuts streets within the interior of the TND, screen walls shall be erected on the frontage line where primary parking lots are located.

4.10.8.7.5. Primary parking lots (over 24 spaces) and parking garages shall not: (1) abut street intersections; (2) be located adjacent to squares or parks; or (3) occupy lots which terminate a street vista.

4.10.8.7.6. Adjacent parking lots shall have vehicular connections from an alley.

4.10.8.7.7. Parking for retail and service uses shall not require on-site parking provided, however, that: (1) the required parking, in accordance with the Parking Standards of this Ordinance, is available within a six-hundred-foot radius of the activity; (2) the total floor space for the individual uses does not exceed twenty-five hundred (2500) square feet of gross floor area; and (3) such uses are restricted to Retail and multi-family areas. Due to the pedestrian nature of the TND, parking requirements for retail, service and institutional uses may be reduced by 25% of any use related parking standards established in Article 8 of this ordinance. On-street parking shall count toward any minimum parking requirements.

4.10.8.7.8. Loading areas shall adjoin alleys or parking areas to the rear of the Principal Building unless otherwise approved on the TND plan.

4.10.8.8.Landscaping and Buffering.

4.10.8.8.1. Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with the Article 7 Landscaping and Screening Standards of this Ordinance.

4.10.8.8.2. The purpose of this Section is to ensure that trees are used as a design element to provide visual identity to the TND and to reinforce the public function of streets. Street trees shall be planted along all streets at a average center to center spacing based on the mature spread of the particular street tree.

4.10.8.9.Open Space.

4.10.8.9.1. The proposed development shall include at least the amount of open space as prescribed in Table 4.10-1. Open Space shall comply with the design requirements of Column (F) of Table 4.10-1.

4.10.8.10. TND Site Plan.

4.10.8.10.1. In addition to the preliminary plat and conditional zoning requirements specified in Appendix B, the TND Site plan shall also include all aspects of the spatial relationships proposed for the Traditional Neighborhood Development including:

- layout and dimensions of lots, setbacks (build-to-lines) roadways, alleys, underground utilities, open spaces and all information required to define the relationships within the streetscape;
- designated land uses and associated building heights with proposed streetscape enclosure ratios;
- proposed streetscape furnishings including the pedestrian lighting plan;
- proposed street tree landscape plan;
- an outline of covenants and design codes.

Table 4.10-1 Design Standards for a TND

(A) OPEN SPACE USES	(B) Minimum Land Allocation	(C) Maximum Land Allocation	(D) Minimum Floor Area Ratio (FAR)	(E) Maximum FAR	(F) Design Standards
<i>Open Space</i>	Greater of 5% Gross Land Area (GLA) or 5 acres	40% GLA	n/a	n/a	Open space should be bounded by streets on at least 25% of their perimeter.
<i>Square</i>	15,000 sq. ft.	70,000 sq. ft.	n/a	n/a	<p>Square shall count toward required open space</p> <p>A minimum ½ acre square should front or be located within the Town Center.</p> <p>Squares should adjoin streets on at least two sides.</p> <p>Squares should be distributed throughout the TND so as all dwelling units are located within 1,000 feet (walking distance) of a square.</p>
<i>Greenbelts</i>	may be provided at the perimeter of a TND if adjacent land is incompatible	n/a	n/a	n/a	<p>Greenbelts differ from other types of open space in that existing natural vegetation and wildlife is undisturbed except for bikeways and walking trails.</p> <p>Greenbelts should average at least 100 feet in width and not less than 25 feet at any point.</p>

Table 4.10-1 Design Standards for a TND (continued)

NON-RESIDENTIAL USES	Minimum Land Allocation	Maximum Land Allocation	Minimum Floor Area Ratio (FAR)	Maximum FAR	Design Standards
<p>Civic Uses:</p> <ul style="list-style-type: none"> • clubhouses • meeting halls • libraries • schools • child care centers • police & fire stations • museums • post office • religious uses • cultural societies • visual or performance arts uses • government buildings 	2% GLA	40% GLA	0.4	1.0	<p>Civic uses should be located in prominent or central locations (most often the Town Center).</p> <p>Civic uses should be located within 500 feet of a square.</p> <p>For the purposes of this TND section, FAR shall include:</p> <ul style="list-style-type: none"> • all the land for the building, landscaping and parking • all the uses in a mixed use building <p>Civic uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article.</p> <p>Civic buildings should also functionally support the pedestrian-friendly character of a TND.</p>
<p>Retail Uses</p> <ul style="list-style-type: none"> • includes lodging and commercial uses as permitted for the C-1 district in Table 4.6-1 	2% GLA	40% GLA	0.4	1.0	<p>Not less than ½ of retail buildings should have residential uses above.</p> <p>Retail uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article.</p> <p>Retail buildings should also functionally support the pedestrian-friendly character of a TND.</p>

Table 4.10-1 Design Standards for a TND (continued)

NON-RESIDENTIAL USES (cont.)	Minimum Land Allocation	Maximum Land Allocation	Minimum Floor Area Ratio (FAR)	Maximum FAR	Design Standards
<p>Office Uses</p> <ul style="list-style-type: none"> includes office uses as permitted for the B-1 district in Table 4.6-1 	2% GLA	40% GLA	0.4	1.0	<p>Office uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article.</p> <p>Office buildings should also functionally support the pedestrian-friendly character of a TND.</p>
RESIDENTIAL USES	Minimum Land Allocation	Maximum Land Allocation	Minimum Density (Number of Dwelling units)	Maximum Density	Design Standards
<p>Multi-family Uses (also includes limited office uses up to 1,000 sq. ft. and congregate living facilities)</p>	10% GLA	40% GLA	8.0	30.0	<p>Multi-family uses should be designed to spatially reinforce the streetscape standards found elsewhere in this TND Article. Balconies overlooking the streetscape are encouraged.</p>
<p>Single-family Uses (also includes home occupations and accessory dwellings/structures)</p>	n/a	60% GLA	5.0	11.0	<p>One carriage house or guest house is permitted per lot.</p> <p>Single family dwellings should be designed in such a manner that is pedestrian-friendly with a strong orientation to the streetscape, especially the sidewalk. Porches overlooking the streetscape are encouraged.</p>

4.11. TRANSIT-ORIENTED DEVELOPMENT (TOD) DISTRICT.

4.11.1. PURPOSE.

The Transit-Oriented Development zone encourages a mixture of residential, commercial, and employment opportunities within a specified radius of identified light rail stations or other public transit stations. The zone allows for a more intense and efficient use of land at increased densities for the mutual re-enforcement of public investments and private development. Uses and development are regulated to create a more intense built-up environment, oriented to pedestrians, to provide a density and intensity that is transit supportive. The development standards of the zone also are designed to encourage a safe and pleasant pedestrian environment near transit stations by encouraging an intensive area of shops and activities, by encouraging amenities such as benches, kiosks, and outdoor cafes, and by limiting conflicts between vehicles and pedestrians. It is the intent of this Section that a TOD district be restricted to areas within one-half (½) of a mile of a transit station, which area is equivalent to a 10-minute walking distance.

