

ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

Summary: This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a conditional use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for Conditional Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.

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5.1. GENERAL PROVISIONS.

5.1.1. APPLICABILITY.

The provisions of Article 5 are supplemental to the general provisions of the other Articles of the Unified Development Ordinances. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

5.1.2. CONFLICT WITH OTHER REGULATIONS.

If there is a conflict between standards of Article 5 and any other requirements of this Ordinance, the standards of this Article 5 shall control, except as set forth in section 5.1.3, below.

5.1.3. RELATIONSHIP TO USE TABLE.

The zoning district in which a particular use is permitted is controlled by Table 4.6-1, and in the event of any inconsistency between the provisions of this Article 5 and the Use Matrix (Table 4.6-1), the provisions of the Use Matrix shall control.

5.2. ACCESSORY USES AND STRUCTURES.

5.2.1. PERMITTED ACCESSORY USES.

5.2.1.3. The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to the provision of § 5.3)	see Table 4.7-1 (see Article 4)
Garages or Carports (noncommercial)	All Zoning Districts.
Greenhouses (noncommercial)	All Residential Zoning Districts.
Home Occupations (subject to § 5.12)	All Residential Zoning Districts.
Off-Street Parking and Driveways	All districts.
Wireless Telecommunications Antennas or Tower (subject to § 5.21)	All Zoning Districts
Other Telecommunication Antennas or Tower	see Table 4.7-1 (see Article 4)
Satellite Dishes	All Zoning Districts
Signs (see Article 12)	All districts.
Storage Buildings (residential)	All districts.
Swimming Pools (subject to the provisions of § 5.2.2)	All Residential Zoning Districts.
Stables/Private (see § 5.4)	AG, RE, RL.
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts.
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to the location standards of this § 5.3.1.3)	All Zoning Districts.

5.2.1.4. ESTABLISHMENT. Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in section 5.2.1.5. Accessory buildings shall not be used for dwelling purposes, except as provided in section 5.3.

5.2.1.5. LOCATION.

5.2.1.5.1. Accessory structures shall be required meet the setback standards for accessory structures as set forth in Table 4.7-1 *Dimensional and Density Standards*. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure shall be located less than 36 inches from the exterior wall of the principal structure. Structures that are located

closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

5.2.1.5.2. For residential lots not exceeding two (2) acres, detached accessory buildings shall not be located in the front yard. Detached accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the required rear yard and shall not be closer than five feet to any side or rear lot line or setback line.

5.2.1.5.3. For residential lots exceeding two (2) acres, detached accessory buildings may be located in the front yard but not closer than seventy-five feet (75') from the front property line/street right-of-way. Detached accessory buildings may be closer than the distance specified above if they are not visible from a public street.

5.2.1.5.4. The location of permitted non-residential accessory structures shall be governed by the same dimensional regulations as set forth for the principal use structure(s).

5.2.1.5.5. Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.

5.2.1.6. HEIGHT. Accessory buildings shall not exceed:

5.2.1.6.1. the standard height regulations of the zoning district as set forth in Table 4.7-1 where accessory structure is located within the buildable lot area;

5.2.1.6.2. shall not exceed fifteen (15) feet in height, where accessory structure is located within a principal structure setback yard.

5.2.1.7. SIZE. An accessory building shall not exceed the ground floor area of the principle building.

5.2.1.8. MATERIALS. No accessory use of structure shall be permitted that involves or requires any construction features or materials, which are not primarily residential in nature or character.

5.2.2. SWIMMING POOLS.

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district provided:

5.2.2.3. The swimming pool and incidental installations are located in other than the front yard.

5.2.2.4. If any pool contains at least four hundred fifty (450) square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a pool cover shall be provided and shall be installed whenever the pool is not in use.

5.2.2.5. The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

5.2.3. LIGHTING.

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon adjoining land.

5.2.4. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS.

The following uses/structures shall be exempt from the provisions of this § 5.2:

5.2.4.3. Fencing and walls; However, in no case shall a rear or side yard fence exceed seven (7) feet. Front yard fences shall not exceed five (5) feet in height. Recreational facility fences are exempt from the height restrictions listed in this section

5.2.4.4. mailboxes;

5.2.4.5. plant materials;

5.2.4.6. any structure or improvement, once installed, is at grade or less than 1 feet above grade.

5.2.5. PORTABLE ON-SITE STORAGE UNITS

Portable On-Site Storage: a portable on-site storage unit is any container designed for the storage of personal property that is typically transported by commercial vehicle and is typically rented to owners or occupants of real property for their temporary use only. A portable on-site storage unit is not a building or structure. The following requirements apply to any residential real estate parcel upon which a portable on-site storage unit is to be placed:

- (A) There can be a maximum of two (2) temporary storage units per parcel at any one time
- (B) A unit must be placed in the side or rear yard only. However, the unit may be placed in the front yard if side and rear areas are not accessible, as determined by the Administrator (unless the unit adversely impacts safety, sight triangles, or emergency response access. The unit may not be placed in any recorded easement or in the street right-of-way.
- (C) A unit must be placed a minimum of five (5) foot setback from side and rear property lines. There is no minimum spacing between units.
- (D) A unit may remain on the parcel for a maximum of 90 days per calendar year without obtaining a Temporary Use Permit. A written reason, timeline, and completion date must be submitted by the applicant prior the issuance of the permit.
- (E) Exemptions
 - (1) Any commercial or residential construction site with active zoning and building permits may have as many storage units as are needed on the site without restrictions or permits.
 - (2) The Temporary Use Permit fee may be waived in the case of damage as a result of fire, storm, flood, or other disaster events.
 - (3) The above restrictions do not apply to any parcel greater than five (5) acres in size.

for resale or donation as a primary business function.

An unattended clothing container is any box, bin, dumpster, trailer or any other receptacle that is intended for the use as a collection point for donated clothing or other household materials a times when no employee or representative of the sponsoring company or organization is present to accept donations. Prohibited clothing donation containers that exist at the time this section is adopted shall be removed within 30 days of adoption.

5.2.6 RECYCLING FACILITIES AND DROP-OFF SITES

Unattended clothing donation containers are prohibited unless located at the operational site of a company or organization that collects used clothing

5.3. ACCESSORY DWELLINGS UNITS.

5.3.1. ZONING DISTRICTS.

Accessory Dwellings and Accessory Apartments are conditionally permitted in those zoning districts where such use is permitted in accordance with Table 4.6-1 (see Article 4).

5.3.2. HOUSING STANDARDS.

Accessory Dwellings must comply with all applicable local, State and Federal housing codes.

5.3.3. NUMBER.

Only one (1) Accessory Dwelling or Accessory Apartment shall be permitted per lot.

5.3.4. SIZE OF UNIT.

The Accessory Dwelling or Accessory Apartment shall not exceed fifty (50) percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

5.3.5. PLACEMENT OF THE ACCESSORY DWELLING ON THE LOT.

An Accessory Dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds ten (10) acres in size.

5.3.6. SETBACKS.

The Accessory Dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.

5.3.7. COMPATIBILITY.

The exterior of the Accessory Dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance. Manufactured homes shall not be pulled up to or attached to a primary residence and considered an Accessory Apartment or Accessory Dwelling Unit. Manufactured homes, as a principal or accessory

dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.

5.3.8. PARKING.

Adequate off-street parking shall be provided for any vehicles owned by occupants of the Accessory Dwelling or Accessory Apartment.

5.3.9. UTILITIES.

Where there is no public sanitary sewer service to the Accessory Dwelling unit, County Health Department shall approve sanitary sewer services provided to such Accessory Dwelling unit prior to its construction.

5.3.10. OWNER-OCCUPIED RESTRICTION

Accessory dwelling units shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

5.4. ANIMAL REGULATIONS.

5.4.1. PURPOSE AND SCOPE.

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, or other similar household pets. The administrator reserves the right to determine what is considered a household pet.

5.4.2. USE REGULATIONS.

The use of land for the keeping of agricultural animals or other livestock shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.4.3. AGRICULTURAL ANIMALS.

