

WAKE COUNTY ZONING ORDINANCE ANNOTATED

The Wake County Zoning Ordinance makes up Chapter 1-1 of the Wake County Code of General Ordinances (as reflected in the numbering of its sections). It is applicable to land development within the zoning jurisdiction of the County of Wake, North Carolina. It is not applicable to development within the zoning jurisdictions of the municipalities located within Wake County. (A municipality's zoning jurisdiction consists of land within its corporate limits, plus land lying just outside its corporate limits that make up its extraterritorial jurisdiction (ETJ).)

The Wake County Zoning Ordinance was originally adopted on January 4, 1960, and has been amended many times since. This copy of the Ordinance contains the County's zoning regulations as amended through:

Ordinance No. OA 02/02 & OA 03/03, adopted May 19, 2003.

Copies of this Ordinance and Supplements reflecting subsequent amendments and corrections to it may be obtained from:

*Wake County Zoning Administration
P.O. Box 550
Raleigh, NC 27602-0550
(919) 856-6335*

An up-to-date copy of this Ordinance is also accessible from the Wake County's Planning Department Web site:

<http://www.co.wake.nc.us/planning/>

TABLE OF CONTENTS

NOTE ABOUT ANNOTATIONS	10
------------------------------	----

ARTICLE I IN GENERAL

SECTION 1-1-1 DEFINITIONS.....	12
SECTION 1-1-2 DISTRICTS ESTABLISHED.....	25
SECTION 1-1-3 ZONING MAP	27
SECTION 1-1-4 COMPLIANCE WITH ORDINANCE.....	29
SECTION 1-1-5 BOARD OF ADJUSTMENT	30
(A) [BOARD ESTABLISHED]	
(B) [RULES AND REGULATIONS]	
(C) APPEALS	
(D) SPECIAL USE PERMITS	
(E) [VARIANCES].....	
(F) PUBLIC HEARING AND NOTICE	
(G) [EXCEPTIONS]	
(H) [RESOLUTION OF DISPUTES]	
(I) [PROCEDURES]	
(J) [RECORDS]	
(K) [QUORUM, MINUTES, VOTING]	
(L) [APPEAL TO SUPERIOR COURT]	
SECTION 1-1-5.1 PLANNING BOARD	37
(A) [BOARD ESTABLISHED]	
(B) [RULES OF PROCEDURE]	
(C) [CONDITIONAL USE PERMITS	
(D) [PROCEDURES]	
(J) [RECORDS]	
(K) [QUORUM, MINUTES, VOTING]	
(L) [APPEAL TO SUPERIOR COURT]	
SECTION 1-1-6 INTERPRETATION AND APPLICATION.....	40
SECTION 1-1-7 CHANGES AND AMENDMENTS	41
(A) PURPOSE	
(B) GENERAL	
(C) INITIATION OF AN AMENDMENT REQUEST	
(D) CONTENT OF PETITION	
(E) ACCEPTANCE OF PETITION.....	
(F) NOTICE OF ACCEPTANCE OF REZONING PETITIONS	
(G) STAFF REVIEW	
(H) PLANNING BOARD REVIEW	
(I) BOARD OF COMMISSIONERS PUBLIC HEARING AND REVIEW	
(J) OPPORTUNITY TO REVISE PETITION LIMITED	
(K) TIMELY PROCESSING OF PETITIONS.....	
(L) ACTIONS SUBSEQUENT TO FINAL DECISION	
(M) WITHDRAWAL OF PETITION.....	
(N) WAITING PERIOD FOR SUBSEQUENT PETITIONS.....	
(O) CHANGES TO CONDITIONAL USE ZONING CONDITIONS.....	
(P) AMENDMENTS OF PROVISIONS AND DISTRICT BOUNDARIES RELATED TO WATER SUPPLY WATERSHED PROTECTION	
SECTION 1-1-8 ENFORCEMENT.....	46
(A) PURPOSE	
(B) VIOLATIONS.....	
(C) RESPONSIBLE PERSONS	
(D) ENFORCEMENT PROCEDURES.....	

(E) REMEDIES AND PENALTIES.....	
SECTION 1-1-9 EFFECT OF INVALIDITY OF ONE SECTION; REPEALER.....	50
SECTION 1-1-10 DATE EFFECTIVE.....	51
SECTION 1-1-11 SPECIAL USE PERMITS.....	52
(A) PURPOSE.....	
(B) GENERAL.....	
(C) REQUIRED CONCLUSIONS.....	
(D) PROCEDURES FOR REVIEWING SPECIAL USE PERMIT PETITIONS.....	
(E) NOTICE OF DECISION AND ISSUANCE OF PERMIT.....	
(F) APPEAL OF DECISION.....	
(G) WAITING PERIOD FOR SUBSEQUENT PETITIONS.....	
(H) FINAL PLANS.....	
(I) VALIDITY OF PERMIT.....	
(J) TEMPORARY SPECIAL USES.....	
SECTION 1-1-11.1 CONDITIONAL USE PERMITS.....	62
(A) PURPOSE.....	
(B) GENERAL.....	
(C) REQUIRED CONCLUSIONS.....	
(D) PROCEDURES FOR REVIEWING CONDITIONAL USE PETITIONS.....	
(E) NOTICE OF DECISION AND ISSUANCE OF CONDITIONAL USE PERMIT.....	
(F) APPEAL OF DECISION.....	
(G) WAITING PERIOD FOR SUBSEQUENT PETITIONS.....	
(H) FINAL PLANS.....	
(I) VALIDITY OF PERMIT.....	
SECTION 1-1-12 MUNICIPAL SOILD WASTE LANDFILLS.....	69
(A) APPLICATION OF SECTION.....	
(B) PROCEDURAL REQUIREMENTS.....	
(C) SITE AND LOCATION STANDARDS.....	
(D) SITE DEVELOPMENT PLAN REQUIREMENTS.....	
SECTION 1-1-13 LAND CLEARING AND INERT DEBRIS LANDFILLS AND CONSTRUCTION AND DEMOLITION LANDFILLS.....	72
(A) APPLICATION OF SECTION.....	
(B) PROCEDURAL REQUIREMENTS.....	
(C) SITE AND LOCATION STANDARDS.....	
(D) SITE DEVELOPMENT PLAN REQUIREMENTS.....	
SECTION 1-1-14 HAZARDOUS AND LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT REGULATIONS.....	75
(A) STATEMENT OF PURPOSE.....	
(B) SPECIAL USE PERMITS.....	
(C) PETITION SUBMITTAL REQUIREMENTS.....	
SECTION 1-1-15 MINING.....	77
(A) FINDINGS.....	
(B) GENERAL.....	
(C) DEFINITIONS.....	
(D) PETITION SUBMITTAL REQUIREMENTS.....	
(E) TRAFFIC AND ACCESS.....	
(F) SCREENING STANDARDS.....	
(G) VIBRATION STANDARDS.....	
(H) TEMPORARY SPECIAL USES.....	
(I) PRIOR MINING OPERATIONS.....	
(J) TRANSITIONAL BUFFERYARDS AND SCREENING.....	
SECTION 1-1-16 through SECTION 1-1-20 [RESERVED].....	80