4.11.2. CLASSIFICATION OF TOD SUBAREAS.

4.11.2.1. The TOD shall be divided into two subdistricts known as the “TOD Core” (“TOD-C”) and the “TOD Periphery” (TOD-P), which shall be considered separate zoning districts subject to the requirements set forth in this Section. The requirements of this section shall apply to both the TOD-C and TOD-P subdistricts, unless otherwise provided.

4.11.2.2. Following any rezoning to a TOD District, the Official Zoning Map shall be amended to denote the following subdistricts:

- All areas within one-quarter (¼) of a mile of a transit station shall be classified as “TOD-C.”
- All areas between one-quarter (¼) of a mile and one-half (½) of a mile from a transit station shall be classified as “TOD-P.” No land area shall be zoned “TOD-P” unless it adjoins an area zoned “TOD-C.”

4.11.3. USE REGULATIONS.

4.11.3.1. Any use permitted in the CC zoning district may be permitted within the TOD-C or the TOD-P districts, except as provided in § 4.11.3.2 below.

4.11.3.2. The following set forth in Table 4.11-1 are prohibited within either the TOD-C or the TOD-P subdistricts. Any use listed under Column (B) of Table 4.11-1 is prohibited in the TOD-C subdistrict. Any use listed in Column (C) of Table 4.11-1 is prohibited in the TOD-P subdistrict.

4.11.4. DEVELOPMENT REGULATIONS.

4.11.4.1. Floor Area and Density.

The floor area ratio and density within the TOD-C and TOD-P subdistricts shall not be less than that set forth in Table 4.11-2.

4.11.4.2. Parking Standards.

4.11.4.2.1. Minimum Number. On the portion of a site within 500 feet of a light rail alignment, the minimum number of parking spaces is 50 percent of the required parking spaces required by the Parking Standards of this Ordinance.

4.11.4.2.2. Maximum Number. The maximum number of parking spaces shall not exceed that set forth in Article 8 Parking Standards of this Ordinance.

4.11.4.3. Ground Floor Design.

All uses within the TOD district shall conform to the Design and Improvements Standards of § 11.5.2.1, 11.5.2.4, 11.5.2.5, 11.5.2.6, and 11.5.2.7 of the CC District.

4.11.4.4. Pedestrian Connectivity.

4.11.4.5. New retail, office and institutional buildings within five hundred (500) feet of a major transit stop shall provide for convenient pedestrian access to transit through the measures listed in § 4.11.6.4.4 Retail and Workshop Uses, and as listed below.

- Walkways shall be provided which connect

building entrances and streets adjoining the site.

- Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable due to unique topography. Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property.
- A direct pedestrian connection shall be provided between the transit stop and building entrances on the site;
- An easement or dedication for a passenger shelter shall be provided if requested by the transit provider.

Table 4.11-1 Prohibited Uses in a TOD		
(A) Use	(B) TOD-C	(C) TOD-P
Vehicle Repair	prohibited	prohibited
Drive-through facilities	prohibited	prohibited
Exterior display of goods and exterior storage on the portion of a site within 500 feet of a public transit station. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food or drink stands, are exempt from this requirement.	prohibited	prohibited
Sale or lease of consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, travel trailers, and other recreational vehicles. Offices for the sale or lease of vehicles, where the vehicles are displayed or stored outside of the TOD, are allowed.	prohibited	prohibited
Single-family detached dwelling units	prohibited	allowed
Commercial parking, surface or structured (located within 200 feet of the transit station)	prohibited	allowed
Other surface Parking	prohibited	prohibited

Table 4.11-2 Density and Floor Area Ratio within a TOD				
TOD-C	Density (residential units per acre)		Floor Area Ratio (nonresidential uses)	
	Minimum	Maximum	Minimum	Maximum
Parcels, 2 acres or greater	16	20	0.70	1.20
Parcels, less than 2 acres	12	16	0.50	1.00
TOD-P				
Parcels, 2 acres or greater	12	16	0.50	1.00
Parcels, less than 2 acres	8	12	0.30	0.60

4.12. HISTORIC PRESERVATION OVERLAY (HPOD) DISTRICTS.

4.12.1. PURPOSE.

4.12.1.1. Harrisburg’s designated historic districts, hereinafter referred to as the “districts,” and historic landmarks, hereinafter referred to as “landmarks” are some of the most valued and important assets of the Town of Harrisburg. They are established for the purpose of protecting and conserving the heritage of the Town of Harrisburg, County and State; for the purpose of safeguarding the character and heritage of the districts by preserving the districts as a whole and any property therein that embodies important elements of their social, economic, cultural, political, or architectural history; for the purpose of promoting the conservation of such districts or landmarks for the education, pleasure and enrichment of residents of the districts and the Town of Harrisburg, County and State as a whole; for the purpose of fostering civic beauty; and for the purpose of stabilizing and enhancing property values throughout the districts as a whole, thus contributing to the improvement of the general health and welfare of the Town of Harrisburg and the residents of the districts.

4.12.2. HISTORIC DISTRICT ESTABLISHMENT.

4.12.2.1. The historic districts are hereby established as districts which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the Town of Harrisburg. The boundaries of the districts are as shown on the Official Zoning Map of the Town of Harrisburg.

4.12.2.2. Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance. Such districts must also possess integrity of design, setting, workmanship, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:

4.12.2.2.1. An investigation and report

describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared, and;

4.12.2.2.2. The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the Town Council within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the Town Council of any responsibility for awaiting such analysis, and the Town Council may at any time thereafter take any necessary action to adopt or amend its Zoning Ordinance.

4.12.2.3. The Town Council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendations prior to taking action to amend the Zoning Ordinance.

4.12.2.4. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subsection (1) of this section shall be prepared by the Commission and shall be referred to the Planning and Zoning Board for its review and comment according to the procedures set forth in the Zoning Ordinance. Changes in the boundaries of an initial district or proposal for additional districts shall be submitted to the Department of Cultural Resources in accordance with the provisions of subsection (2) of this section.

4.12.2.5. Upon receipt of these reports and recommendations, the Town Council may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate Zoning Ordinance provisions.

4.12.3. HISTORIC LANDMARK ESTABLISHMENT

4.12.3.1. Upon complying with the required landmark designation procedures set forth herein, the Town Council may adopt and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Commission to be of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

4.12.3.2. The ordinance shall describe each property designated in the Ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistorical value, including the land area of the property so designated, and any other information the governing board deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

4.12.3.3. No property shall be designated as a landmark until the following steps have been taken:

4.12.3.3.1. As a guide for the identification and evaluation of landmarks, the Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical architectural, prehistorical, and cultural significance with Board.