5.4.3.3. The provisions of this Section 5.4 shall not apply to the AG Agriculture District.

5.4.3.4. No livestock shall be kept, maintained or stabled within any Residential Zoning District on any lot not exceeding two (2) acres.

5.4.3.5. On parcels of two (2) acres or more and as set forth in Table 4.6-1 (see Article 4), certain livestock shall be permitted subject to the following provisions:

5.4.3.6. All buildings or structures (excluding fences) used to house livestock shall be located so that they are no closer than one-hundred fifty feet (150') from a dwelling unit. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.

5.4.3.7. Not more than one (1) Animal Unit shall be kept, maintained or stabled per six thousand (6,000) square feet of land.

5.5. ANIMAL BOARDING/STORAGE USES.

5.5.1. APPLICABILITY.

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal Boarding/Storage Uses shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.5.2. CRITERIA.

5.5.2.3. Facilities for the boarding of all dogs and other household pets shall conform to the following:

5.5.2.3.1. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

5.5.2.3.2. Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.

5.5.2.4. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.

5.5.2.5. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

5.6. MOTOR VEHICLE SALES OR RENTAL.

5.6.1. APPLICABILITY.

The provisions of this Section shall apply to any Automobile Sales or Rental establishment as allowed by Table 4.6-1 (see Article 4).

5.6.2. ACCESSORY USES.

In addition to the accessory uses set forth in § 5.2.1 of this Article, the following accessory uses are permitted for any Automobile Sales Establishment:

5.6.2.3. Sales, office, parts, service, storage, and body shop facilities accessory to new Automobile Sales Establishments.

5.6.2.4. Storage, body shop, washing, fueling, painting facilities, and air quality certification.

5.6.2.5. Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two years from the date approved by the Town . The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two-year period but not yet complete.

5.6.3. DISPLAY AREA.

5.6.3.3. The outdoor vehicle display area shall not exceed 60,000 square feet of continuous paved surface.

5.6.3.4. For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 7) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than twelve (12) or more than eighteen (18) feet in width for every one-hundred fifty (150) feet in buffer yard length.

5.6.3.5. No vehicles may be displayed or stored on or within required buffer yards, including required street yards.

5.6.3.6. Paved areas reserved for the storage or display of vehicles for sale shall not be required to be

striped for individual vehicle spaces. However, off-street parking for employees and patrons shall be required to conform to the design provisions of Article 8.

5.6.3.7. NOT PERMITTED

Motor vehicle sales or rental shall not be permitted in, or as part of, shopping centers or multi-tenant facilities.

5.6.3.8. NOT PERMITTED

The sale of motor vehicles by individual owners shall not be permitted in shopping centers, multi-tenant facilities or on commercial business lots not specifically permitted for car sales.

5.7. BED AND BREAKFAST INNS.

5.7.1. LOCATION.

Bed and breakfast inns shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:

5.7.1.3. a Historic Preservation Overlay District or;

5.7.1.4. on a parcel with frontage on a major or minor thoroughfare; or

5.7.1.5. within a PUD Planned Unit Development.

5.7.2. STRUCTURE.

A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

5.7.3. APPROVAL CRITERIA.

5.7.3.3. Off-Street Parking. See Table 8.1-3.

5.7.3.4. Receptions/Private Parties. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Conditional Use Permit or Site Plan application.

5.7.3.5. Room Rental. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

5.7.3.6. Guest Rooms. All guest rooms shall be located within the principal structure.

5.7.3.7. Meals. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Conditional Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.

5.7.3.8. Accessory Uses. Accessory uses associated with a bed and breakfast inn include those as set forth in § 5.2.1.

5.7.3.9. Area Regulations. Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

5.7.3.10. Maximum Number of Guest Units. The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging

5.7.3.11. Landscaping and Buffering. See Article 7.

5.7.3.12. Lighting. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.7.3.13. Signage. Signs for bed and breakfast inns shall meet the requirements of the Sign Regulations and the requirements set forth below.

5.7.3.13.1. Signage shall be limited to one ground sign per establishment.

5.7.3.13.2. Ground signs identifying bed and breakfast inns shall not exceed five square feet in area nor five feet in height. Such signs shall not be illuminated.

5.7.3.13.3. No additional advertising signs shall be permitted on the property.

5.8. CAMPGROUNDS.

5.8.1. CRITERIA.

This section applies to Campgrounds as permitted by Table 4.6-1 (see Article 4) and subject to the following standards:

5.8.1.3. Campgrounds shall not be used as permanent residences except for one (1) owner or manager and up to three (3) permanent maintenance personnel.

5.8.1.4. Towed vehicles within the Campground shall not exceed eight feet (8') in width.

5.8.1.5. No person, other than the owner or operator shall stay in any Campground more than ninety (90) days per calendar year.

5.8.1.6. Camp sites shall be a minimum of one thousand two hundred fifty (1,250) square feet and at least twenty-five feet (25') in width.

5.8.1.7. Camp sites shall be spaced so that there is at least: ten feet (10') between sites; eight (8') feet from the interior roadways; fifty feet (50') from exterior roadways; and fifteen (15') feet from property lines.

5.8.1.8. Parking spaces and interior roadways shall be paved or treated to reduce dust.

5.8.1.9. Sewage facilities, if provided, shall be connected to a public sewer collection and treatment system, unless alternative systems are permitted by state law.

5.8.1.10. All utilities shall be located underground.

5.8.1.11. At least one public telephone shall be provided.

5.8.1.12. Walkways to concentrated activity areas (such as bathhouse, restrooms, etc.) within the campground area shall be at least four feet (4') wide with an all-weather surface.

5.8.1.13. All unpaved areas within the campground must have vegetative ground cover which is adequate to prevent erosion and blowing dust.

5.8.1.14. One tree of a species identified in the Suggested Plant List shall be provided for each two camping spaces. Such trees shall be located in front of those spaces. The Applicant shall comply with the Tree Protection and Preservation requirements of the Landscaping Standards.

5.8.1.15. All trash collection areas shall be completely screened from view at any public right-of-way or property line.

5.8.1.16. Adjoining residential zoned or developed areas shall be screened by a minimum Class "C" buffer yard as described in Landscaping Standards of this Ordinance.

5.8.1.17. Each campground shall provide an on-site attendant 24 hours per day.

5.8.1.18. (Applies to campgrounds in an I-1 zoning district only) Camp grounds shall only be permitted north of Mallard Creek in order to provide camping facilities in close proximity to the Speedway.

5.9. CEMETERIES and CREMATORIES.

5.9.1. APPLICABILITY.

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

5.9.2. CRITERIA.

5.9.2.3. Pursuant to NCGS § 90-210.43, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.

5.9.2.4. Minimum setback for all structures, excluding gatehouses, is one hundred (100) feet from any exterior property line. Gatehouses shall be excluded from any minimum building setback.

5.9.2.5. Minimum setback for any grave or burial plot is fifty (50) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.

5.9.2.6. Buffering and Landscaping shall be regulated in accordance with Article 7.

5.10. CONVENIENCE STORES (with or without Gasoline sales).

5.10.1. APPLICABILITY.

The provisions of this Section shall apply to Convenience Stores and Gas Stations as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.10.2. ACCESSORY USES.

5.10.2.3. The following uses shall be considered accessory to Convenience Stores or Gas Stations:

- 5.10.2.3.1.** Car washes.
- 5.10.2.3.2.** Gasoline pumps and canopies.
- 5.10.2.3.3.** Automatic teller machines (ATM's).
- 5.10.2.3.4.** Restaurants located within the Primary Building.
- 5.10.2.4.** Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and rental of video tapes and video cassette recorders.

5.10.3. APPROVAL CRITERIA

5.10.3.3. Location.

5.10.3.3.1. Principal Structure - The site shall have frontage on a thoroughfare or collector road.

5.10.3.3.2. Service Equipment – No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.

5.10.3.4. Maximum Square Footage for Principal Structure.

- 5.10.3.4.1.** In C-2 District: No maximum.
- 5.10.3.4.2.** In all other districts that allow

convenience stores: 2,000 leasable square feet for enclosed structure.

5.10.3.5. Lighting.

All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the convenience store is located, and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.10.3.6. Signage.