ARTICLE II GENERAL REGULATIONS

SECTION 1-1-21 SIGNS	82
(A) STATEMENT OF PURPOSE	
(B) DEFINITIONS OF SIGNS ACCORDING TO FUNCTION	
(C) CLASSIFICATION AND DEFINITION OF SIGNS ACCORDING TO STRUCTURAL TYPE	
(D) OTHER DEFINITIONS RELATING TO SIGNS.....	
(E) GENERAL REGULATIONS	
(F) SIGN REGULATIONS FOR SPECIFIC ZONING DISTRICTS	
(G) AMORTIZATION OF NONCONFORMING SIGNS	
(H) ENFORCEMENT OF SIGN PROVISIONS	
(I) REPEALER	
SECTION 1-1-22 ACCESSORY BUILDINGS AND USES	94
(A) GENERAL REQUIREMENTS.....	
(B) LOCATION OF ACCESSORY BUILDINGS IN RESIDENCE DISTRICTS.....	
SECTION 1-1-23 PERMITS	95
(A) PERMIT REQUIRED.....	
(B) APPLICATIONS	
(C) EXEMPTIONS.....	
(D) PERMITS IN FLOOD HAZARD AREAS.....	
(E) PERMIT REVOCATION.....	
SECTION 1-1-24 NONCONFORMITIES	97
(A) INTENT.....	
(B) NONCONFORMING USES	
(C) NONCONFORMING FEATURES.....	
SECTION 1-1-25 COMPLETION AND RESTORATION OF EXISTING BUILDINGS	100
SECTION 1-1-26 FLOOD HAZARD AREAS	101
(A) STATEMENT OF PURPOSE	
(B) DEFINITIONS.....	
(C) PERMITS	
(D) EXEMPTIONS AND SPECIAL REQUIREMENTS	
(E) ADMINISTRATION	
(F) DELINEATION OF AREAS OF SPECIAL FLOOD HAZARD INTO FLOODWAY, FLOODWAY FRINGE, AND FLOOD HAZARD SOIL AREAS.....	
(G) STANDARD FOR AREAS OF SPECIAL FLOOD HAZARD	
(H) FLOODWAYS	
(I) FLOODWAY FRINGE	
(J) FLOOD HAZARD SOIL AREAS	
(K) USES ALLOWED IN FLOODWAY, FLOODWAY FRINGE, AND FLOOD HAZARD SOILS AREAS WITHOUT A PERMIT	
SECTION 1-1-27 PERFORMANCE STANDARDS	121
(A) APPLICATION OF SECTION	
(B) EFFECT OF TWO OR MORE USES	
(C) NOISE	
(D) ODOR.....	
(E) GLARE	
(F) HEAT	
(G) EXTERIOR LIGHTING.....	
(H) VIBRATION	
(I) AIRBORNE EMISSIONS	
(J) TOXIC MATTER	
(K) FIRE AND EXPLOSION	
(L) RADIATION.....	
(M) RADIOACTIVITY.....	

(N) ELECTRICAL RADIATION	
(O) WASTE.....	
SECTION 1-1-28 OFF-STREET PARKING REGULATIONS	128
(A) PARKING SPACE REQUIREMENTS	
(B) REQUIRED PLAN AND STANDARDS	
(C) PERMIT REQUIRED FOR CHANGES.....	
(D) ADDITIONAL PARKING REQUIRED.....	
(E) LOADING AREA REQUIREMENTS.....	
(F) SCREENING AND PLANTING REQUIREMENTS FOR OFF-STREET PARKING AREAS	
(G) EXEMPTION	
SECTION 1-1-29 TRANSITIONAL BUFFERYARDS AND SCREENS	134
(A) INTENT.....	
(B) APPLICATION.....	
(C) LOCATION OF TRANSITIONAL BUFFERYARDS AND SCREENS	
(D) DEPTH OF TRANSITIONAL BUFFERYARDS	
(E) SCREENING WITHIN TRANSITIONAL BUFFERYARDS.....	
(F) ALTERNATIVE TRANSITIONAL BUFFERYARDS AND SCREENING	
(G) ADDITIONAL TRANSITIONAL BUFFERYARDS AND SCREENING REQUIRED	
(H) USES AND STRUCTURES PERMITTED WITHIN TRANSITIONAL BUFFERYARDS.....	
(I) MAXIMUM TIME ALLOWED TO PROVIDE SCREENING.....	
(J) REQUIREMENTS FOR PLANTS USED FOR SCREENING	
(K) REQUIREMENTS FOR FENCES, WALLS AND BERMS USED FOR SCREENING	
(L) MAINTENANCE OF SCREENINGS.....	
(M) CLEAR VIEW OF INTERSECTIONS	
(N) CONFLICT WITH OTHER REGULATIONS	
(O) REDUCTION OF SCREENING REQUIREMENT	
Table I Required Depth of Transitional Bufferyards.....	
Table II Type of Screening Required Within Transitional Bufferyards.....	
SECTION 1-1-30 TRAFFIC IMPACT ANALYSIS	140
SECTION 1-1-30 TREE AND VEGETATION PROTECTION	145
SECTION 1-1-31 WATER SUPPLY WATERSHED BUFFERS.....	146
(A) PURPOSE.....	
(B) LOCATION, WIDTH AND BUILDING SETBACK STANDARDS.....	
(C) ACTIVITIES ALLOWED WITHIN WATER SUPPLY WATERSHED BUFFERS	
(D) BUILDING SETBACKS FROM BUFFERS	
(E) OPTIONS FOR PLATTING OF LOTS WITHIN THE BUFFER ALONG A PERENNIAL STREAM.....	
(F) WATER SUPPLY WATERSHED BUFFERS—DENSITY AND IMPERVIOUS SURFACE CALCULATIONS	
SECTION 1-1-32 [RESERVED]	157
SECTION 1-1-33 RESOURCE CONSERVATION OVERLAY DISTRICT-2	158
SECTION 1-1-34 through SECTION 1-1-35 [RESERVED].....	164
ARTICLE III REGULATIONS FOR SPECIFIC DISTRICTS	
SECTION 1-1-36 RESEARCH APPLICATIONS DISTRICT	166
(A) INTENT.....	
(B) USES PERMITTED.....	
(C) NATURAL AREA PRESERVES	
(D) BUILDING HEIGHT LIMIT	
(E) MINIMUM LOT AREA AND WIDTH	

(F)	PERCENTAGE OF LOT COVERED	
(G)	SETBACKS	
(H)	LOCATION OF ACCESSORY USES	
(I)	PARKING AND LOADING	
(J)	STORAGE	
(K)	ENVIRONMENTAL STANDARDS	
SECTION 1-1-37	RESIDENCE DISTRICTS	171
(A)	APPLICATION OF SECTION	
(B)	[RESERVED]	
(C)	PERMITTED GENERAL USES	
(D)	PERMITTED SPECIAL USES - INSTITUTIONAL	
(E)	PERMITTED SPECIAL USES - MISCELLANEOUS	
(E.1)	PERMITTED SPECIAL USES - COMMERCIAL OUTDOOR RECREATIONAL	
(E.2)	PERMITTED SPECIAL USES - NEIGHBORHOOD BUSINESS AND FARM-SERVING	
(E.3)	[RESERVED]	
(E.4)	PERMITTED SPECIAL USES - APPLICATION OF THOROUGHFARE DENSITY CREDITS	
(E.5)	PERMITTED SPECIAL USES - APPLICATION OF SCHOOL DENSITY CREDITS	
(E.6)	PERMITTED SPECIAL USES - WATER SUPPLY WATERSHEDS	
(F)	YARD STANDARDS FOR SINGLE-FAMILY DETACHED AND DUPLEX DWELLINGS	
(G)	MULTIFAMILY USE AREA AND YARD REQUIREMENTS	
(H)	ONE DWELLING BUILDING PER LOT	
(I)	OFF-STREET PARKING	
(J)	[RESERVED]	
(K)	LOTS RECORDED PRIOR TO PASSAGE OF ORDINANCE	
(L)	BUILDING LINES	
(M)	UTILITY REQUIREMENTS	
(N)	RESIDENTIAL WATERSHED DISTRICTS	
(O)	IMPERVIOUS SURFACE COVERAGE	
(P)	TRANSITIONAL BUFFERYARDS AND SCREENING	
SECTION 1-1-38	BUSINESS DISTRICTS	200
(A)	APPLICATION OF SECTION	
(B)	GENERAL USES PERMITTED IN GENERAL BUSINESS DISTRICTS	
(C)	GENERAL USES PERMITTED IN HEAVY COMMERCIAL DISTRICTS	
(D)	SPECIAL USES PERMITTED IN GENERAL BUSINESS DISTRICTS	
(E)	SPECIAL USES PERMITTED IN HEAVY COMMERCIAL DISTRICTS	
(F)	ACCESSORY BUILDINGS AND USES IN GENERAL BUSINESS DISTRICTS	
(G)	ACCESSORY BUILDINGS AND USES IN HEAVY COMMERCIAL DISTRICTS	
(H)	CONSTRUCTION AND OPERATION STANDARDS AND LIMITATIONS	
(I)	YARD AND SPACE REQUIREMENTS	
(J)	OFF-STREET PARKING AND LOADING	
(K)	UTILITY REQUIREMENTS	
(L)	TRANSITIONAL BUFFERYARDS AND SCREENING	
SECTION 1-1-39	INDUSTRIAL DISTRICTS	207
(A)	USES PROHIBITED	
(B)	PERMITTED GENERAL USES	
(C)	PERMITTED SPECIAL USES	
(D)	CONSTRUCTION AND OPERATION STANDARDS	
(E)	YARDS AND SPACE REQUIREMENTS	
(F)	ACCESSORY BUILDINGS AND USES	
(G)	OFF-STREET PARKING AND LOADING	
(H)	[RESERVED]	
(I)	TRANSITIONAL BUFFERYARDS AND SCREENING	
SECTION 1-1-40	MOBILE HOMES DISTRICT	211
(A)	APPLICATION OF SECTION	