4.12.3.3.2. The Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

4.12.3.3.3. The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his/her designee, shall either

upon request of the Department or at the initiative of the Commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the Department does not submit its comments to the Commission within 30 days following receipt by the Department of the report, the Commission and the Town Council shall be relieved of any responsibility to consider such comments.

4.12.3.3.4. The Commission and the Town Council shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.

4.12.3.3.5. Following the public hearings(s), the Town Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

4.12.3.3.6. Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the Commission in the office of the Register of Deeds of Cabarrus County. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Concord Town Clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the building inspector. The fact that a building, structure, site, area, or object has been designated a landmark shall be clearly indicated on all tax maps maintained by Cabarrus County for such period as the designation remains in effect.

4.12.3.3.7. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Commission to give notice thereof to the tax supervisor of Cabarrus County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

4.12.4. PERMITTED USES.

4.12.4.1. The districts contain several zoning classifications. All uses permitted in any such district, whether by right or as a special exception, shall be permitted in the historic districts according to the procedures established for such uses.

4.12.5. DIMENSIONAL REGULATIONS.

4.12.5.1. Structures within the historic districts shall observe the dimensions and other regulations of this Ordinance, except as follows:

4.12.5.2. No structures or part thereof shall extend nearer to or be required to be set back further from the front lot line than the average distance of the setbacks of the nearest principal buildings within 300 feet on each side of such building and fronting on the same side of the street.

4.12.5.3. No building shall exceed a height of 35 feet.

4.12.5.4. The minimum side yard setback shall be 15 feet.

4.12.5.5. The minimum new side yard setback shall be 10 feet.

4.12.5.6. It is the intent of this section to supersede, within the historic districts, the dimensional regulations of the basic districts applying to the property.

4.12.6. AUTHENTIC RESTORATION OR RECONSTRUCTION

4.12.6.1. Permitted Subject to Approval of Historic Preservation Commission and Planning and Zoning Board, Although Not Complying with Dimensional Regulations.

4.12.6.1.1. Where it is found by the Historic Preservation Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of the structure of a structure of historic and/or architectural significance to the historic district, such activity may be approved by the Planning and Zoning Board, following the approval

by the Historic Preservation Commission.

4.12.6.2. Approval Subject to Conditions

4.12.6.2.1. The Planning and Zoning Board, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

4.12.6.3. Limitation on Approval

4.12.6.3.1. The Planning and Zoning Board shall not be authorized, in action undertaken by this section, to approve a use of property which is not a use permitted by right or as a special exception use within the district in which the property is located.

4.12.6.3.2. In addition to any other condition the Planning and Zoning Board may make regarding such authorization, any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley area, or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction, or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the Town of Harrisburg blameless against any and all liability, cost, damage, or expense suffered by the Town of Harrisburg as a result of or growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the vehicular truck way of a street or alley shall be, at its lowest point, 10 feet above the travel way.

4.12.7. PARKING WAIVER

4.12.7.1. Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces required by the zoning regulations for a building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the district, it shall recommend to the Planning and Zoning Commission a waiver, in part or in whole, of the off-street parking requirements. The Planning and Zoning Board may authorize a lesser number of off-street parking spaces, provided: (1) the Board finds that the lesser number of off-street parking

spaces will not create problems due to increased on-street parking, and (2) will not constitute a threat to the public safety.

4.12.8. RECOMMENDATIONS ON SPECIAL EXCEPTION APPLICATIONS

4.12.8.1. All special exception applications within the historic districts shall be reviewed by the Historic Preservation Commission at its next regular meeting after the application has been submitted in accordance with the requirements of this Ordinance. The Historic Preservation Commission shall forward its comments and recommendations within 45 days of the filing of the application. The recommendations shall be presented to the Planning and Zoning Board which has final decision responsibility on applications for special exceptions.

4.12.9. HISTORIC PRESERVATION COMMISSION

4.12.9.1. Refer to Section 2.5 of this Ordinance.

4.12.10. CERTIFICATE OF APPROPRIATENESS

4.12.10.1. Required.

4.12.10.1.1. From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, and pavement, or other appurtenant features) no above-ground utility structure nor any type of outdoor advertising sign or business identification sign shall be erected, altered, restored, moved, or demolished on such landmark or within the historic district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission. The municipality shall require such a certificate to be issued by the Commission prior to the issuance of a compliance permit or building permit granted for the purposes of constructing, altering, moving, or demolishing structures, which certificate may be issued subject to reasonable conditions necessary to carry out the purpose of this part. A Certificate of Appropriateness shall be required whether or not a building permit or compliance permit is required. Any building permit or such other permit not issued in conformity with this section shall be invalid.

4.12.10.1.2. The Town of Harrisburg and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the Town of Harrisburg or public utility companies.

4.12.10.2. Procedures.

4.12.10.2.1. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Planning Services Director. Applications for Certificates of Appropriateness shall be considered by the Historic Preservation Commission at its next regular meeting, provided they have been filed, complete in form and content, at least 28 days prior to the regularly scheduled meeting of the Commission; otherwise, consideration shall be deferred until the following meeting.

4.12.10.2.2. The Commission shall, by uniform rule in its Rules of Procedure, require data as are reasonably necessary to determine the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required data have been submitted. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

4.12.10.2.3. Upon receipt of an application, the Administrator shall notify the Historic Preservation Commission at least seven calendar days before its regularly scheduled meeting.

4.12.10.2.4. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall conduct a public hearing in accordance with Section 3.1.7 of this Ordinance. The Administrator shall be responsible for notifying the affected parties per section 3.1.5 or this Ordinance.

4.12.10.2.5. The Commission shall take action on the application and in doing so shall apply the Review Criteria, contained in Section 4.12.11 of this Ordinance.

4.12.10.2.6. The Commission's action on the application shall be approval, approval with

modifications, or disapproval.

4.12.10.2.7. Prior to final action on an application, the Commission, using the guidelines in Section 4.12.11, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the district.

4.12.10.2.8. The Commission shall cause to be entered into the minutes of its meeting the reasons for its action, whether it be approval, approval with modifications, or denial.

4.12.10.2.9. If the Commission fails to take final action upon any application within 60 days after the complete application is submitted to the Planning Services Director, the application shall be deemed to be approved.

4.12.10.2.10. If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

4.12.11. Review Criteria

4.12.11.1. Intent

4.12.11.1.1. It is the intention of these regulations to insure, insofar as possible, that construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district or of landmarks shall be harmonious with the special character of the district or landmark. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic periods. In considering new construction, the Commission shall encourage contemporary design which is harmonious with the character of the district.

4.12.11.1.2. In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of

such change or additions upon other structures in the vicinity.

4.12.11.1.3. The Commission shall take no action under this ordinance except to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of the historic district or landmark.