See Article 12 Signage Regulations.

5.11. HAZARDOUS WASTE FACILITIES.

5.11.1. PURPOSE AND INTENT.

The purpose and intent of this Section is to provide supplementary guidance and standards for the issuance of conditional use permits for hazardous waste facilities. State law restricts the extent to which local zoning may regulate hazardous waste facilities, the General Assembly recognizes that the reasonable concerns of local governments may be considered. NCGS §§ 130B-3, 130B-4.

5.11.2. ZONING DISTRICTS.

To the extent not preempted by NCGS § 130A-293, hazardous waste facilities shall be permitted only in the zoning districts indicated in Table 4.6-1 (See Article 4).

5.11.3. CRITERIA.

Consistent with NCGS § 130B-20, no zoning compliance permit shall be approved until a conditional use permit application has been filed. Prior to the filing of any application for a zoning compliance permit, the site designation review committee established pursuant to NCGS § 130B-9 and 4 NCAC § 18.0305 shall examine the criteria for issuance of a conditional use permit and shall submit its recommendation to the North Carolina Hazardous Waste Management Commission. No conditional use permit or zoning compliance permit shall be issued unless the applicant complies in all respects to the above-referenced regulations.

5.12. HOME OCCUPATIONS.

5.12.1. APPLICABILITY

A home occupation is permitted as an accessory use to any dwelling unit in accordance with the following standards.

5.12.1.1. A home occupation business is allowed in a permitted accessory structure.

5.12.1.2. A home occupation shall occupy no more than 25% of the total floor area of the residential structure.

5.12.1.3. The business must not change the essential residential character of the dwelling and/or lot.

5.12.1.4. The use shall employ no more than one person who is not a resident of the dwelling.

5.12.1.5. The business shall not operate outside of the hours of 7:00 AM to 7:00 PM. This time limitation shall apply to the actual operation of the business on site, and shall not apply to preparation time for business, including leaving or returning to the home.

5.12.1.6. The home occupation shall not utilize mechanical, electrical, or other equipment which produces excessive noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside of the dwelling or accessory structure.

5.12.1.7. No outdoor storage of equipment except for equipment of a type that could be reasonably associated with the principal use.

5.12.1.8. Only one commercial vehicle will be allowed in connection with the conduct of the home occupation.

5.12.1.9. No signage is permitted.

5.12.1.10. The following uses are prohibited from home occupation:

- Temporary or permanent motor vehicle display for purposes of sale or lease,

- restoration, or conversion
- Engine repair
- Furniture refurbishing
- Gymnastics facilities
- Medical office
- Animal services
- Athletic studios or outdoor recreation
- Machine shop
- Retail sales
- Mortuaries
- Body piercing and/or tattoos
- Therapy
- Any use that draws multiple clients to the dwelling at the same time on a regular basis

5.12.1.11. The administrator has the authority to allow or disallow a use based on the impact the use will have on the surrounding residential area.

5.13. JUNKYARDS/SALVAGE YARDS.

5.13.1 APPLICABILITY.

Any Junkyard or Salvage Yard with outdoor storage.

Any Industrial or Extractive Use involving outdoor storage of junk as a Primary Use or an Accessory Use.

The use of land for the outdoor storage of junk or salvage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.13.2 CRITERIA.

No conditional use permit or building permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS § 136-144 (i) and:

Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.

No yard or storage lot shall be placed or maintained within a required yard setback.

All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the state of North Carolina and the Town of Harrisburg such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

5.14. DEMOLITION LANDFILLS

5.14.1. APPLICABILITY.

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294(4)a. NCGS § 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”

{Note: NCGS § 130A-301.2 expires on June 30, 2001. These provisions are consistent with those requirements. The Solid Waste Management Division of DENR repealed its application and operational rules (formerly 15A NCAC 13B.0506 and 13B.0507 for demolition landfills on January 4, 1993.}

5.14.2. USE REGULATIONS.

The use of land for a demolition landfill shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.14.3. CRITERIA.

5.14.3.1. The disposal area of a demolition landfill shall not exceed one (1) acre.

5.14.3.2. The disposal area shall not exceed five (5) feet above average grade in height.

5.14.3.3. The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.

5.14.3.4. The landfill shall be located at least one-quarter mile from any other landfill of any type.

5.14.3.5. The perimeter of the landfill shall be at least 50 feet from the property boundary.

5.14.3.6. The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.

5.14.3.7. The waste disposal area of the landfill is at least four feet above the seasonal high groundwater

table.

5.14.3.8. The landfill shall comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

5.14.3.9. The applicant shall comply with the siting criteria set forth in 15A NCAC § 13B.0564. After the expiration of NCGS § 130A-301.2, the requirements of 15A NCAC § 13B.0564 shall supersede any standards in this Section 7.20 to the extent permitted by state law.

5.14.3.10. Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

5.14.3.11. The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.

5.14.3.12. No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

5.14.4 APPROVAL PROCESS.

5.14.4.1 Zoning Clearance and Town Council Approval. No demolition landfill shall be established until a zoning clearance permit is obtained from the Administrator.

5.14.4.2 Duration of Permit. A zoning clearance shall be effective for a twelve-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project. The Administrator shall renew the zoning clearance if a written finding is made that the construction project is ongoing.

5.14.4.3 **Application Requirements.** The following information must be submitted at the time of application for such permit:

5.14.4.3.1 **Survey.** A survey showing the exact location of the proposed demolition landfill within the entire project.

5.14.4.3.2 **Contents of Landfill.** A statement detailing all contents of the landfill.

5.14.4.3.3 **Reclamation of Landfill Area.** A statement detailing the plans for reclaiming the landfill at the end of its use.

5.14.4.3.4 **Future Building Plans.** A statement describing plans for future building, if any, on the landfill site.

5.14.5 CLOSURE.

5.14.5.1 Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a survey plat of the property that meets the requirements of NCGS § 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Administrator at the same time that the certified copy of the notice required by § 7.20.4.2 of this section is filed with the Administrator.

5.14.5.2 Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a notice that a landfill for the disposal of demolition debris has been located on the land. Where state law requires an identical notice, compliance with the state requirements shall constitute compliance with this Section. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or

other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat required by § 5.14.4.1 is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the North Carolina General Statutes. The Register of Deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by § 5.14.5.1 of this section, with the Administrator. Unless a filing fee is required for DENR, the owner shall pay a filing fee to the Administrator within 15 days after the notice is recorded.

5.14.5.3 The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

5.15. MINI-WAREHOUSE/SELF-SERVICE STORAGE.

5.15.1. PURPOSE.

This Section sets standards for the establishment and maintenance of safe and attractive mini-warehouse developments that will remain a long-term asset to the community. The use of land for mini-warehousing/self-service storage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.15.2. MINIMUM/MAXIMUM LOT SIZES.

5.15.2.1.1. Minimum lot size - one (1) acre

5.15.2.1.2. Maximum lot size – five (5) acres in all districts except I-1 and I-2. I-1 and I-2 shall have no maximum lot size.

5.15.3. BUILDING HEIGHT.

5.15.3.1. Except as allowed in § 5.15.3.2, building height shall not exceed one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of 10 feet, which may include a maximum of eight feet with an additional two feet to accommodate a garage-type sliding or roll up door.

5.15.3.2. In the C-2 district, height maximums are governed by the standard allowances as set forth in Article 4, § 4.7.

5.15.4. LANDSCAPING AND BUFFERING.

5.15.4.1.A type “B” buffer yard as prescribed in Article 7 shall be provided around the perimeter of the mini-warehouse development.

5.15.4.2. Signs or other advertising mediums shall not be placed within the buffer yard.

5.15.4.3. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 7.

5.15.5. ON-SITE MANAGER OR SECURITY SYSTEM REQUIRED.

No facility herein provided for shall be used or

maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.

5.15.6. COMMERCIAL ACTIVITY PROHIBITED.

It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units, or to permit same to occur upon any area designated as a storage warehouse, or accessory uses as listed in 5.15.13.