(B)	USES PERMITTED.....	
(C)	PROCEDURE FOR SECURING ZONING, APPROVAL OF PLANS, AND BUILDING PERMITS	
(D)	PRELIMINARY AND FINAL SITE DEVELOPMENT PLAN REQUIREMENTS FOR MOBILE HOME PARKS	
(E)	DEVELOPMENT REQUIREMENTS FOR MOBILE HOME PARKS	
(F)	SANITARY FACILITIES, WATER SUPPLY, GARBAGE COLLECTION, AND UTILITIES.....	
(G)	RECREATION AREAS AND FACILITIES	
SECTION 1-1-41	HIGHWAY DISTRICT	218
(A)	PURPOSES OF HIGHWAY DISTRICT	
(B)	DISTRICT REGULATIONS.....	
(C)	PERMITTED USES.....	
(D)	CONSTRUCTION AND OPERATION STANDARDS	
	Table A Uses Permitted in Highway District	
SECTION 1-1-42	AIRPORT DISTRICTS	229
(A)	INTENT OF AIRPORT DISTRICTS.....	
(B)	APPLICATION OF SECTION	
(C)	LOCATIONAL CRITERIA FOR AIRPORT DISTRICTS	
(D)	BONA FIDE FARMS	
(E)	USES PERMITTED IN AIRPORT DISTRICTS	
(F)	DEVELOPMENT REQUIREMENTS IN AIRPORT DISTRICTS	
(G)	NONCONFORMING USES	
(H)	SPECIAL USES REQUIRING APPROVAL BY THE BOARD OF COMMISSIONERS	
SECTION 1-1-43	OFFICE AND INSTITUTIONAL DISTRICT	234
(A)	INTENT.....	
(B)	PERMITTED GENERAL USES	
(C)	PERMITTED SPECIAL USES	
(D)	PARKING	
(E)	TRANSITIONAL BUFFERYARDS AND SCREENING	
(F)	STORAGE.....	
(G)	UTILITY REQUIREMENTS.....	
(H)	[RESERVED].....	
(I).....	[RESERVED].....	
(J)	MINIMUM YARD STANDARDS	
SECTION 1-1-44	PLANNED DEVELOPMENT (PD) DISTRICT	239
(A)	DEFINITIONS.....	
(B)	PURPOSE	
(C)	INTENT.....	
(D)	PROCEDURE	
(E)	REQUIREMENTS FOR PETITION.....	
(F)	REQUIREMENTS FOR THE PROPOSED DEVELOPMENT PLAN AND REGULATORY STANDARDS.....	
(G)	FINDINGS AND RECOMMENDATION TO BE MADE BY THE PLANNING BOARD	
(H)	CERTAIN SIZES OF PD DISTRICTS ARE PRESUMED TO BE SUFFICIENTLY LARGE	
(I)	PLANNING DIRECTOR TO PRESERVE EVIDENCE	
SECTION 1-1-44.1	[RIVER FALL] PLANNED DEVELOPMENT DISTRICT, REGULATORY STANDARDS APPLICABLE THERETO	247
SECTION 1-1-44.2	BEACHWOOD PLANNED DEVELOPMENT DISTRICT	248
(A)	[RELATION TO SECTION 1-1-44]	
(B)	[APPLICABLE DEVELOPMENT STANDARDS	
SECTION 1-1-44.3	249
SECTION 1-1-44.4	BEACHWOOD AMENDMENT PLANNED DEVELOPMENT DISTRICT	250
(A)	[RELATION TO SECTION 1-1-44	

(B) [APPLICABLE DEVELOPMENT STANDARDS	
SECTION 1-1-46 SPECIAL HIGHWAY OVERLAY DISTRICT	251
(A) INTENT.....	
(B) DISTRICT BOUNDARIES.....	
(C) DEVELOPMENT STANDARDS	
SECTION 1-1-48 RESOURCE CONSERVATION OVERLAY DISTRICT	253
(A) PURPOSE AND INTENT OF RESOURCE CONSERVATION OVERLAY DISTRICT	
(B) DISTRICT BOUNDARY	
(C) REGULATION OF USES.....	
(D) USES EXEMPTED.....	
(E) DEVELOPMENT STANDARDS	
SECTION 1-1-49 WATER SUPPLY II OVERLAY DISTRICT	255
(A) INTENT.....	
(B) APPLICATION OF DISTRICT	
(C) DEVELOPMENT STANDARDS	
SECTION 1-1-50 WATERSHED CRITICAL AREA OVERLAY DISTRICT	258
(A) INTENT.....	
(B) APPLICATION OF DISTRICT	
(C) DEVELOPMENT STANDARDS	
SECTION 1-1-51 WATERSHED MANAGEMENT AREA OVERLAY DISTRICT	261
(A) INTENT.....	
(B) APPLICATION OF DISTRICT	
(C) DEVELOPMENT STANDARDS	
SECTION 1-1-52 WATERSHED PROTECTED AREA OVERLAY DISTRICT	264
(A) INTENT.....	
(B) APPLICATION OF DISTRICT	
(C) DEVELOPMENT STANDARDS	
SECTION 1-1-53 WATERSHED PROTECTED AREA OVERLAY-2 DISTRICT	267
(A) INTENT.....	
(B) APPLICATION OF DISTRICT	
(C) DEVELOPMENT STANDARDS	
CHRONOLOGICAL SUMMARY OF ZONING ORDINANCE AMENDMENTS SINCE 1984	270

NOTE ABOUT ANNOTATIONS

This copy of the Wake County Zoning Ordinance contains the Zoning Ordinance as readopted and codified on March 5, 1984, plus all amendments to the Ordinance adopted through the date shown on the title page. To facilitate usage of the Ordinance and determine the applicability of new and changed regulations, Planning Department staff has annotated this copy in the following ways:

- | | |
|------------------------------------|--|
| [Added Headings] | Descriptive headings have been added to divisions containing closely related provisions. |
| [Description of Provision Changes] | Following each division in which text has been amended since codification on March 5, 1984 is a description of the changes enacted by each amendment, the date the amendment was adopted, the Resolution or Ordinance number of the amendment, and, where appropriate, a cross-reference to another provision changed by the amendment. If the notation immediately follows a provision, it refers only to changes within that provision. If the notation follows a provision as a separate indented paragraph, it refers to changes within the preceding Section, Subsection, Paragraph, Subparagraph, or other division with the same indentation. |
| [Miscellaneous Notations] | Additional notations have been added where deemed appropriate to indicate incorrect cross-references, references to repealed regulations, the alternative location of expected provisions, etc. |
| [Date Section added] | At the end of each Section not part of the original 1960 Zoning Ordinance is the date the Section was added to the Ordinance, as well as the date of any substantial rewrite or revision of the Section. |

ARTICLE I

IN GENERAL

SECTION 1-1-1 DEFINITIONS

For the purpose of this Ordinance, certain terms and words are herein defined as follows:

Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory; the word "building" includes the word "structure," the word "lot" includes the word "plot."