4.12.11.2. Exterior Form and Appearance

4.12.11.2.1. The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness. All applications for Certificates of Appropriateness shall be subject to review based upon the Design Guidelines then in effect. These guidelines are set forth in a manual prepared and adopted by the Commission:

- lot coverage, defined as the percentage of lot area covered by primary structures;
- setback, defined as the distance from the lot lines to the building(s);
- building height;
- spacing of buildings, defined as the distance between adjacent buildings;
- exterior building materials;
- proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- surface textures;
- roof shapes, forms and materials;
- use of local or regional architectural traditions;
- general form and proportions of buildings and structures, and relationship of any additions to the main structure;
- expression of architectural detailing, such as

lintels, cornices, brick bond, and foundation materials;

- orientation of the building to the street;
- scale, determined by the size of the units of construction and architectural details in relation to the size of man and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- proportion of width to height of the total building facade;
- archaeological sites and resources associated with standing structures;
- appurtenant fixtures and other features such as lighting;
- structural condition and soundness;
- walls--physical ingredients, such as brick, stone or wood walls, wrought iron fences, evergreen landscape masses, building facades, or combination of these;
- ground cover or paving;
- maintenance of pedestrian scale and orientation as well as provision for safe pedestrian movement;
- color (new construction only and not for existing residences); and
- effect of trees and other landscape elements.

4.12.11.2.2. The Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” shall be the sole principles and guidelines used in reviewing applications of the State of North Carolina for Certificates of Appropriateness.

4.12.11.3. Interior arrangement or design shall be exempt from review by the Historic Preservation Commission. Interior construction and/or reconstruction shall not require a Certificate of Appropriateness.

4.12.12. CERTAIN CHANGES NOT PROHIBITED

4.12.12.1. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a substantial change in design, material, or outer appearance thereof, nor to prevent the construction, alteration, restoration, or demolition of any such feature which the Building Inspector, Zoning Enforcement Officer or similar official shall certify in writing to the Commission is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent (a) the maintenance, or (b) in the event of an emergency, the immediate restoration, of any existing above-ground utility structure with approval by the Commission.

4.12.13. DELAY IN DEMOLITION

4.12.13.1. An application for a Certificate of Appropriateness authorizing the demolition, removal, or destruction of a designated landmark or a building structure or site within a historic district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The period of delay shall be reduced by the Commission if it finds that the owner should suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During the delay period the Commission shall negotiate with the owner in an effort to find a means of preserving the building, structure, or site. If the Commission finds that a building, structure, or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

4.12.13.2. In the case of action initiated by the Town, the application for such a certificate will first be reviewed by the Commission and secondly by the Town Council for final order of demolition or removal. The Commission shall consider the Housing Code Officer’s inspections and recommendations for demolition or removal of the building or structure.

4.12.13.3. If the Commission has voted to

recommend the designation of a landmark or the designation of an area as a historic district and the final designation has not been made by the Town Council, the demolition or destruction of any building, structure, or site in the proposed district or on the property of the designated landmark may be delayed by the Commission for up to 180 days or until the Town Council takes final action on the designation, whichever occurs first.

4.12.14. APPLICATION REVIEW BY COMMISSION

4.12.14.1. As part of its review procedure, the Commission may view the premises and seek the advice of the Department of Cultural Resources or such other expert advice as it may deem necessary under the circumstances.

4.12.15. APPEAL OF DECISION

4.12.15.1. In any action granting or denying a Certificate of Appropriateness, an appeal by an aggrieved party may be taken to the Board of Adjustment.

4.12.15.2. Written notice of the intent to appeal must be sent to the Commission, postmarked within 30 days following the decision. Appeals shall be in the nature of certiorari. Appeals of decisions of the Board of Adjustment shall be heard by the Superior Court of Cabarrus County.

4.12.15.3. The State of North Carolina shall have a right of appeal to the North Carolina Historical Commission, which shall render its decision with 30 days from the date that a notice of appeal by the state is received by the Historical Commission. The decision of the Historical Commission shall be final and binding upon both the State and the Commission.

4.12.16. COMPLIANCE

4.12.16.1. Compliance with the terms of the Certificate of Appropriateness shall be enforced by the Development Services Director. Failure to comply with a Certificate of Appropriateness shall be a violation of the Zoning Ordinance. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for a period of six months shall be

considered as a failure to comply with a Certificate of Appropriateness.

4.12.16.2. Nothing contained in this Ordinance shall prohibit, impair, or limit in any way the power of the Town Council to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic Districts in violation of the provisions of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. (See General Statute 160A-175 and 160A-389.)

4.12.17. STATE RECOMMENDATIONS

4.12.17.1. The districts shall not be established or the authority and powers of Section 2.5 Commission Powers be implemented until the Department of Cultural Resources shall have been given an opportunity, in accordance with the provisions of North Carolina General Statute 160A-400.4 (2), to make recommendations with respect to the establishment of the districts.

4.13. RESERVED

4.14. FLOODPLAIN PROTECTION OVERLAY (FPOD) DISTRICT.

4.14.1. FINDINGS OF FACT.

4.14.1.1. The flood prone areas within the jurisdiction of the Town of Harrisburg are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

4.14.1.2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

4.14.2. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

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

to other lands.

4.14.3. OBJECTIVES OF THE FLOODPLAIN OVERLAY DISTRICT

The objectives of this ordinance are to:

- Protect human life, safety, and health;
- Minimize expenditure of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at expense of the general public;
- Minimize prolonged business losses and interruptions;
- Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

4.14.4. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on

farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

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

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

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

materials.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and/or
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

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

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural

and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

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

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on

- (b) the National Register; certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program”.

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

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not

including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“Mean Sea Level” means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

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

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

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

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

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

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

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

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

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

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

however, include either:

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

4.14.5. LANDS TO WHICH THIS ARTICLE APPLIES

This Section 4.14 shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the Town of Harrisburg and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

4.14.6. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS)

agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Cabarrus County dated November 5, 2008, which are adopted by reference and declared to be a part of this Section 4.14 and shall constitute the boundaries of the Floodplain Overlay District.

4.14.7. ESTABLISHMENT OF FLOOD DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this Section 4.14 prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 4.14.6 of this ordinance.

4.14.8. COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Section 4.14 and other applicable regulations.

4.14.9. ABROGATION AND GREATER RESTRICTIONS

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

4.14.10. INTERPRETATION

In the interpretation and application of this Section, all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the governing body; and
- Deemed neither to limit nor repeal any other powers granted under State statutes.

4.14.11. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Section 4.14 is considered reasonable for regulatory purposes and is based on scientific and engineering

consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This Section 4.14 does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Section 4.14 shall not create liability on the part of the Town of Harrisburg or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4.14.12. PENALTIES OF VIOLATION

Violation of the provisions of this Section 4.14 or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Harrisburg from taking such other lawful action as is necessary to prevent or remedy any violation.

4.14.13. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Planning Administrator or his/her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this Section 4.14.