5.15.7. RESIDENTIAL USE PROHIBITED.

No portion of any Mini-Warehouse/self-service storage shall be used, on a temporary or permanent basis, as a dwelling.

5.15.8. REPAIR OF AUTOS, BOATS, MOTORS, AND FURNITURE PROHIBITED; STORAGE OF FLAMMABLE LIQUIDS PROHIBITED.

Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse rental contracts shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.

5.15.9. LIGHTING.

All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.15.10. OUTSIDE STORAGE.

No outside storage shall be permitted except the storage of recreational vehicles per § 5.15.11.4.

5.15.11. ACCESSIBILITY.

5.15.11.1 Ingress/Egress. Vehicular ingress-egress shall provide for safe access by customers and emergency vehicles.

5.15.11.2 Interior Travel Lanes. Interior travel lanes shall have a minimum width of twelve (12) feet for one-way and twenty-four (24) feet for two-way travel lanes. The minimum travel lane width for fire and life safety access shall be twenty (20) feet.

5.15.12. OFF-STREET PARKING STANDARDS.

5.15.12.1 Location of Customer Parking. Parking shall be provided by parking/driving lanes adjacent to the buildings.

5.15.12.2 Interior Travel Lanes. Interior travel lanes shall have a minimum width of twelve (12) feet for one-way and twenty-four (24) feet for two-way travel lanes.

5.15.12.3 Off-street Parking. One parking space is required for every 200 storage units with a minimum of two spaces required. The parking spaces shall be provided adjacent to the manager's office.

5.15.12.4 Vehicular Storage. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage.

5.15.13 ACCESSORY USES.

Sales of customary equipment and supplies, such as hand trucks, straps, tapes, packaging materials, boxes, etc. are permitted through the main office only.

5.16. CHILDCARE FACILITIES.

5.16.1 APPLICABILITY.

The provisions of this Section apply to any:

Childcare Center.

Childcare as a Home Occupation. (see § 5.12)

5.16. 2 PERMIT APPLICATION.

5.16.2.1 The following shall be submitted with the application for a zoning compliance permit or certificate of zoning compliance:

5.16.2.2 A copy of the N.C. state license issued to the facility. A written approval from the Harrisburg Fire Marshal's Office will be required prior to Zoning approval and issuance of permit.

5.16.2.3 Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).

5.16.2.4 Such areas shall be located not less than one-thousand (1,000) feet from any Hazardous Waste Facility; and shall be enclosed with a fence, with a minimum height of five (5) feet.

5.16.3 ACCESS AND LOADING/ UNLOADING.

5.16.3.1 This provision of this § 5.16.3 shall not apply to Childcare Facilities as Home Occupations.

5.16.3.2 Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children. Standards for access and off-street parking/loading are set forth in Article 8 of this Ordinance.

5.16.3.3 The use shall front a street classified as a collector or a thoroughfare.

5.17. RESIDENTIAL CARE FACILITIES.

5.17.1. APPLICABILITY.

The provisions of this Section apply to any Nursing Home or Residential Care Facility. The Provisions of this section shall not apply to a Family Care Home as defined in Appendix A.

The use of land for a residential care facility shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.17.2. STATE LICENSING.

Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for the operation of such a facility.

5.17.3. LOCATION.

No residential care facility shall be located within one thousand (1,000) feet from any Hazardous Waste Facility.

5.17.4. SECURITY FENCING.

Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.

5.18. PRIVATE CLUBS.

5.18.1. PURPOSE.

Regulations for private clubs are developed to establish consistent guidelines covering review of such uses, which because of their nature, may be objectionable to nearby residential uses. Special regulations and review of individual cases are necessary to determine if these establishments are located in areas where traffic and noise impacts are minimized. It is not the purpose of these regulations to regulate activities controlled by the North Carolina Alcoholic Beverage Control Commission pursuant to NCGS § 18B-901.

is located. Said Floor Plan shall delineate separately the areas of the Building or Structure which are used for the dispensing of food and beverages, entertainment, and dancing.

5.18.2. APPLICABILITY.

The provisions of this section shall apply to any private club to the extent not preempted by NCGS § 18B-901. Private clubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel.

The use of land for a private club shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.18.3. SPACING REQUIREMENTS.

No private club shall be established within 1,000 feet of any of the following:

5.18.3.3. any Residential Zoning District, any Elementary School, Middle School, or High School;

5.18.3.4. any Child Care Center or Child Care Facility;

5.18.3.5. any Religious Institution; or

5.18.3.6. any other existing private club.

5.18.4. REVIEW AND APPROVAL.

In addition to the requirements of Appendix B to this Ordinance, an Application for Development Approval for a private club shall include a Floor Plan of the Building or Structure in which the private club

5.19. QUARRYING AND MINING USES.

5.19.1. PURPOSE.

To establish consistent guidelines covering review of applications for mining and quarrying operations where an approved site plan is considered necessary to protect any adjacent residential property from smoke, dust, and noise, and to minimize the effect of scarification of the landscape.

5.19.2. APPLICABILITY.

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.19.3. COMPLIANCE WITH STATE REGULATIONS.

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS § 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

5.19.4. REVIEW AND APPROVAL.

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a conditional use permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix C of this Ordinance.

5.19.5. SETBACKS.

Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.

5.19.6. BARRIER REQUIRED.

5.19.6.1. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence and landscaping, existing topographical features, or any combination of the above. The barrier shall be constructed so as to completely block the view of the mining/quarrying operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. Landscaping shall be in accordance with Article 7.

5.19.6.2. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

5.19.7. EXEMPTIONS.

5.19.7.1. Earth moving activity disturbing less than one acre of land shall be exempt from the provisions of this Section.

5.19.7.2. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed.

5.19.7.3. Borrow pits are exempt from the provisions of this Section.

5.20. SEXUALLY ORIENTED BUSINESSES.

5.20.1. PURPOSE & FINDINGS.

5.20.1.1. The Town Council of the Town of Harrisburg finds that this Ordinance is necessary in order to protect the Town from the potential secondary effects of sexually oriented businesses including crime, the protection of the Town's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the Town's neighborhoods and the Town's commercial districts, the protection of the Town's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this Town as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The Town recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986); (9) Austin, Texas' study on effects of adult businesses;

(10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

5.20.1.2. The Town Council believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.

5.20.1.2.1. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;

5.20.1.2.2. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;

5.20.1.2.3. Sexually oriented businesses should be located in specific areas of the Town which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the Town and sexually oriented business operators with respect to potential adult use sites.

5.20.1.2.4. The image of the Town as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;

5.20.1.2.5. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

5.20.1.2.6. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary

effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the Town ; and

5.20.1.2.7. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

5.20.1.3. The Town Council recognizes and relies on the findings set forth in the 1986 N.C. Attorney General’s Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.

5.20.1.4. The Town Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

5.20.1.4.1. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as “performers”) have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;

5.20.1.4.2. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;

5.20.1.4.3. Evidence indicates that performers

at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;

5.20.1.4.4. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the Town has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.

5.20.1.5. The Town Council has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:

5.20.1.5.1. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;

5.20.1.5.2. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and

5.20.1.5.3. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.

5.20.1.6. It is not the intent of the Town Council in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the Town .

5.20.1.7. The Town Council desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the Town and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.

5.20.1.8. The Town Council and Planning and Zoning Board have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.

5.20.1.9. These regulations are authorized by NCGS § 160A-181.1.

5.20.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

Adult Bookstore - A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Establishment - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

Adult Live Entertainment Business - Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult Motion Picture Theater - An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-

motion picture theater as defined in this section.

Adult Mini-Motion Picture Theater - An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

Massage - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage Business - Any establishment or business wherein massage is practiced including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage Therapy offices shall be excluded from these provisions provided the applicant is a licensed therapist by the State of North Carolina.

Sexually Oriented Business – Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in NCGS § 14-202.10. A “Sexually-Oriented Business” includes any Adult Establishment as defined in this Section.

Sexually Oriented Devices - Without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas - Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

Specified Sexual Activities - Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touchings of human genitals, pubic regions, buttocks, or female breasts.