Access location: The intersection of a driveway or access road with a public or private thoroughfare.

Access road: A public or private one-way or two-way road for ingress and/or egress. Such access roads may be of various types, including frontage roads, rear access roads, roads with cul-de-sacs, and dead-end roads. This definition includes secondary roads but does not include driveways.

Accessory building: A subordinate building on the same lot with a main building, the use of which is incidental to that of the main building, such as a private garage.

Accessory use: A use on the same lot or in the same building with the principal use of the lot or building, the nature and extent of which is clearly incidental or subordinate to that of the principal use.
[Added 2/17/92 (O-92-5)]

Active Open Space: Open space reserved for active recreation, such as a park that includes ball fields. *[Added 1/18/05 (OA 04/11)]*

All-weather surface or surfacing: See "pave or pavement" herein.

Alley: A public thoroughfare less than thirty (30) feet wide.

Apartment: A room, or suite of two (2) or more rooms which is designed or intended for occupancy by, or which is occupied by, one (1) family doing its cooking therein.

[Definition of "attached single-family dwelling" deleted 10/21/85 (R-85-205) - see definition of "dwelling, one-family"]

Bed and breakfast homestay: The use of part of a dwelling to provide short-term lodging to guests for compensation, with or without the provision of meals to overnight guests, where no more than two (2) guest rooms are involved. *[Added 7/18/94 (O-94-16)]*

Bed and breakfast residence: The use of part of a dwelling to provide short-term lodging to guests for compensation, with or without the provision of breakfast to overnight guests, where no more than ten (10) guest rooms are involved (but not including B&B homestays, and not including hotels, where the provision of lodging is the principal use). *[Added 7/18/94 (O-94-16)]*

Best Management Practice (BMP): See definition of "watershed Best Management Practice." *[Added 12/20/93 (O-93-22)]*

Boardinghouse: A building other than a hotel where, for compensation, meals, or lodging and meals, are provided for five (5) or more, but not exceeding nine (9), guests.

Bona fide farm: Land primarily used for the production, and activities relating or incidental to the production, of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market. A bona fide farm use also includes the accessory uses and buildings necessarily incidental to such agricultural production (such as the packing, treating, or storing of the products), but does not include forestry, the retail sale of products, farm-serving uses, or commercial agricultural services (such as veterinary

services, landscape contracting, and crop services or animal services for the products of other farms).
[Added 7/20/92 (O-92-17)]

Buffer: See definition of "watershed buffer." *[Definition of "buffer" added 3/5/84 (R-84-37); deleted 10/21/85 (R-85-207); added 12/20/93 (O-93-22) - also see definition of "drainageway buffer"]*

Bufferyard: An area of land having thereon specified dimensions, types, and amounts of vegetation or structures which may be required to reduce or eliminate adverse effects of land uses upon adjoining land uses or thoroughfares. Bufferyards shall be located along the perimeter of a lot or parcel, extending to the lot or parcel boundary line, and shall not be permitted on any portion of an existing or dedicated public street, private street, or right-of-way. *[Added 11/18/85 (R-85-230)]*

Building: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building.

Building, front of: The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

Building height: The vertical distance measured from the level of the curb or established centerline grade of the street opposite the middle of the front elevation of the main entrance of the building, to the highest point of the roof surface, if a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge for a gable, hip, or gambrel roof. On corner lots exceeding twenty thousand (20,000) square feet in area, the height of the building may be measured from the curb grade or established centerline grade of the street at the center of either street frontage. For lots extending through from street to street, the height may be measured from the curb grade or established centerline grade of the street at the center of either street frontage, provided that the maximum permissible height as measured from the lower street shall extend back from the street line of such lower street for a distance of not less than one hundred fifty (150) feet.

Building line: A line formed by the surface of the ground and the closing wall of a building or portion thereof. Where carports, terraces, patios, enclosed courts, balconies, or other projections or appurtenances are portions of a building and extend beyond the enclosing walls of the building, the building lines shall be the outer face of such projections.

Building, main: A building in which is conducted the principal use of the lot on which it is situated. In any Residential District, any dwelling shall be deemed to be a main building on the lot on which the same is situated.

Buildout Year: The year the proposed project (including all phases of construction) will be complete and open for operation. *[Added 1-06-05 (OA 04/13)]*

Canopy tree: Any tree variety expected to reach a height in excess of thirty (30) feet at maturity (such as oaks, pines, sycamores, some maples, etc.). *[Moved from Section 1-1-29 11/18/85 (R-85-230)]*

Cemetery: A commercially owned and operated graveyard, or a church burial ground, used or designated for the interment of the deceased. This definition includes burial parks, mausolea, and columbaria, but does not include family burial grounds as defined by this Ordinance.

Centerline of street: The centerline of a street or highway, for the purpose of this Ordinance, shall be that which has been ascertained and determined by the State Highway and Public Works Commission.

Certificate of occupancy: A statement signed by an administrative officer setting forth that a building, structure, or use complies with the Zoning Ordinance and that the same may be used for the purposes stated therein.

Child day care center: A child care arrangement or facility licensed by the North Carolina Department of Human Resources as a Day Care Center. *[Added 2/17/92 (O-92-5)]*

[Definition of "cluster residential development" deleted 4/15/96 (O-96-7)]

Cluster subdivision: A subdivision in which lots are grouped or "clustered" on a subdivision site to allow the open space use of other parts of the site, as designed and approved in accord with the cluster subdivision standards in Section 3-4-3 of the Wake County Subdivision Ordinance. *[Added 4/15/96 (O-96-7)]*

[Definition of "commercial advertising sign" deleted 7/16/84 (R-84-156)]

[Definition of "common open space" deleted 4/15/96 (O-96-7)]

[Definition of "Consolidated Open Space Development" deleted 4/15/96 (O-96-7)]

Critical area: The land in a water supply watershed which is adjacent and draining to the water source, where it is most important to filter out potential pollutants. *[Added 12/20/93 (O-93-22)]*

Construction and demolition landfill: A disposal facility which stores solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings or other structures, land-clearing debris (solid waste that is generated from land clearing activities, such as stumps, trees, etc.), inert debris (solid waste which consists of material that is virtually inert, such as brick, concrete, rock, clean soil, and used asphalt), untreated wood, and uncontaminated earth. *[Added 5/1/00 (O-00-15)]*

Day care facility for the elderly: A publicly or privately operated place or home, however styled, that receives, on one (1) or more days of a week, six (6) or more elderly persons for temporary custodial care. *[Amended 2/17/92 to add "for the elderly" and delete subdefinition of day care facility for children (O-92-5)]*

[Definition of "demolition landscape landfill added 8/20/90 (R-90-59); deleted 5/1/00 (O-00-15)]

[Definition of "detached single-family dwelling" deleted 10/21/85 (R-85-205) - see definition of "dwelling, one-family"]

Detention: Surface collection, storage, and distribution of stormwater runoff for the purposes of compensating for increased runoff volume and decreased travel time associated with an increase in impervious surfaces over the contributing catchment, and to allow for the settling-out of pollutants borne by the runoff. *[Added 3/5/84 (R-84-37)]*

Development: Any land-disturbing activity that changes the amount of impervious surface or partially impervious surface coverage on the land, or that otherwise decreases the infiltration of precipitation into the soil. *[Added 12/20/93 (O-93-22)]*

[Definition of "disposal site for construction, demolition, and land-clearing debris" deleted 8/20/90 (R-90-59) - see definition of "demolition landscape landfill" above]

Drainageway: Any stream, watercourse, channel, ditch, or similar physiographic feature draining water from the land. *[Added 10/21/85 (R-85-207)]*

Drainageway buffer: An area adjacent to a drainageway that shall remain undisturbed except as may be necessary to accommodate:

- (1) Roads, provided they cross at a horizontal angle of at least sixty (60) degrees.
- (2) Utilities and their easements.