4.14.14. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS

4.14.14.1. Application Requirements

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- A plot plan drawn to scale which shall

include, but shall not be limited to, the following specific details of the proposed floodplain development:

- The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 4.14.6, or a statement that the entire lot is within the Special Flood Hazard Area;
- Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined by Section 4.14.6;
- The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 4.14.6;
- The Base Flood Elevation (BFE) where provided as set forth in Sections 4.14.6, 4.14.15, or 4.14.19;
- The certification of the plot plan by a registered land surveyor or professional engineer
- Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
 - Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and

- Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;
- If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- A Foundation Plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
 - Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 4.14.18.2.4 when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
- Usage details of any enclosed areas below the lowest floor;
- Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 4.14.18.2.6 and 4.14.18.2.7 of this ordinance are met.

- A description of proposed watercourse alteration and relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

4.14.14.2. Permit Requirements

The Floodplain Development Permit shall include, but not be limited to:

- A description of the development to be permitted under the floodplain development permit.
- The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 4.14.6.
- The regulatory flood protection elevation required for the reference level and all attendant utilities.
- regulatory flood protection elevation required for the protection of all public utilities.
- All certification submittal requirements with timelines.
- A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- The flood openings requirements, if in Zones A, AO, AE or A1-30.
- Limitations of below BFE enclosure uses

4.14.14.3. Certification Requirements

Elevation Certificates

- A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 4.14.18.2.3.
- If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

Floodproofing Certificate

- If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - Recreational Vehicles meeting requirements of Section 4.14.18.2.6
 - Temporary Structures meeting requirements of Section 4.14.18.2.7 and
 - Accessory Structures less than 150 square feet meeting requirements of Section 4.14.18.2.8

4.14.15. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall perform, but not be limited to, the following duties:

4.14.15.1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

4.14.15.2. Review all proposed development within Special Flood Hazard Areas to assure that all

necessary Local, State, and Federal permits have been received.

4.14.15.3. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4.14.15.4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

4.14.15.5. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 4.14.21 are met.

4.14.15.6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 4.14.14.3.

4.14.15.7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 4.14.14.3.

4.14.15.8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 4.14.14.3.

4.14.15.9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 4.14.14.3 and Section 4.14.18.2.2.

4.14.15.10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of

the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

4.14.15.11. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 4.14.6, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 4.14.19.1.2 in order to administer the provisions of this ordinance.

4.14.15.12. When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 4.14.6, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

4.14.15.13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

4.14.15.14. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

4.14.15.15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.15.16. Issue stop-work orders as required. Whenever a building or part thereof is being

constructed, reconstructed, altered, or repaired in violation of this Section, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

4.14.15.17. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

4.14.15.18. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

4.14.15.19. Follow through with corrective procedures of Section 4.14.16.

4.14.15.20. Review, provide input, and make recommendations for variance requests.

4.14.15.21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 4.14.6 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

4.14.15.22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

4.14.16. CORRECTIVE PROCEDURES

4.14.16.1. Violations to be Corrected
When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

4.14.16.2. Actions in Event of Failure to Take Corrective Action

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- that the building or property is in violation of the floodplain management regulations;
- that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

4.14.16.3. Order to Take Corrective Action
If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this Section 4.14, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

4.14.16.4. Appeal
Any owner who has received an order to take

corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within thirty (30) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

4.14.16.5. Failure to Comply with Order
If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

4.14.17. VARIANCE PROCEDURES

4.14.17.1. The Board of Adjustment as established by the Town of Harrisburg, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Section.

4.14.17.2. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

4.14.17.3. Variances may be issued for:

- the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- any other type of development, provided it

meets the requirements of this Section.

4.14.17.4. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other Sections, and :

- the danger that materials may be swept onto other lands to the injury of others;
- the danger to life and property due to flooding or erosion damage;
- the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- the importance of the services provided by the proposed facility to the community;
- the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
- the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- the compatibility of the proposed use with existing and anticipated development;
- the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- the safety of access to the property in times of flood for ordinary and emergency vehicles;
- the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

4.14.17.5. A written report addressing each of the above factors shall be submitted with the application for a variance.

4.14.17.6. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

4.14.17.7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

4.14.17.8. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

4.14.17.9. Conditions for Variances:

- Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- Variances shall only be issued prior to development permit approval.

- Variances shall only be issued upon:
 - a showing of good and sufficient cause;
 - a determination that failure to grant the variance would result in exceptional hardship; and
 - a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4.14.17.10. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- The use serves a critical need in the community.
- No feasible location exists for the use outside the Special Flood Hazard Area.
- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State and local laws.
- The Town of Harrisburg has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

4.14.18. PROVISIONS FOR FLOOD HAZARD REDUCTION

4.14.18.1. General Standards

In all Special Flood Hazard Areas the following provisions are required:

4.14.18.1.1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

4.14.18.1.2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

4.14.18.1.3. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

4.14.18.1.4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

4.14.18.1.5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

4.14.18.1.6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

4.14.18.1.7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

4.14.18.1.8. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.

4.14.18.1.9. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream

setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

4.14.18.1.10. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Article 4, Section B(3).

4.14.18.1.11. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

4.14.18.1.12. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

4.14.18.1.13. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4.14.18.1.14. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

4.14.18.1.15. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

4.14.18.1.16. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

4.14.18.2. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 4.14.6, or Section 4.14.19, the following provisions, in addition to the provisions of Section 4.14.18.1, are required:

4.14.18.2.1. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 4.14.4 of this ordinance.

4.14.18.2.2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 4.14.4 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 4.14.22. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 4.14.14.3, along with the operational and maintenance plans.

4.14.18.2.3. Manufactured Homes

- New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 4.14.4 of this ordinance.
- Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and

lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- All enclosures or skirting below the lowest floor shall meet the requirements of Section 4.14.18.2.4.
- An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

4.14.18.2.4. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

- shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;
- shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
 - Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

4.14.18.2.5. Additional Improvements.

- Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
 - a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

4.14.18.2.6. Recreational Vehicles.
Recreational vehicles shall either:

- be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

- meet all the requirements for new construction.

4.14.18.2.7. Temporary Non-Residential Structures.

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- a specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- the name, address, and phone number of the individual responsible for the removal of the temporary structure;
- the time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

4.14.18.2.8. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- Accessory structures shall not be temperature-controlled;
- Accessory structures shall be designed to have low flood damage potential;
- Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- Accessory structures shall be firmly anchored in accordance with the provisions of Section 4.14.18.1;
- All service facilities such as electrical shall be installed in accordance with the provisions of Section 4.14.18.1 and
- Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 4.14.18.2.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 4.14.14.3.

4.14.19. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

4.14.19.1. Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 4.14.6, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 4.14.18.1, shall apply:

4.14.19.1.1. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five

times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

4.14.19.1.2. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

- When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 4.14.18.1 and 4.14.18.2.
- When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 4.14.18.2 and 4.14.21.
- All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 4.14.6 and utilized in implementing this ordinance.
- When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 4.14.4. All other applicable provisions of Section 4.14.18.2 shall also apply.