5.20.3. APPLICABILITY.

The provisions of this Section apply to any Sexually-Oriented Business/Adult Establishments. The use of land for a sexually-oriented business or adult establishment shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.20.4. LOCATIONAL STANDARDS.

5.20.4.1. No sexually-oriented business shall be located within two thousand (2,000) feet of any other sexually-oriented business.

5.20.4.2. No sexually-oriented business shall be located within two thousand (2,000) feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.

5.20.4.3. No sexually-oriented business shall be located within two thousand (2,000) feet of any Residential Zoning District.

5.20.5. SIGNS AND DISPLAYS.

5.20.5.1. Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

5.21. WIRELESS TELECOMMUNICATIONS SERVICES.

5.21.1. PURPOSE.

The purpose of this Section 5.21 is to:

5.21.1.1. protect residential areas and land uses from potential adverse impacts of towers and antennas;

5.21.1.2. encourage the location of towers in non-residential and less developed areas;

5.21.1.3. strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

5.21.1.4. encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

5.21.1.5. encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

5.21.1.6. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

5.21.1.7. consider the public’s health and safety in regard to communication towers; and

5.21.1.8. avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

5.21.2. DEFINITIONS.

The words, terms and phrases shall have the meanings assigned below provided, however, that any words, terms or phrases not defined herein shall have the meaning assigned in Appendix A to this Ordinance:

ACCESSORY EQUIPMENT STRUCTURE. A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless telecommunication tower or antenna to house

equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

ALTERNATIVE TOWER STRUCTURE - Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA. Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omnidirectional “whip” antenna.

ANTENNA, STEALTH. Wireless telecommunication antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

BASE TRANSCIVER STATION. Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers, and signal processing hardware, typically contained in a small building or cabinet.

COMMUNICATIONS TOWER. A tower, which supports communication (broadcast, receiving, or relay) equipment, utilized by commercial, government or other public and quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission (FCC).

SATELLITE DISH ANTENNAE OR SATELLITE DISH. A parabolic antennae designed to receive electromagnetic transmissions from a satellite.

TOWER. Any ground-mounted, pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts, to which a telecommunications antenna is attached or affixed.

TOWER, LATTICE. Three- or -four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.

TOWER, MONOPOLE. Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

WIRELESS TELECOMMUNICATION SERVICES (WTS). Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services of non-commercial entities in the amateur radio service, public safety radio service, or licenses assigned non-profit organizations such as the Red Cross, Civil Air Patrol, or other military affiliated radio services that are licenses by the Federal Communications Commissions.

5.21.3. APPLICABILITY.

The provisions of section 5.21 apply to any new Wireless Telecommunications Tower or Antenna, except as provided below. The use of land for wireless telecommunication service antenna or tower shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.21.4. GENERAL GUIDELINES and REQUIREMENTS.

5.21.4.1. PRINCIPAL OR ACCESSORY USE. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

5.21.4.2. LOT SIZE. In the event that a tower or antenna is installed and/or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to; including but not limited to: setback, lot-coverage, and other such requirements.

5.21.4.3. INVENTORY OF EXISTING SITES. Each applicant for an antenna and/or tower shall provide to the Administrator with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City, Cabarrus County, the City of Kannapolis, or the Towns of Harrisburg and Mt. Pleasant. Said information shall include specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build out plan for all other proposed wireless communications facilities within the Town . The Administrator may share such information with other applicants applying for administrative approvals or conditional use permits under this Ordinance or with other organizations seeking to locate antennas within the jurisdiction of this Ordinance provided, however that the Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

5.21.4.4. AESTHETICS.

5.21.4.4.1. Towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

5.21.4.4.2. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the tower or antenna site.

5.21.4.4.3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

5.21.4.5. LIGHTS. No tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC, or the Town . This restriction against lights shall not apply to towers which have been combined with light standards for

illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

5.21.4.6. STATE OR FEDERAL REQUIREMENTS. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

5.21.4.7. BUILDING CODES; SAFETY STANDARDS. To ensure the structural integrity of towers and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

5.21.4.8. FALL ZONE. No tower or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any tower or antenna, not located a distance equal to the height of the tower plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the tower is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

5.21.4.9. ESSENTIAL SERVICES. Wireless telecommunications towers and antennas shall be

regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

5.21.4.10. SIGNS. Signs on a tower, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

5.21.5. PERMIT REQUIREMENTS.

5.21.5.1. No wireless telecommunications tower or antenna shall be erected or established unless and until a Zoning Clearance permit has been issued pursuant to § 3.2.6 of this Ordinance.

5.21.5.2. A Stealth Antennae which does not exceed sixty-five (65) feet in height is permitted as of right, notwithstanding any provisions of the Use Matrix which requires a Conditional Use Permit. This provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.

5.21.5.3. In addition to the procedures, standards and criteria set forth in § 3.5 of this Ordinance, conditional use permits for towers and antennas shall be issued in accordance with the following provisions:

5.21.5.3.1. Towers or antennas sixty-five (65) feet or more from the average ground level shall require a conditional use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.

5.21.5.3.2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.

5.21.5.4. INFORMATION REQUIRED. In addition to any other information required pursuant to § 3.5 of this Ordinance, applications for conditional use permits for towers shall include the following

information:

5.21.5.4.1. A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed tower and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.

5.21.5.4.2. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.

5.21.5.4.3. The availability of suitable existing towers, other structures, or alternative technology.

5.21.5.4.4. The separation distance from other towers pursuant to Table 5.21-1 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

5.21.5.4.5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.

5.21.5.4.6. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

5.21.5.4.7. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

5.21.5.4.8. A description of the feasible alternative location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

5.21.5.4.9. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

5.21.6. APPROVAL CRITERIA

5.21.6.1. LOCATION. All non-stealth and stealth towers and mounted antennas are permitted by right or as a conditional use as listed in Table 4.6-1 in § 4.6.

5.21.6.2. FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS FOR TOWERS. In determining whether to issue a conditional use permit, the Board of Adjustments shall consider, in addition to any other standards in this Ordinance governing conditional use permits, the following factors:

5.21.6.2.1. Height of the proposed tower;

5.21.6.2.2. Proximity of the tower to residential structures and residentially zoned district boundaries;

5.21.6.2.3. Nature of uses on adjacent and nearby properties;

5.21.6.2.4. Surrounding topography;

5.21.6.2.5. Surrounding tree coverage and vegetation;

5.21.6.2.6. Design of the tower, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;

5.21.6.2.7. Proposed ingress and egress; and

5.21.6.2.8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 5.21.6.2.3 of this Ordinance.

5.21.6.3. AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if conditional use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence

submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

5.21.6.3.1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

5.21.6.3.2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

5.21.6.3.3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

5.21.6.3.4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

5.21.6.3.5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.

5.21.6.3.6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

5.21.6.3.7. The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

5.21.6.3.8. SEPARATION. Towers shall be separated a distance, as measured from the base, equal to at least the minimum standards established in Table 5.21-2 from any preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the

preexisting tower and the base location, pursuant to a site plan, of the proposed tower.

5.21.6.3.9. SECURITY FENCING. Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, constructed of block or masonry or wood material, and shall be equipped in such a manner as to deter climbing.

5.21.6.3.10. LANDSCAPING.

Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Administrator may waive these requirements in locations where the view of the tower base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

5.21.7. BUILDINGS OR OTHER EQUIPMENT STORAGE.

5.21.7.1. ACCESSORY EQUIPMENT STRUCTURES. The equipment cabinets and other support structures used in association with towers or antennas shall comply with the following provisions:

5.21.7.1.1. Equipment cabinets and/or other structures shall comply with all applicable building codes.

5.21.7.1.2. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

5.21.7.2. LOCATION OF ACCESSORY EQUIPMENT STRUCTURES.

5.21.7.2.1. Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet

and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially zoned property.

5.21.8. CO-LOCATION.

5.21.8.1. GOOD FAITH. Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

5.21.8.2. THIRD PARTY TECHNICAL REVIEW. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the Administrator may require the applicant to obtain a third party technical study at the applicants expense. the Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

5.21.8.3. EXCEPTIONS. No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

5.21.8.4. VIOLATION; PENALTY. Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

5.21.9. REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

5.21.9.1. Any antenna or tower that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the antenna or tower within ninety (90) days of receipt of notice from the Board

of Adjustment notifying the owner of such abandonment. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna for the prescribed period. “Physically remove” shall include, but not be limited to:

5.21.9.1.1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.