- (3) **Greenways, pedestrian paths, and their easements.** *[Amended 12/16/85 to delete reference to these as special uses approved by the Commissioners in R-80W and R-40W Districts and as general uses in all other districts (R-85-255)]*

[Amended 12/20/93 to substitute "An area adjacent to a drainageway" for "A recorded easement" (O-93-22)]

Drainageway buffers shall be measured perpendicular to the flow of the drainageway and from the edge of the drainageway banks, except when no drainageway banks exist, in which case the centerline of the drainageway swale shall be used.

[Added 10/21/85 to substitute for definition of "buffer" (R-85-207); amended 12/20/93 to delete statement encouraging homeowners to help maintain drainageway buffers to achieve maximum stream protection (O-93-22)]

Driveway: A private way beginning at the property line of a lot abutting a public road, private road, easement, or private right-of-way, giving access from that public road, recorded easement, recorded private road, or private right-of-way, and leading to a building, use, or structure on that lot. A driveway may not serve more than a single lot unless it runs along a lot line shared by two (2) lots and serves no more than those two (2) lots.

Dwelling, one-family: A building designed, constructed, or reconstructed and used for one (1) dwelling unit. *[Amended 10/21/85 to substitute for "a detached building designed for, or occupied exclusively by, one family" (R-85-205)]*

- (1) **Detached:** A one-family dwelling which is located on an individual lot and is not physically connected to another dwelling unit by a common structural or load-bearing wall of ten (10) or more linear feet. *[Added 10/21/85 to substitute for a separately listed definition (as being not attached) (R-85-205)]*
- (2) **Attached:** A one-family dwelling that is connected by means of a common dividing structural or load-bearing wall, or by means of a floor-to-ceiling connection, of at least ten (10) linear feet, to one (1) or more other one-family dwellings. *[Added 10/21/85 to substitute for a separately listed definition referring to units joined by party walls (R-85-205)]*

Dwelling, two-family or duplex: A building designed, constructed, or reconstructed and used for two (2) dwelling units that are located on a single common lot and that are connected to each other by a common structural or load-bearing wall, or by means of a floor to ceiling connection, of at least ten (10) linear feet. *[Added 10/21/85 (R-85-205)]*

Dwelling, multifamily: A building designed, constructed, or reconstructed and used for three (3) or more dwelling units that are located on a single common lot, with each dwelling unit being connected by means of a common structural or load-bearing wall, or by means of a floor to ceiling connection, of at least ten (10) linear feet, with any other dwelling unit in the same building. *[Added 10/21/85 to substitute for a separately listed definition of "multifamily dwelling" referring to "a structure containing two or more dwelling units" (R-85-205)]*

Dwelling unit: An enclosure of one (1) or more rooms and separate bathroom and kitchen facilities designed and constructed as a unit for permanent residential occupancy by one (1) family. *[Added 10/21/85 (R-85-205)]*

Family:

- (a) An individual or two (2) or more persons related by blood, marriage or adoption living together in a dwelling unit.
- (b) A group of not more than five (5) persons, who need not be related by blood, marriage, or adoption, living together in a dwelling unit. For the purposes of this Code "a family" may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina, but shall not include fraternities, sororities, rooming houses or boarding houses, rest homes, tourist homes, group care facilities, or family care homes.

Family burial ground: A privately owned, noncommercial graveyard created and maintained for the interment of family members of the property owner and restricted to such use.

Family care home: A facility with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons. *[Added 6/16/86 (R-86-100)]*

Farm serving use - Class I: Any agri-business store or any such use whose primary activity is supplying farm hardware, feed, fertilizer, and seed, and/or providing tractor or other agricultural equipment sales or service. *[Added 3/23/87 (R-87-32)]*

Farm serving use - Class II: Any non-radioactive intermediary fuel distribution storage facility which is not involved in the direct sale of fuels, but functions as an intermediary storage site for the distribution of non-radioactive fuel to farmers. *[Added 3/23/87 (R-87-32)]*

Fencing: A wall or fence provided for the purpose of protecting adjacent uses from potential noise, glare, trash, odor, visual disorder, or other harmful or noxious effects. *[Moved from Section 1-1-29 11/18/85 (R-85-230)]*

Flag lot: An irregularly shaped lot in which the buildable portion of the lot is connected by an arm of the lot to its road frontage, and in which the lot's road frontage width is less than the minimum lot width standards for the zoning district in which the lot is located. *[Added 9/21/87 (R-87-89)]*

Flood control pool elevation: The topographic contour around a water impoundment equal to the elevation of the crest of the dam's emergency spillway, or the elevation the impoundment's water surface is expected to reach following a 100-year storm event. *[Added 12/20/93 (O-93-22)]*

Flood hazard areas: Flood hazard area definitions are in Section 1-1-26 of this Code.

Floor area: The sum of the enclosed areas on all floors of a building or buildings, measured from the outside of exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below ground floor areas used for access and storage. Open terraces, patios, atriums, or balconies, carports, garages, breezeways, and screened porches are excluded from floor area calculations. *[Added 11/18/85 (R-85-230)]*

Floor area ratio: Ratio of floor area to lot area. *[Added 11/18/85 (R-85-230)]*

[Definition of "frontage width" added 9/21/87 (R-87-89); deleted 4/15/96 (O-96-7)]

Garage: A building used for the storage or housing of motor-driven vehicles.

Garage, private: A building intended for, and used to store, the private motor vehicles of the families resident upon the premises.

Garage, public: Any garage not included within the definition of a private garage.

Greenway: A linear open space that is established along corridor that can be used for connectivity (trails) or water quality protection. *[Added 10/21/85 (R-85-2070)] [Amended 1/18/05 (OA 04/11)]*

Group care facility: A dwelling in which persons reside while receiving therapy or counseling to assist them in overcoming addiction to intemperate use of narcotics or alcohol, or in adjusting to society after or during imprisonment through such means as pre-release, work-release, or probationary programs. *[Amended 6/16/86 to substitute "persons" for "forty (40) or fewer persons" (R-86-100)]*

Group home: A public or private health facility, establishment, or institution, however styled, where seven (7) or more nonrelated persons reside because of age, temporary or chronic physical or mental

disability, or developmental disability. *[Amended 6/16/86 to decrease the minimum number of residents from 13 to 7 (R-86-100) - see definition of "family care home"]*

Guest room: A room which is designed or intended for occupancy by, or which is occupied by, one (1) or more guests, but in which no provision is made for cooking, and not including dormitories for sleeping purposes.