4.14.20. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

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

4.14.20.1.1. Standards of Section 4.14.18.1 and 4.14.18.2; and

4.14.20.1.2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

4.14.21. FLOODWAYS AND NON-ENCROACHMENT AREAS

4.14.21.1. Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 4.14.6. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 4.14.18.1 and 4.14.18.2, shall apply to all development within such areas:

4.14.21.1.1. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

- it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

- a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

4.14.21.1.2. If Section 4.14.21.1 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

4.14.21.1.3. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- the anchoring and the elevation standards of Section 4.14.18.2.3 and
- the no encroachment standard of Section 4.14.21.1.

4.14.22. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

4.14.22.1. Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 4.14.18.1 and 4.14.18.2, all new construction and substantial improvements shall meet the following requirements:

- The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.
- Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 4.14.22.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and

with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Sections 4.14.14.3 and 4.14.18.2.2 of this Ordinance.

- Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

4.15. RIVER/STREAM OVERLAY (RSOD) DISTRICT.

4.15.1. PURPOSE.

The river/stream overlay districts shall be comprised of strips of land adjacent to streams and rivers which shall be retained in their natural vegetated, revegetated or reforested state through the preservation of appropriate perennial vegetation. It is the purpose of the districts and the vegetation to minimize soil erosion, reduce the velocity of overland stormwater flow, trap sediment and soil eroded from cropland or land being developed, and limit other pollutants from entering the waterways.

4.15.2. LOCATION.

The following areas shall comprise the River/Stream Overlay District (RSOD):

4.15.2.1. All Class 1 and Class 2 streams shall be subject to the requirements of the River/Stream Overlay District (RSOD).

- Class 1 streams shall include all rivers or streams shown on the most recent published version of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps for Cabarrus County as a solid blue line.
- Class 2 streams shall include all rivers or streams:
 - Shown on U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps for Cabarrus County as a dotted blue line, or
 - If not already classified as a Class 1 stream, identified as a stream on the NRCS soil survey map for Cabarrus County, or
 - Identified as a stream by a qualified stream classification professional as defined in Section 4.15.2.2.

4.15.2.2. Streams may exist even if they are not mapped on U.S.G.S. 1:24,000 (7.5 minute) scale topographical maps or the NRCS soil survey maps. A qualified professional must identify streams that exist, but are not mapped. For the purposes of this Article, a qualified professional shall mean an individual that has attended wetlands delineation training using application of the 1987 Wetland Delineation Manual by the US Army Corps of Engineers and Identification of Perennial and

Intermittent Streams training supported by the North Carolina Division of Water Quality.

4.15.2.3. The size of a Class 1 stream buffer shall be measured from the average annual stream bank perpendicularly for a distance of 50 feet plus four (4) times the average percent of slope of area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent of slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 120 feet from the edge of the stream.

4.15.2.4. The size of a Class 2 stream buffer shall be measured from the annual average stream banks perpendicularly for a distance of 35 feet plus 4 times the average percent of slope of an area adjacent to the stream. This slope shall be calculated by measuring a distance of 250 feet from the center of the stream. The percent slope for this distance shall serve as the determining factor. However, the maximum distance shall not exceed 75 feet from the edge of the stream.

4.15.3. APPLICABILITY; EFFECT UPON BONA FIDE FARMS.

The use of best management practices in farming is strongly encouraged. A stream buffer is one of these practices and is therefore consistent with North Carolina Sediment Control Law and thus is 75% reimbursable under the North Carolina agricultural Cost - Share Program. This program is administered through the Cabarrus Soil and Water District. Therefore, the following text shall apply to all development (farming is not considered development), or changing of conditions (e.g., timbering) adjacent to a perennial stream as defined below.

4.15.4. DEVELOPMENT CRITERIA

4.15.4.1. No development, including soil disturbing activities, shall occur within the Buffer except the following:

- Sewer easements, providing the activities strictly adhere to applicable state and local soil and erosion control regulations/guidelines. Perennial vegetation must be established as a necessary

step in completing construction of any sewer facilities. Sewer easements should be as close to perpendicular or parallel to the stream channel to minimize the impact on the stream buffer.

- Other overhead and/or underground utilities, roads, streets, bridges, or similar structures within public rights-of-way. Said structures shall cross the buffer as close to perpendicular as possible. For purposes of this subsection, a Greenway shall not be considered a “structure”.
- Greenways are permitted within the Buffer.
- Agricultural soil disturbing activities such as plowing, grading, ditching, excavating, placement of fill material, or similar activities may occur within the Buffer. Said activities shall conform to all State and Federal regulations. Existing agricultural operations, forested or vegetated areas within stream buffer areas shall follow the state’s forest practice guidelines which include best management practices (BMPs) as defined by the North Carolina Soil and Water Conservation Commission. Other agricultural activities not enumerated herein, which activities would result in significant disturbance of the existing soil, increase soil erosion, or destroy plant and wildlife habitats, are strongly discouraged and shall not occur except in accordance with the following requirements:
 - Said activities shall be consistent with an approved replacement program.
 - Said activities shall be consistent with the North Carolina Sediment Control Law.
 - Said activities shall be coordinated with the North Carolina Wildlife Resources Commission’s District 6 Biologist and the Cabarrus Soil and Water District Representative.

4.15.4.2. No building or structure or part thereof shall be erected, established, or constructed within twenty (20) feet of the Buffer. If there is a difference in the zoning ordinance setbacks, the strictest setback shall apply.

4.15.4.3. All disturbed areas within the buffer zone, permitted or not, shall be revegetated with perennial

vegetation as soon as practical (immediately) after the disturbance. Forested areas shall be reforested if possible as detailed in the approved replacement program discussed in subsection 4.15.4.1, above.

4.15.4.4. A progress report shall be submitted by the individual, corporation, or company disturbing land in the RSOD to the Cabarrus County Planning and Zoning Department within 60 days of approval of the replacement program. Two other reports may be required at 120 and 180 days if the program is not completed. The first two reports shall explain what work has been completed and any results as well as a time schedule for completion of the rest of the program. The final report shall document that the replacement program has been completed. The site shall be regularly inspected by the Administrator to assure activity and compliance. Any noncompliance shall be treated as a zoning violation and be subject to enforcement as described in § 1.6 of this Ordinance.

4.16. RESERVED

4.17. MANUFACTURED HOME OVERLAY (MHOD) DISTRICT.

4.17.1. PURPOSE.

The purpose of this Section is to provide sufficient land area for the provision of manufactured housing in order to implement NCGS § 160A-383.1 and to provide affordable housing opportunities for low and moderate income persons. A manufactured home is defined as structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

4.17.2. MODULAR HOMES EXEMPTED.

Manufactured (or Modular) Housing Constructed to meet the N.C. State Building Code shall be exempt from the restrictions of this § 4.17 and shall be permitted in any Single-family detached dwelling zoning district subject to any other provisions of this Ordinance.