5.21.9.1.2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

5.21.9.1.3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

5.21.9.2. AUTHORITY TO REMOVE

5.21.9.3. REQUIRE BOND. A performance bond shall be set for 1.25 times the estimated cost of removal of all towers, antennas, and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

5.21.10. NONCONFORMING USES.

5.21.10.1. NO EXPANSION OF NONCONFORMING USE. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

5.21.10.2. PREEXISTING TOWERS. Preexisting towers constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

5.21.10.3. REBUILDING DAMAGED OR DESTROYED NONCONFORMING TOWERS OR ANTENNAS. Notwithstanding this Section, bona fide nonconforming towers or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the tower onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

Table 5.21-1 Separation Requirements from Offsite Uses/Areas	
Single-family or duplex residential units [1]	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary plat approval which is not expired [2]	
Vacant unplatted residentially zoned land [3]	100 feet or 100% of tower height, whichever is greater
Existing multi-family residential units greater than duplex units	
Non-residentially zoned lands or non-residential uses	None, only setbacks apply
[1] Includes modular homes and mobile homes used for living purposes. [2] Separation measured from base of tower to closest building setback line. [3] Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan and any multi-family residentially zoned land greater than a duplex.	

**Table 5.21-2
Separation Distances Between Towers**

	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet in height	750 feet	750 feet

5.22. TEMPORARY USES.

5.22.1. PURPOSE

The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Planning Department is required pursuant to Section 3.2 of this Ordinance.

5.22.2. APPROVAL CRITERIA.

All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified in sections 5.22.3 through 5.22.6 below.

5.22.2.1. COMPATIBILITY WITH/EFFECT ON SURROUNDING AREA. The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.

5.22.2.2. LOCATION (PERMISSION REQUIRED). The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

5.22.2.3. TRAFFIC. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

5.22.2.4. PARKING AND ACCESS. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

5.22.2.5. PROPERTY LINE SETBACKS. Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this section shall not apply to the CC district.

5.22.2.6. SIGNS. Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Article 12 for specific standards for signs.

5.22.2.7. NUMBER PER PARCEL. Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time.

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS. The period of time an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on that parcel shall be at least three (3) months. This restriction shall not apply to real estate development and constructed related temporary uses as set forth in section 5.22.4.

5.22.3. TEMPORARY RETAIL SALES USES.

5.22.3.1. FIREWORKS STANDS. Limited to only non-residential zones for a period of time not to exceed 45 days. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period. Any sales of fireworks shall be regulated in accordance with NCGS 14-410 and 14-414 and NC

Fire Code (2002 Edition) Section 3308.11.

5.22.3.2. SEASONAL SALE OF AGRICULTURAL PRODUCTS (including Christmas Trees). Temporary Use Permits are required for all Roadside Stands in non-residential zoning districts. Such sales are limited to a period of time not to exceed four (4) consecutive months per calendar year. A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

5.22.3.3. SIDEWALK VENDORS. The sale of food, beverages, or merchandise from a stand or motor vehicle, or from a person may be allowed in the C-1 or C-2 zoning districts, and shall be limited to a period not to exceed ninety (90) continuous days per calendar year in a given location. Even if at any time the vendor does not occupy the permitted site, the 90-day limit shall not be extended.

5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.

5.22.4.1. CONTRACTORS OFFICE AND EQUIPMENT/STORAGE SHEDS. Accessory to a Construction Project (Residential or Non-Residential). Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year as and if approved by the Administrator. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of a Certificate of Occupancy or completion of the construction project, whichever occurs first.

5.22.4.2. REAL ESTATE OFFICE IN A CONSTRUCTION TRAILER OR TEMPORARY MODULAR UNIT. Temporary structures, such as construction trailers or temporary modular units may be used as real estate sales offices in any new residential construction project for the sale of units within that project only. Such a temporary use may be allowed in all zoning districts. In the event that multiple builders are involved in a new construction

project, one construction trailer or temporary modular unit may be permitted (as a sales office) per builder. Each individual trailer or modular unit shall be located on an individual lot. In no case shall multiple permits be issued for the same Parcel Identification Number (PIN). The permit shall be valid until the project is completed or for a period of 2 years from the time of the recording of the most recent final plat. All temporary structures shall be removed within 30 days of the completion of the project.

5.22.4.3. REAL ESTATE OFFICE IN A MODEL HOME. Accessory to Construction of a New Residential Development. Limited to a period of time not to exceed one year with the option of an extension of up to one year as and if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

5.22.4.4. SINGLE FAMILY DWELLING IN TEMPORARY STRUCTURE. During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

5.22.4.5. NO RECREATIONAL VEHICLES. No Recreational Vehicles shall be permitted as a Temporary Use or Structure.

5.22.4.6. TEMPORARY RESIDENCE IN MOBILE HOME DURING CONSTRUCTION OF NEW HOME. In the event that a new single-family home is being constructed on a parcel where a mobile home currently exists, the mobile home may remain for the duration of the building process for the new home. Said mobile home shall be removed within 30 days of the date of the last final inspection, as required by North Carolina Building Codes and/or

any other applicable codes. Said inspections include, but are not limited to: final building, electric, plumbing and/or mechanical inspections for occupancy of the structure. (See 4.7.2.2)

5.22.5. AMUSEMENT ENTERPRISES.

Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district for a period not to exceed twenty-one (21) days within any calendar quarter. This classification excludes events conducted in a permanent entertainment facility.

5.22.6. RELIGIOUS EVENTS.

Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district for a period not to exceed sixty (60) days.

5.22.7. PROMOTIONAL ACTIVITIES IN BUSINESS AND COMMERCIAL ZONES INVOLVING THE DISPLAY OF GOODS AND MERCHANDISE.

Such activities may be conducted outside for a period of not more than seven (7) consecutive days. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. A Temporary Use Permit for promotional activities may be renewed twice during any calendar year, for a maximum of 21 days per calendar year.

5.22.8. SPECIAL EVENTS AND ACTIVITIES.

Special events and activities conducted on public property such as school sites and public parks shall be exempt from the provisions of this Section of the Ordinance but must comply with any guidelines, regulations and permitting process required by the authorizing agency (e.g. School District or a Parks and Recreation Department).

5.22.9. SIMILAR AND COMPATIBLE USES NOT SPECIFIED.

If a particular temporary use is not listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a “similar and compatible use”. Similar and compatible uses not specified are those uses which are similar and

compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Planning and Zoning Board of Adjustment in accordance with Sect. 3.7 of this Ordinance.

5.23 MANUFACTURED/MODULAR HOME AND STORAGE BUILDING SALES

5.23.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land designed for the display and sale of bulky items including manufactured homes, modular homes, and/or enclosed storage (accessory) buildings and boats.

5.23.2 CRITERIA.

5.23.2.1 Site Plan Requirements. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.

5.23.2.2 Setbacks. All display pads shall be located at least thirty (30) feet from any property line or public street right of way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district.

5.23.2.3 Type of Manufactured Home. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

5.23.2.4 Required Paving. All travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage, repair areas, and display pads for all model manufactured or modular homes and storage buildings may be gravel.

5.23.2.5 Storage and Repair Areas. Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts and

accessories shall also be screened from off-site views.

5.23.2.6 Sidewalks. Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections from the parking area to each displayed item (pad) and the office.

5.23.2.7 Signs. Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.

5.23.2.8 Display Pads. All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120% of the structure's footprint. Display pads may be gravel.

5.23.2.9 Manufactured or Modular Home Display Areas. A minimum separation of at least ten (10) feet shall be maintained between display pads. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

5.23.2.10 Storage Building Display Areas. A minimum separation of at least five (5) feet shall be maintained between display pads.

5.23.2.11 Landscaping Requirements. In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one ornamental tree or shade tree, two medium shrubs and six small shrubs per display pad. The location of the plantings shall be determined by the Administrator but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed

or mulched and suitably landscaped. No display area may be entirely paved.