[Definition of "handicapped persons" added 6/16/86 (R-86-100); deleted 1/19/88 (R-88-4)]

Hazardous material: Any substance defined as a "hazardous substance" in Section 101 (Definitions) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 U.S.C. §9601 et seq.), as amended; or listed as a hazardous material in Section 302 (Extremely Hazardous Substances) of the Superfund Amendments and Reauthorization Act (SARA; 42 U.S.C. §11000 et seq.), as amended; or designated as a "hazardous substance" under Section 311 (Oil and Hazardous Substance Liability) of the Federal Water Pollution Control Act (FWPCA; 33 U.S.C. §1251 et seq.), as amended. *[Added 12/20/93 (O-93-22)]*

Hazardous waste: A waste or combination of wastes which because of quantity, concentration, or physical, chemical, or infectious characteristics may:

- (a) Cause or significantly contribute to an increase in mortality, or an increase in serious irreversible or incapacitating reversible illness; or
- (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous wastes include, but are not limited to, those substances listed in 40 Code of Federal Regulations (CFR) 261.30 to 261.33.

Hazardous waste-disposal: The discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land so that such waste or any constituent thereof may enter the environment, or be emitted into the air, or discharged into any waters, including ground waters.

Hazardous waste facility: A facility for the storage, collection, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Hazardous waste-landfill: Any facility or any portion of a facility for disposal of hazardous waste on or in land.

Hazardous waste storage: Containment of hazardous waste, for a period of ninety (90) days or more, in such manner as not to constitute disposal.

Health and personal care facilities: Public or private health facilities, establishments, or institutions, however styled, where aged or physically handicapped persons reside and are furnished with meals and health or personal care on a continuing basis. Health care facilities include, but are not limited to, convalescent homes, nursing homes, rest homes, sanatoria, or homes for the elderly. *[Amended 6/16/86 to substitute "where aged or physically handicapped persons" for "where six (6) to twelve (12) non-related, aged persons" (R-86-100)]*

[Definition of "high intensity nonresidential uses" added 11/18/85 (R-85-230); amended 6/15/87 to substitute "nonresidential" for "commercial or industrial" (R-87-64); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

[Definition of "higher intensity residential uses" added 11/18/85 (R-85-230); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

Home occupation: An occupation for gain or support conducted entirely and only by members of a family within a residential building, and provided that no article is sold or offered for sale except such

as may be produced in the household by members of the family, and that no display of products shall be visible from the street, and that no accessory building shall be used for such home occupation.

[Definition of "identification sign" deleted 7/16/84 (R-84-156)]

Impervious surface: A surface resulting from human activity that obstructs or prevents infiltration of water into soil. Impervious surface includes, but is not restricted to: buildings and rooftops; walkways, driveways, and parking areas that are paved or compacted by pedestrian or vehicular traffic; solid decks and patios; pavement; recreation facilities that are paved or compacted; and any other paved, compacted, or partially impervious surface. For purposes of calculating the percentage of impervious surface coverage, the area of the perimeter of the lot or parcel shall be regarded as the actual area of the lot or parcel. The water surface of a lake, pond, or swimming pool is not considered impervious. A wooden slatted deck is not considered impervious if the area below the deck is treated to prevent erosion and compacting of the soil below the deck. "Pervious" asphalt and "pervious" concrete are considered impervious if the surface's perviousness is expected to decrease under normal use or its subbase is compacted, as determined by the Engineering Division, Department of Community Development Services. *[Added 10/21/85 (R-85-205); amended 12/20/93 to substitute for "Any manmade surface covering land which does not allow that land to be significantly penetrated by water, including, but not restricted to, roof tops, walkways, driveways, and parking areas compacted by vehicular movement (whether paved, improved, or unimproved)." (O-93-22)]*

Internal Trip Capture Rate: The percentage reduction applicable to the trip generation estimates for individual land uses within a multi-use site. *[Added 1/06/05 (OA 04/13)]*

Interstate highway: Any section of a highway that is part of the National System of Interstate and Defense Highways. *[Added 11/18/85 (R-85-233)]*

Kennel (commercial): Any building, structure, or land area used for the boarding, breeding, training, showing, or raising of dogs or cats primarily for sale or profit, or for humane purposes. Pet shops, private kennels, and veterinary hospitals shall be exempt from the definition of commercial kennel.

Kennel (private): Any building, structure, or land area used for the keeping of more than five (5) dogs or five (5) cats over the age of four (4) months, where such animals are kept as pets, hunting dogs, or guard dogs. This definition shall not apply to dogs or cats owned by an individual or club, where such animals are kept on a lot of five (5) or more acres, and provided that any structures built for keeping of such animals are located one hundred (100) feet or more from the nearest adjacent dwelling, and fifty (50) feet or more from any adjoining property. Pet shops, commercial kennels, and veterinary hospitals shall be exempt from the definition of private kennel.

Land clearing and inert debris landfill: A disposal facility which stores land-clearing debris (solid waste that is generated from land-clearing activities, such as stumps, trees, etc.), limbs, yard waste, inert debris (solid waste which consists of material that is virtually inert, such as brick, concrete, rock, clean soil, and used asphalt), and uncontaminated earth. *[Added 5/1/00 (O-00-15)]*

Land use intensity: Unit of measure that indicates the degree of development on a lot. Land use intensity is a ratio and may be expressed in proportions such as floor area to lot area, covered lot area to uncovered lot area, and the like. *[Added 11/18/85 (R-85-230)]*

Landscape plan: The design and specifications for the placement of all natural and man-made features (such as plantings, fencing, earth berms, buildings, parking, drives, walkways, pools, sculpture, etc.) within a specified exterior space, including the retention of existing features as well as the introduction of new or replacement features, for the purposes of enhancing the property and its appearance, minimizing the potential for negative impacts upon the public senses, and protecting the community's environment. *[Moved from Section 1-1-29 11/18/85 (R-85-230)]*

Large child day care home: A child care arrangement licensed by the North Carolina Department of Human Resources as a Large Day Care Home. *[Added 2/17/92 (O-92-5)]*

Linear block: That property abutting on one (1) side of a street between the two (2) nearest intersecting or intercepting streets, natural barrier, or between such cross-street and the end of a dead-end street or cul-de-sac; provided, however, that where a street curves so that any two (2) adjacent 100-foot chords thereof form an angle of one hundred twenty (120) degrees or less, measured on the lot side, such curve shall be constructed as an intersecting street.

[Definition of "linear frontage" deleted 4/15/96 (O-96-7)]

Lot: A lot that is part of a subdivision plat legally approved in accord with the Wake County Subdivision Ordinance and recorded with the Wake County Register of Deeds, or any other parcel of land that has been officially recorded by a plat or deed with the Wake County Register of Deeds, provided such parcel was not subject to the Wake County Subdivision Ordinance or recorded before its effective date (June 1, 1976). *[Amended 3/16/92 to substitute "intended to under single ownership, developed, and otherwise used as a unit" for "occupied by one primary building and accessory buildings and uses" (O-92-10); replaced in its entirety 4/15/96 (O-96-7)]*

Lot, corner: A lot abutting on two (2) or more streets at their intersection.

[Definition of "lot depth" deleted 4/15/96 (O-96-7)]

Lot, front of: The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, the narrowest side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on that street on which the greatest number of buildings have been erected on that side of the street within the same block.

Lot, interior: A lot other than a corner lot.

[Definition of "lot width" amended 4/15/96 to substitute last clause for "measured at each individual lot's building line setback, but in no case shall the building line setback be less than the minimum depth to front yard for each zoning district" (O-96-7); amended 8/19/96 to insert "generally" (O-96-34); relocated to Subdivision Ordinance 4/21/97 (O-97-16)]

[Definition of "low intensity nonresidential uses" added 11/18/85 (R-85-230); amended 6/15/87 to substitute "nonresidential" for "commercial or industrial" (R-87-64); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

[Definition of "lower intensity residential uses" added 11/18/85 (R-85-230); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

Low-level radioactive waste: Radioactive waste not classified as high-level radioactive waste or spent nuclear, as defined by the United States Nuclear Regulatory Commission, transuranic waste, or by-product material, as defined in Section 11(e)(2) of the Atomic Energy Act of 1954, as amended.