4.17.3. ESTABLISHMENT.

This Section establishes three (3) Manufactured Home Overlay Districts in order to provide flexibility with regard to various manufactured home products:

MH-1

MH-2
MHP

4.17.4. CLASSIFICATION OF MANUFACTURED HOMES.

4.17.4.1. The following classification system is hereby adopted for purposes of this Section:

- **MANUFACTURED HOME - TYPE I.** A single-section manufactured home less than seventeen (17) feet in width.
- **MANUFACTURED HOME - TYPE II.** A multi-section manufactured home greater than or equal to seventeen (17) feet in width.

4.17.4.2. The width of a manufactured home shall be determined by mean width when all sections are in a final assembly arrangement.

4.17.5. MH-1, MANUFACTURED HOME OVERLAY.

4.17.5.1. Purpose. The purpose of the MH-1, Manufactured Home Overlay District, is to provide for the principal use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

4.17.5.2. Uses Permitted.

Use permitted as of right within the MH-1 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Use Matrix, Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type I (permanent installations only)
- Manufactured Homes - Type II (permanent installations only)

4.17.5.3. Design Standards. (Refer to § 4.17.8.2 herein.)

4.17.6. MH-2, MANUFACTURED HOME OVERLAY.

4.17.6.1. Purpose. The purpose of the MH-2, Manufactured Home Overlay District, is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in § 4.17.8 herein are met.

4.17.6.2. Uses Permitted.

Use permitted as of right within the MH-2 Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table 4.6-1 of this Ordinance).
- Manufactured Homes - Type II (permanent installations only)

4.17.6.3. Design Standards. (Refer to § 4.17.8.2 herein.)

4.17.7. MHP, MANUFACTURED HOME PARK OVERLAY.

4.17.7.1. Purpose. The purpose of the MHP, Manufactured Home Overland District is to provide for the Principal Use of land developed in harmony with the Underlying Zoning District regulations; however, permitting the substitution of a Manufactured Home as a Principal Building provided the specific design and/or installation regulations appearing in § 4.17.8 of this Ordinance are met.

4.17.7.2. Uses Permitted.

Use permitted as of right within the MHP Overlay District include:

- All uses permitted in the Underlying Zoning District (see Table 4.6-1 of this Ordinance).
- Manufactured Home Park (permanent and/or temporary installation of Type I and/or Type II Manufactured Homes)
- Manufactured Homes - Type I (permanent installations only when not located within a

Manufactured Home Park)

- Manufactured Homes - Type II (permanent installations only when not located within a Manufactured Home Park)
- Recreational Vehicles (temporary installations only within a Manufactured Home Park approved in conformance with this § 4.18.6, not to exceed one hundred eighty (180) days for any one unit), provided that:
 - Recreational Vehicles shall not be used or occupied as a permanent Dwelling Unit.
 - Recreational Vehicles shall be located on separate spaces and shall be completely screened from view from any access streets by landscaping, berms or natural obstructions.
 - Not more than ten percent (10%) of the total number of spaces within the park may be occupied by a travel trailer.

4.17.8. DESIGN STANDARDS.

4.17.8.1. Design and Installation Standards for Manufactured Home Parks.

4.17.8.1.1. The location of three or more Class I or Class II manufactured homes on a parcel of land shall constitute a Manufactured Home Park and shall be subject to the provisions of this Section.

4.17.8.1.2. Each application for a manufactured home park as a Conditional Use Permit shall be accompanied by a master plan. The master plan shall show the circulation pattern, manufactured home spaces, permanent structures and other site design requirements that may be considered essential by the Planning and Zoning Board. The master plan shall show how all proposed improvements will meet the following minimum standards.

4.17.8.1.3. The minimum land area for the entire site shall be 5 acres.

4.17.8.1.4. In lieu of the dimensional and density requirements of § 4.7, Table 4.7-1, spaces for manufactured homes shall comply with the criteria set forth in Table 4.17-1.

4.17.8.1.5. All manufactured home spaces shall abut upon a paved internal street not less than 24 feet in paved width exclusive of parking.

4.17.8.1.6. All manufactured home spaces shall be served by at least a three-foot all-weather surface sidewalk.

4.17.8.1.7. All common spaces must be served by four-foot wide all-weather surface sidewalks.

4.17.8.1.8. Two paved off-street parking spaces shall be provided for each manufactured home space.

4.17.8.1.9. Each manufactured home park shall have a minimum of five percent (5%) of the total area set aside and developed for recreational purposes. If a swimming pool is provided, it shall be separated from other uses by a fence having a gate which is capable of remaining closed.

4.17.8.1.10. Operators of manufactured home parks must provide adequate solid waste refuse and recycling containers. Individual roll-out containers and/or large dumpsters may be used. Dumpsters shall be located at least 40 feet from any manufactured home unit and at least 10 feet away from internal residential streets. Recycling containers shall be emptied on a regular basis and shall be the responsibility of the park operator.

4.17.8.1.11. A manufactured home park must be served by an approved community or public water service. Approved community or public sewer shall be required.

4.17.8.1.12. Adequate illumination shall be provided to ensure the safe movement of pedestrians and vehicles at night. Permanent buildings designed for and used by park residents shall remain illuminated to at least the level of 40-foot candles at all times.

4.17.8.2. Design and Installation Standards for individual Manufactured Homes.

4.17.8.2.1. All individual manufactured homes within an MH-1, MH-2 or MHP Overlay district shall comply with the following design and installation standards:

4.17.8.2.2. Any manufactured home on an

individual lot shall conform to the same building setback standards, side and rear yard requirements, standards for enclosures, access, vehicle parking, and square footage standards and requirements to which a conventional single-family residential dwelling on the same lot would be subject. The provisions of this § 4.17.8.2.2 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

4.17.8.2.3. A minimum 3:12 roof pitch is required for all Class I units. Class II units are not required a minimum roof pitch.

4.17.8.2.4. A continuous masonry curtain wall or foundation, unpierced except for ventilation and access, shall be installed under the outer perimeter of the Dwelling from its base to the ground so as to be compatible with surrounding residential land uses. (Note: See APPENDIX C, Section C-503, Volume VII, North Carolina State Building Code). The provisions of this § 4.17.8.2.4 shall not apply to a Manufactured Home Park where the lots are not subdivided into separate tracts of land.

4.17.8.2.5. The Dwelling shall be attached to a permanent foundation system in compliance with the N.C. State Building Code as may be amended, and the following requirements:

4.17.8.2.6. All wheels, axles, transporting lights and removable towing apparatus shall be permanently removed prior to installation of the dwelling unit. Hitches may remain, but shall be screened from view unless located within a manufactured home park.

4.17.8.2.7. The foundation shall be excavated and shall have continuous skirting or backfill leaving no uncovered open areas excepting vents and crawl spaces. The foundation shall be exposed no more than twelve (12) inches above grade.

4.17.8.2.8. For homes which are narrower than seventeen (17) feet in width, the unit shall be oriented on the lot so that its long axis is parallel to the street.