5.24 SINGLE FAMILY DETACHED DWELLING UNITS IN THE AG, I-1 AND I-2 ZONES.

5.24.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land to be developed for single-family detached residential (as permitted in Table 4.6-1) within an AG zone, I-1 or I-2 zoning districts.

5.24.2 CRITERIA.

5.24.2.1 Dwelling unit shall be limited to a site built or manufactured housing that complies with NC State Building Code (modular unit).

5.24.2.3 No more than two additional homes may be added to parcels less than 10 acres in size. Parcels greater than 10 acres may not exceed one dwelling unit per 5 acres.

5.24.2.3 Applicant must prove that property qualifies as a bona fide farm and that the individual(s) who will live in the home derive some portion of their income from the farm.

5.24.2.5 Dwelling unit shall provide a Buffer yard in accordance with Article 7 to provide a screen from adjacent non-residential uses.

5.25 RESIDENTIAL SUBDIVISIONS IN THE AG ZONE.

5.25.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land to be subdivided for the purpose of residential development within an AG zone.

5.25.2 PURPOSE.

The purpose of this section is to continue the adopted policy of the "Rimer Community Overlay District" throughout the AG zoning district, as adopted by Cabarrus County. Rural Subdivisions shall be considered the division of any parcel of record at the adoption date of this ordinance into 5 or more lots.

5.25.3 APPROVAL CRITERIA.

Rural subdivisions shall adhere to the following conditions:

- Lot size and Density - Lots within rural subdivisions shall meet the minimum lot standards for the AG district as outlined in Table 4.7-1;
- Each parcel of record shall not exceed a density of one lot per acre for the first ten acres of property and one lot per four acres for additional acreage above ten acres.

5.25.3.1 Access. Lots within Rural Subdivisions exceeding five lots shall not be permitted direct access to State maintained roads. A new interior road that meets the standards of this ordinance shall be constructed for access to these lots. Divisions of thirty lots or greater must include the construction of a left turn lane at the access point(s) that meets the standards of the NC Department of Transportation. This provision shall in no way substitute for or lessen any additional requirements of NCDOT made as part of a required driveway permit.

5.25.3.2 Orientation. All lots within rural subdivisions must have the front yard oriented to the interior access road.

5.25.3.3 Buffer. New rural subdivisions must be buffered from surrounding properties. The required buffer must meet the standards of Bufferyard Type A as outlined in Article 7.4 of this ordinance.

5.25.3.4 Tree Retention. Rural Subdivisions must include an effort to retain mature trees. Existing trees

of 12 inch diameter at breast height (dbh) or greater must be identified and shall not be removed except when buildings, roads or required utilities are to be constructed.

5.25.4 APPEALS AND EXCEPTIONS.

Where a person or persons proposing a rural subdivision feels that they are not able to meet the provisions of this supplemental use section they may appeal to the Board of Adjustment. The Board of Adjustment shall review the appeal as they would a variance and follow all applicable procedures.

5.26 RECEPTION FACILITIES.

5.26.1 LOCATION.

Reception Facilities shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitation:

5.26.1.1 a minimum lot size of five acres and;

5.26.1.2 on a parcel with frontage on a major or minor thoroughfare.

5.26.2 STRUCTURE.

A residential structure that is used for a reception facility shall not be altered in any way that changes its general residential appearance.

5.26.3 APPROVAL CRITERIA.

5.26.3.1 Off-Street Parking. Two parking spaces for owner/operator, plus one for every four seats. Parking must be temporary parking on grass and/or driveway. No on-street parking is permitted.

5.26.3.2 Room Rental. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

5.26.3.3 Guest Rooms. All guestrooms shall be located within the principal structure.

5.26.3.4 Meals. Other than to members of reception, no meals shall be served to the general public unless expressly approved as part of the Conditional Use Permit or site plan application.

5.26.3.5 Accessory Uses. Accessory uses with a reception facility include those set forth in Section 5.2.1. of the Harrisburg Unified Development Ordinance.

5.26.3.6 Area Regulations. Area regulations for applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

5.26.3.7 Accessory Structures. Any accessory structure must follow the regulations set forth in Section 5.2.1.5 of the Harrisburg Unified Development Ordinance.

5.26.3.8 Lighting. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining properties.

5.26.3.9 Signage. Signs for reception facilities shall meet the requirements of the Sign Regulations and the requirements set forth below.

5.26.3.9.1 Signage shall be limited to one ground sign per establishment.

5.26.3.9.2 Monument signs identifying reception facilities shall not exceed eight (8) square feet in area nor shall they exceed five (5) feet in height. If such signs shall be illuminated, They shall be externally illuminated.

5.26.3.9.3 No additional advertising signs shall be permitted on the property.

5.26.3.10 Noise Control. All activities and events occurring on the property of the reception center shall meet the required noise control ordinance as stated in Section 91.01 of the Town of Harrisburg Code of Ordinances.

5.27 DUPLEXES.

5.27.1 APPLICABILITY.

The provisions of this Section shall apply to tracts of land in the medium density residential districts, RM-1, intended to be development for duplexes and that meet the criteria established below and as permitted in Table 4.6-1.

5.27.2 CRITERIA.

5.27.2.1 Duplexes are permitted on corner lots only.

5.27.2.2 The corner lots shall be fifty (50) percent larger in area than the minimum lot size permitted in the Medium Density Residential District, RM-1).

5.28 CONTRACTOR OFFICE/SHOP WITH INDOOR STORAGE.

5.28.1 APPLICABILITY.

The provisions of this Section shall apply to a contractor office/shop (with indoor storage) in the O-I, B-1, and C-1 Districts.

5.28.2 PURPOSE.

The purpose of this section is to allow for contractor offices to be located in lower intensity commercial and office districts and prevent any negative impacts that this use could have on surrounding residentially zoned properties (i.e. expansive storage, parking of heavy equipment, other non-office activities).

5.28.3 LOCATION.

Contractor offices with indoor storage are permitted in the zoning districts identified in Table 4.6-1.

5.28.4 CRITERIA.

5.28.1.1 All storage must be confined within the principle structure.

5.28.1.2 No accessory storage units are permitted.

5.28.1.3 Interior storage may not exceed twenty-five percent (25%) of the ground level square footage of the principle structure.

5.28.1.4 Storage of heavy machinery or equipment, such as any non-transportation oriented heavy construction vehicles, shall not be permitted.

5.28.1.5 Manufacturing of any goods or products shall not occur within the principle structure.

5.28.1.6 The principle use of the building shall be for office purposes.

5.29 RETAIL OPERATIONS IN AN I-1 ZONE.

5.29.1 APPLICABILITY.

The provisions of this Section shall apply to industrial/manufacturing uses within the Light Industrial (I-1) zoning district that manufacture or store goods as a primary use and wish to sell these goods on the premises as a secondary use.

5.29.2 CRITERIA.

See Section 11.7.3 Retail Operations in an I-1 Zone.

*

5.30 ELECTRONIC GAMING ESTABLISHMENTS

5.30.1 APPLICABILITY.

The provisions of this Section shall apply to all Electronic Gaming Establishments, whether as a principal or accessory use, as defined in Appendix A of the UDO.

5.30.2 LOCATIONAL STANDARDS

5.30.2.1 No electronic gaming establishment shall be located within one thousand five hundred (1500) feet of any other electronic gaming establishment, church, school, cemetery, public park, or day care facility.

5.30.2.2 No electronic gaming establishment shall be located within five hundred (500) feet of any residence.

5.30.3 CRITERIA

5.30.3.1 Each location approved for the use as an Electronic Gaming Establishment shall have no more than twenty (20) computer terminals.

5.31 RELIGIOUS INSTITUTIONS IN I-1 DISTRICTS

5.31.1 APPLICABILITY.

The provisions of this Section shall apply to all Religious Institutions within the I-1, Light Industrial Zoning Districts. Religious Institutions are not typically consistent with the uses allowed in the I-1 District, and special attention must be given to these uses locating in an industrial area. The criteria set forth in this ordinance are intended to alleviate the inconsistencies inherent in locating inconsistent uses adjacent to one another, such as exposure to excessive noise, dust, odors, vibrations, etc.