Low-level radioactive waste facility: A facility for the storage, collection processing, treatment, recycling, recovery, or disposal of low-level radioactive waste.

Low-level radioactive waste-landfill: Any facility or any portion of a facility for disposal of low-level radioactive waste on or in land.

Low-level radioactive waste-storage: Containment of low-level radioactive waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal.

Major thoroughfare: A road designated as any classification of thoroughfare (as indicated by the plan's legend) on one (1) or more of the thoroughfare plans, as amended, that cover any part of Wake County and have been adopted by the North Carolina Board of Transportation. *[Amended 1/21/85 to substitute a reference to classifications designated in the Wake County Thoroughfare Plan for a reference to classifications designated on the Wake County Functional Classification of Highways (R-85-8); amended 7/20/92 to delete specific classifications and reference to Wake County Thoroughfare Plan (O-92-17)]*

[Definition of "medium intensity nonresidential uses" added 11/18/85 (R-85-230); amended 6/15/87 to substitute "nonresidential" for "commercial or industrial" (R-87-64); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

Mobile home: Any vehicle or structure built on a chassis, designed to be transported, and intended for human occupancy for unlimited periods of time. Such vehicle shall contain as an integral part of its construction, kitchen facilities and a completely equipped bathroom consisting of a flush toilet, lavatory, and bathtub or shower.

Mobile home park: Any site or tract of land (except a subdivision developed pursuant to the Wake County Subdivision Ordinance) in contiguous ownership upon which two (2) or more mobile home spaces are provided for lease or rental only to mobile home occupants. *[Amended 4/15/96 to delete unnecessary references to particular Sections of the Subdivision Ordinance and to compliance with Section 1-1-40 (O-96-7)]*

Mobile home space: A plot of land within a mobile home park designed for the accommodation of a single mobile home in accordance with the requirements set forth in this Ordinance.

Mobile home stand or pad: That portion of the mobile home space designed for and used as the area occupied by the mobile home proper.

[Definition of "multifamily dwelling" deleted 10/21/85 (R-85-205) - see definition of "dwelling, multifamily"]

Municipal solid waste landfill: A planned method of disposing of solid waste on land in a sanitary manner, without creating nuisances or hazards to public health or safety, but utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of compacted earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary. *[Renamed and moved from "sanitary landfill" 5/1/00 (O-00-15)]*

[Definition of "natural drainage area" added 3/5/84 (R-84-37); deleted 10/21/85 (R-85-207)]

[Definition of "nonconforming use" deleted 6/16/97 (O-97-24)]

Nonpoint source pollution: Pollution that enters waters from dispersed sources (such as surface runoff) rather than from a point source (i.e., pipe). *[Added 12/20/93 (O-93-22)]*

Open Space: areas of publicly or privately owned natural area that is protected for natural and cultural resources. *[Added 1/18/05 (OA 04/11)]*

Pass-By Trips: Intermediate stops on the way from a trip origin to a primary trip destination without a route diversion. Pass-by trips are attracted from traffic that would otherwise be passing by a site on an adjacent street. *[Added 4/06/05 (OA 04/13)]*

Passive Open Space: Open space where activity is limited due to the sensitivity of the natural resources on the site; low impact trails are allowed; does not include typical park facilities such as sports fields, but restrooms, benches, water fountains, etc. are usually provided. *[Added 1/18/05 (OA 04/11)]*

Pave or paving: To cover with concrete, asphalt, brick, stone slabs or blocks (such as cobblestones), or other manufactured products (such as concrete blocks) having the characteristics of concrete, asphalt, brick, or stone.

Paved: Covered with pavement. See definition herein.

Pavement: An artificial covering on a street, road, parking lot, driveway, walkway, patio, or other natural surface of the ground composed of a material listed under definition of "pave or paving" herein.

Pavement, permeable: Pavement, as defined herein, but designed, manufactured, or constructed to serve the same purposes as hard surfaces as well as to reduce surface runoff of water or to enhance recharge of groundwater by means of small openings, perforation, porosity, or similar techniques.

[Definition of "permanent open space" deleted 4/15/96 (O-96-7)]

Perennial Stream - is a stream that flows continuously throughout the year. Perennial streams are indicated as "perennial" by a solid blue line on the most recent edition of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps. *[Added 5/19/03 (OA/02/02)]*

Personal services: An establishment that primarily provides services generally involving the care of a person or his apparel, such as seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities, coin-operated laundry and dry cleaning facilities, barber shops, and beauty salons, but not including facilities providing massage. *[Added 2/18/85 (R-85-27)]*

Pet: A domesticated animal which is part of a household and which is kept primarily for pleasure and not profit. Incidental proceeds connected with the showing or breeding of pets do not render them subject to the permit process.

Planning Director: The Wake County official charged with administration and enforcement of this ordinance and the Subdivision Ordinance, including the official's duly authorized agent or delegate. *[Added 4/06/05 (OA 04/13)]*

Planting: Vegetative plantings and related improvements retained or introduced for the purpose of beautifying and enhancing property, controlling soil erosion and air temperature, reducing glare or noise, and buffering adjoining uses. *[Moved from Section 1-1-29 11/18/85 (R-85-230)]*

Principal use: The primary use and chief purpose of a lot or building, as distinguished from an accessory use. *[Added 3/16/92 (O-92-10)]*

Private drive or driveway: Any street or road not publicly maintained but utilized as access by residents, their guests, the public, and by public and private service vehicles.

Private thoroughfare, open to public: A privately owned thoroughfare affording admittance to the general public.

Private thoroughfare, restricted: A privately owned thoroughfare intended for the use of one (1) or more private individuals and not affording admittance to the general public.

Residuals: Any solid or semisolid waste generated from a septic system, wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the North Carolina Environmental Management Commission. *[Added 12/20/93 (O-93-22); renamed form "sludge residuals 5/19/97 (O-97-21)]*

Public thoroughfare: Any thoroughfare established and maintained, or accepted as a dedication by a governmental agency, for the general public, and over which every person has a right to travel.

Retention: Surface collection, storage, and reduction of stormwater runoff for the purpose of providing infiltration of the runoff into the soil. *[Added 3/5/84 (R-84-37)]*

Rooming house: Any building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy by, or which are occupied by, five (5) or more, but not exceeding nine (9), individuals for compensation, whether the compensation be paid directly or indirectly.

[Definition of "row house" deleted 10/21/85 (R-85-205)]

Runoff: That portion of rainfall or other precipitation that is not absorbed by the soil, but rather flows across the ground surface and drains to a water body. *[Added 12/20/93 (O-93-22)]*

Screening: Hedges, informal plantings, natural vegetative covers, berms, or fencing provided for the purpose of protecting adjacent uses from potential noise, glare, trash, odor, visual disorder, or other harmful or noxious effects. *[Added 11/18/85 (R-85-230)]*

Setback line or front building line: The distance between a street line and the building line of a principal building or structure, projected to the side lines of the required lot or tract, and including driveways and parking areas, except where otherwise restricted by this Ordinance.