TABLE 4.17-1

<i>STANDARD</i>	<i>MANUFACTURED HOME TYPE I (SINGLE-SECTION)</i>	<i>MANUFACTURED HOME, TYPE II (DOUBLE-SECTION)</i>
Area of Space (square feet)	4,000	5,000
Width of Space (feet)	40	50
Depth of Space (feet)	100	100
Front Yard (in feet, measured from pavement edge of internal street to manufactured home)	20	20
Side Yard (in feet, between manufactured homes or permanent buildings)	25	25

4.18. PUBLIC INTEREST DEVELOPMENT (PID) DISTRICT.

4.18.3. PURPOSE.

It is the purpose and intent of this Section to permit the creation of Public Interest Development Districts (PID) in areas designated by the Town Council as having special and substantial public interest, by virtue of unique environmental, economic, cultural, entertainment, or other characteristics or conditions not generally shared by other areas of the Town. It is further intended that such districts and the regulations established therein shall be in accord with and promote the policies set forth in the Town's *Comprehensive Plan*. Because the PID addresses situations which affect the entire region, which create intermittent or unusual impacts and public benefits, and which require flexibility in the administration of land use regulations, and in order to avoid the potential for abuse of the PID rezoning process.

4.18.4. PERMITTED USES.

The uses permitted in a PID district shall be the permitted uses as set forth and approved in the PID application.

4.18.5. EFFECT OF PID DESIGNATION.

A PID may be created as either a new district which completely replaces the existing zoning for a specific area, or may be created as an overlay district which supplements the existing underlying zoning districts. Subsequent to designation as a PID, all property within the district shall be developed in accordance with the standards of the district and other applicable requirements of the Town of Harrisburg.

4.18.6. APPLICATION OF A PID DESIGNATION.

Application for a PID may be initiated by the Town Council or the Planning and Zoning Board, or by the

owner of a property for which a PID district is sought to be designated. Each application shall include a unique designation which clearly identifies the proposed district and shall include the information listed below:

- Statement of Intent specifying the nature of the special and substantial public interest involved and the objectives to be promoted by special regulations.
- Proposed District boundaries, including any subareas, which must include a map of the proposed district and may utilize narrative descriptions and /or other references to further define the proposed area.
- A statement as to whether the proposed district is a replacement district or an overlay district.
- Proposed regulations and/or modifications to regulations, which by virtue of the unique characteristics of the district, are appropriate and reasonable to protect the public's interest in the area.
- Procedures for the administration of the regulations in the district which may include processes unique to the district.
- A conceptual plan which depicts the general nature of the proposed district and the general distribution of the uses allowed in the district.

4.18.7. LIMITATIONS.

4.18.7.1. Applications for PID classification shall only be considered for tracts larger than 25 acres, unless the petition would add land to a previously established PID.

4.19. INNOVATIVE DEVELOPMENT

4.19.1. PURPOSE.

From time to time, the Town of Harrisburg may want to be able to consider a proposed development that, by its nature, location, or composition, incorporates a development form or combination of uses responding to unique circumstances that were not contemplated and cannot be accommodated by the Town’s development regulations. The nature of the proposed development would not necessarily warrant or create the need for the Town to amend its standards for all development but is such that a means to consider such development, while protecting the public interest, would be appropriate and desirable. Therefore, the Town of Harrisburg finds that it is in the public interest, appropriate, and desirable for a mechanism to be established to allow review of such innovative development.

4.19.2. APPLICABILITY.

Innovative development may be proposed by the owner of a parcel or development site or the owner’s designated agent and may only be considered as part of a Conditional Rezoning District as provided for in Section 3.4 and as listed in Section 4.2.4. The details of the request and the innovative nature of the proposal shall be included as part of the rezoning application and shall be considered as part of the decision of the rezoning request. Innovative development may be proposed for the following districts.

- RE-CZ Rural Estate Conditional Use District
- RL-CZ Residential Low Density Conditional Use District
- RV-CZ Residential Village
- RC-CZ Residential Compact
- PUD Planned Unit Development District
- An Innovative Development proposal may be submitted in combination with an application for a Conservation District

4.19.3. PROCEDURE.

As part of the consideration of a rezoning that includes a specific innovative development request, the Town Board may modify the following standards established in the UDO that relate to zoning and

subdivision for the Town of Harrisburg in order to accommodate the proposed innovative development project:

- 4.19.3.1.** Public rights-of-way width
- 4.19.3.2.** Location and frequency of sidewalks, curbs, and gutters
- 4.19.3.3.** Minimum lot size
- 4.19.3.4.** Public street frontage.
- 4.19.3.5.** Setbacks and yards.
- 4.19.3.6.** Open space.
- 4.19.3.7.** Height of fences and walls.
- 4.19.3.8.** Off-street parking.
- 4.19.3.9.** Lot width.
- 4.19.3.10.** Building separation.
- 4.19.3.11.** Minimum floor areas for commercial development in a PUD Planned Unit Development District.
- 4.19.3.12.** Building orientation.

4.19.4. PERMITTED USES

All of the uses that would otherwise be permitted in the Conditional Zoning District will be permitted as part of an Innovative Development proposal, subject to any limitations on uses that are contained in the restrictions approved as part of the Conditional Zoning District.

4.19.5. MINIMUM SUBMISSION REQUIREMENTS.

In addition to all other applicable submission requirements for a Conditional Zoning District, no innovative development proposal may be considered on any parcel that contains less than 40 acres. An applicant for Innovative Development approval must submit, as part of the application, a description of each element or standard that is proposed for modification along with an explanation of the reason the modification is sought and any mitigating or offsetting additional conditions that are proposed as part of the development. The applicant shall clearly define the modifications proposed and the other plan features that warrant, support, or offset the changes sought in the application. Each application for an Innovative Development shall be reviewed as a unique development proposal that includes unique site features or development elements not commonly

found in standard development. No approved Innovative Development will alter any development standards or requirements of the Town of Harrisburg other than those specifically requested as part of the application. None of the details of an approved Innovative Development may be used as a precedent for approval of any other Innovative Development as each is to be reviewed based on its own unique site and use characteristics. Furthermore, no modification will infringe on standards designed to protect health and safety. At a minimum, all standards in any applicable codes other than the Unified Development Ordinance (i.e. Fire Codes) will be met.

4.19.6. APPROVAL CRITERIA.

As part of the consideration of a proposal for a Conditional Zoning District that includes a proposal for Innovative Development, the Town Board may consider but is not limited to the following factors that support the approval of the Innovative request:

- Size of the proposed development and its ability to accommodate the proposed innovative uses
- Nature of the topography of the site
- Sustainability features or elements included in the development
- Preservation or creative utilization of environmentally sensitive areas
- Preservation or creative utilization of open space
- Unique nature of concept proposed for the site
- Mixture of lot sizes offset by open space preservation
- Mixture and scale of uses on the site
- Site design elements that relate to the nature of the Innovative proposal