5.31.2 CRITERIA

5.31.2.1 Seating capacity shall not exceed 200 seats.

5.31.2.2 Institutions shall not exceed 3000 square feet in floor space.

5.31.2.3 No outdoor storage is allowed.

5.31.2.4 No on-street parking shall be allowed.

5.32 SOLAR ENERGY STANDARDS

5.32.1 PURPOSE

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands⁴. It is the intent of this ordinance to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state's energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

5.32.2 DEFINITIONS

5.32.2.1 Solar Energy System (SES) - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

5.32.2.2 Level 1 Solar Energy System - Level 1 SESs include the following:

- Roof-mounted on any code-compliant structure.
- Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but no more than 1 acre.
- Covering permanent parking lot and other hardscape areas.
- Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).

5.32.2.3 Level 2 Solar Energy System- Level 2 SESs are ground-mounted systems not included in Level 1 that meet the area restrictions listed below:

- Agricultural/Residential: SES \leq 1/2 acre
- Residential Low Density: SES \leq 1/2 acre
- Residential Medium Density: SES \leq 1/2 acre
- Residential High Density: SES \leq 1/2 acre
- General Commercial/Business: SES \leq 10 acres
- Light Industrial: SES of any size
- Heavy Industrial: SES of any size
- Office-Institutional: SES \leq 10 acres

5.32.2.4 Level 3 Solar Energy System – Level 3 SESs are systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System.

5.32.3 APPLICABILITY

5.32.3.1 This ordinance applies to the construction of any new SES within the jurisdiction of the Town.

5.32.3.2 An SES established prior to the effective date of this ordinance shall remain exempt:

5.32.3.2.1 Exception: Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subjected to this ordinance.

5.32.3.2.2 Maintenance and repair are not subject to this ordinance.

5.32.3.2.3 This ordinance does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to building/electrical permits,

onsite wastewater system avoidance, stormwater permits, or historic district regulations.

5.32.4 PERMITS REQUIRED

The type of permit required for an SES is displayed in Table 4.6-1 of the Unified Development Ordinance.

5.32.5 SETBACKS

5.32.5.1 The following table provides parcel line setbacks to ground mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect facilities of the electric utility.

Table 5.32-1

Zoning District	Level 1	Level 2	Level 3		
			Front	Side	Rear
Agricultural/Residential	Per Zoning District*****	Per Zoning District*’ **	30’*	15’*	25’*
Residential, low density			50’*	50’*	50’*
Residential Medium Density			Per Zoning District*		
Residential High Density			Per Zoning District*		
Commercial/Business			30’*	15’*	25’*
Light Industrial			30’*	15’*	25’*
Heavy Industrial			30’*	15’*	25’*
Office/Institutional			30’*	15’*	25’*
* 100’ setback for SES equipment, excluding any security fencing, to any residential dwelling unit. If the SES is on a working farm where the primary residential structure of the farm is on an adjacent lot then this 100’ setback will not apply to this primary residential structure.					
** Ground-mounted SES must comply with district front yard limitations and setbacks, or otherwise not impair sight distance for safe access to or from the property or other properties in the vicinity					
*** Level 1 roof mounted SESs are not subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, etc.).					

5.32.6 HEIGHT LIMITATIONS

5.32.6.1 The height of systems will be measured from the highest natural grade below each solar panel.

Table 5.32-2

Zoning Districts	Level 1	Level 2	Level 3
Agricultural/Residential	Roof-mounted: Per zoning district	20’	20’
Residential, low density		20’	20’
Residential Medium Density	Ground-mounted: 20’	20’	20’
Residential High Density		20’	20’
Commercial/Business		20’	20’
Light Industrial		20’	20’
Heavy Industrial		20’	20’
Office/Institutional		20’	20’
* This excludes utility poles and any antennas constructed for the project.			

5.32.6 AVIATION NOTIFICATION

The requirements below apply only to Level 1, 2 & 3 systems over half (1/2) an acre in size:

- 5.32.6.1** A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
- 5.32.6.2** For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the Public Hearing for a Level 2 SES and at least 45 days before starting construction for applicable Level 1 and Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, or Parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.
- 5.32.6.3** The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days before the Public Hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 and level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.
- 5.32.6.3.1** Airport operations at airports in the National Plan of Integrated Airport Systems within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration's Airport District Office (ADO) with oversight of North Carolina.
- 5.32.6.3.2** Airport operations at airport *not* in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.
- 5.32.6.4** Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contacts specified in Sections 6.32.6.3.1 and 6.32.6.3.2

5.32.7 LEVEL 1 SOLAR ENERGY REQUIREMENTS

- 5.32.7.1** Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.

5.32.7.2 LEVELS 2 AND 3 SOLAR ENERGY REQUIREMENTS

These requirements are in addition to height, setback, aviation notification, and applicable district standards.

- A. Site Plan
- a. A site plan shall be submitted to the Zoning Administrator demonstrating compliance with:
 - i. Setback and height limitations as established in this Section,
 - ii. Applicable Zoning District requirements such as lot coverage
 - iii. Applicable solar requirements per this ordinance.
- B. Visibility
- a. SESs shall be constructed with buffering as required in Table 7.4-1. For the purposes of this section, SES 2 and 3 uses shall be considered a Class 5 use, and shall be buffered as such according to Table 7.4-1.
 - b. Public signage shall be permitted by Article 12 of this Ordinance per the zoning district regulations.
 - c. If site lighting is provided, the requirements of Article 7 of this Ordinance shall apply, and a site lighting plan shall be submitted per Appendix B.
- C. Decommissioning
- a. A decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following shall be submitted with permit application.
 - i. Defined conditions upon which decommissioning will be initiated (e.g. end of land lease, no power production for 12 months, etc.)

- ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
 - iii. Restoration of property to condition prior to development of the SES
 - iv. The timeframe for completion of decommissioning activities
 - v. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
 - vi. The party currently responsible for decommissioning
 - vii. Plans for updating this decommissioning plan
- b. Before issuance of a Certificate of Compliance, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

5.33 BREWPUBS AND BREWERIES-MICRO

5.33.1 Brewpubs are allowed per Table 4.7-1 with the following prescribed conditions:

5.33.1.1 No outdoor amplified sound will be permitted after 11:00pm. All activities shall comply with the Town of Harrisburg Noise Ordinance.

5.33.1.2 In the C-1 and C-2 zoning districts, no brewpub shall be located within 100 feet of any church or school as measured from parcel edge to parcel edge. In all other districts, the state minimum distances shall apply.

5.33.2 Breweries-Micro are allowed per Table 4.7-1 with the following prescribed conditions:

5.33.2.1 In the C-1, C-2, and PUD districts, Breweries-Micro shall have a tap room that is oriented to the street or main pedestrian entrance of the building. A minimum of 500 square feet shall be provided for the tap room and this area shall be open for business at least one quarter of the time each week the business facility is open.

5.33.2.2 In the C-1 and C-2 zoning districts, no breweries-micro shall be located within 100 feet of any church or school as measured from parcel edge to parcel edge. In all other districts, the state minimum distances shall apply.

5.34 FAMILY SUBDIVISION

5.34.1 ZONING DISTRICTS.

Family subdivisions are permitted in those zoning districts where such use is permitted in accordance with Table 4.6-1 (see Article 4).

5.34.2 MINIMUM ACREAGE

A parcel being considered for a Family Subdivision must be a minimum of 20 acres in size.

5.34.3 NUMBER OF LOTS

No more than 5 residential lots shall be created; no lot shall consist of at less than five acres.

5.34.4 FRONTAGE REQUIREMENT

At least one lot must have at least 100 feet of frontage along a public street.

5.34.5 ACCESS

All lots in a family subdivision are to be accessed via a single, common private residential drive that meets the NC Fire Code definition of a fire access lane. Private residential drives approved under this section shall not be considered for Town maintenance as a public street, and shall be the responsibility of the homeowners to maintain in perpetuity.