Sexually oriented business: Any place defined as an "adult establishment" by Section 14-202.10 of the North Carolina General Statutes, as such statutes are amended from time to time, except that the incorporated definition of "massage business" shall not include a health club, exercise studio, hospital, physical therapy business, or other health related business - but shall include any business where massages are rendered by persons exhibiting "specified anatomical areas" and/or where massages are performed on any client's "specified anatomical areas" (as those terms are defined in G.S. 14-202.10). *[Added 7/13/98 (O-98-25)]*

Small child day care home: A child care arrangement registered by the North Carolina Department of Human Resources as a Small Day Care Home. *[Added 2/17/92 (O-92-5)]*

Special Highways: Those highways, including interstate highways, which have been designated by the Wake County Commissioners as special highways providing vehicular transportation into and out of Wake County. Such Special Highways may include, but are not limited to, major thoroughfares. *[Added 11/18/85 (R-85-233); amended 7/20/92 to substitute "major thoroughfares" for "major thoroughfares designated in the Wake County Thoroughfare Plan" (O-92-17)]*

Special water impoundment: The water impoundment in a special watershed that provides a significant wildlife habitat, characteristics unique to Wake County, public recreation, or a potential for future public recreation, as designated by resolution of the Wake County Board of Commissioners. *[Added 10/20/86 (R-86-136R)]*

Special water impoundment buffer: The bufferyard area immediately surrounding a special water impoundment which is to be undisturbed by construction activities, except as allowed in this Ordinance. *[Added 10/20/86 (R-86-136R)]*

Special watershed: A watershed area in the Wake County zoning jurisdiction that contains a special water impoundment or impoundments which provide(s) a significant wildlife habitat, characteristics unique to Wake County, public recreation, or a potential for future public recreation. *[Added 10/20/86 (R-86-136R)]*

State: The State of North Carolina.

Story: The vertical distance of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and ceiling next above it; provided that a cellar shall not be considered a story.

Stream: Any drainageway draining twenty-five (25) or more acres of land. *[Added 10/21/85 (R-85-207)]*

Street: A right-of-way or easement containing, or intended to contain, a roadway used for passage or travel by motor vehicles - whether designated as a street, highway, thoroughfare, parkway, freeway, road, avenue, boulevard, lane, place, court, etc., but not including driveways, and whether dedicated to the public or retained solely in private ownership. Where title to land extends to the center of a roadway, easement, or right-of-way, the side lines of such roadway, easement, or right-of-way shall be

considered as the side lines of the street. *[Amended 5/20/96 to substitute first sentence for "A public thoroughfare thirty or more feet wide." (O-96-10)]*

Street width: The horizontal distance between the side lines of a street, measured at right angles to the side lines.

Surface (adj.): Roads, street, walkways, driveways, parking lots, or other natural surfaces of the ground covered by gravel, sand, crushed stone, shell, or other loose, noncohesive, uncemented conglomerate, as distinct from paved.

Telecommunication tower: A structure designed to support antennas used to provide commercial mobile radio services or other personal wireless services (e.g., cellular telephone communications, personal communication service (PCS), paging, specialized mobile radio (SMR)), excluding satellite dish antennas and amateur or ham radio antennas. *[Added 12/16/96 (O-96-51)]*

[Definition of "thoroughfare" deleted 5/20/96 - but see definition of "street" (O-96-10)]

Tourist home: A building in which board or lodging, or both, are offered to the traveling public for compensation, open to transient guests, in contradistinction to a boardinghouse or a lodginghouse. The term "tourist home" does not include a bed and breakfast homestay or bed and breakfast residence. *[Amended 7/18/94 to add second sentence (O-94-16)]*

Traffic Growth Rate: The annual growth rate used to project traffic volumes. *[Added 4/06/05 (OA 04/13)]*

Trailer: Any vehicle, house car, camp car, or any portable or moveable vehicle on wheels, skids, rollers, or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential living, sleeping, commercial, or utility purposes, but not including those vehicles primarily designed for the transportation of goods. (See "mobile home" and "mobile home park" as defined herein.)

Trailer camp: Any premise used or intended to be used or occupied by two (2) or more trailers anchored in place or supported by a foundation or other stationary supports, together with automobile parking space, utility structures or trailers, and other required facilities incidental thereto. This definition shall not include trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale. (See "mobile home" and "mobile home park" as defined herein.)

Treatment: Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous or low-level radioactive waste to neutralize such waste or to make such waste nonhazardous, safer for transport, reduced in volume, suitable for storage, or for recovery.

Triassic basin: A shallow lowland containing a thick sequence of sedimentary rocks of the last Triassic Age, generally lying along the western one-fifth (1/5) of Wake County and specifically shown on the geologic map of Wake County accompanying *Geology and Mineral Resources of Wake County*, by John M. Parker, III, (Raleigh, North Carolina Department of Natural Resources and Community Development, Geological Survey Section, 1979, pocket supplement).

[Definition of "type A screening" added 11/18/85 (R-85-230); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

[Definition of "type B screening" added 11/18/85 (R-85-230); deleted 8/19/96 (O-96-32) - but see Tables I and II in Section 1-1-29]

Understory tree: Any tree variety not expected to reach a height in excess of thirty (30) feet at maturity (such as dogwoods, crepe myrtles, red buds, some maples, etc.). *[Moved from Section 1-1-29 11/18/85 (R-85-230)]*

[Definition of "upper watershed drainageway" deleted 5/19/97 (O-97-21)]

Utility line: A publicly owned, or State or locally approved privately owned, utility conduit transporting a utility service commodity, including water lines, sewer lines, storm sewer lines, electrical power lines, telephone lines, and natural gas lines. Stormwater retention and detention facilities, septic tanks and septic drainage lines, storage tanks for any purpose, utility substations, and buildings housing utility commodities or equipment are not to be considered utility lines under this Ordinance. *[Added 11/17/86 (R-86-179)]*

Water dependent structures: Those structures for which the use requires access or proximity to, or siting within, surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures. *[Added 12/20/93 (O-93-22)]*

Water impoundment: Any lake, pond, or other body of water, either natural or man-made. *[Added 10/20/86 (R-86-136R)]*

Water impoundment buffer: See definition of "watershed buffer." *[Added 10/20/86 (R-86-136R); amended 12/20/93 to substitute reference for "The bufferyard area immediately surrounding a water impoundment which is to be undisturbed by construction activities, except as allowed in this Ordinance." (O-93-22)]*

Water supply: Surface water used as a source of water for drinking, culinary, or food processing purposes after treatment. *[Added 12/20/93 (O-93-22)]*

Water supply watershed: Those lands classified as Urban Services Area/Water Supply Watershed or Non-Urban Area/Water Supply Watershed on the Wake County Land Use Plan, as amended. *[Amended 7/21/97 to rename term from Water Supply Watershed Planning Area and to refer to Land Use Plan classifications instead of General Development Plan (O-97-32)]*

Watershed: The land area that drains runoff to a surface water body or watercourse. Also called a drainage basin, a watershed includes hills, lowlands, and the body of water into which the runoff drains. *[Added 12/20/93 (O-93-22)]*

Watershed Best Management Practice (BMP): A recognized method, activity, device, maintenance procedure, or other management practice used singularly or in combination to minimize the amount of nonpoint source pollution entering surface waters. *[Added 12/20/93 (O-93-22)]*

Watershed buffer: An undisturbed area of natural vegetation adjacent to a drainageway, watercourse, or water impoundment within a watershed through which stormwater runoff is intended to flow in a diffuse manner so that it does not become channelized and infiltration of runoff and filtering of pollutants can take place. *[Added 12/20/93 (O-93-22)]*

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward.

Yard, front: A yard extending across full width of the lot and lying between the front line of the lot and the nearest line of the building. The depth of a front yard shall be measured at right angles to the front line of the lot.

Yard, rear: A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building. The depth of a rear yard shall be measured at right angles to the rear line of the lot.

Yard, side: An open, unoccupied space between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or, in the absence of either such yards, to the front or rear lot lines, as may be. The width of a side yard shall be measured at right angles to the side line of the lot.

SECTION 1-1-2 DISTRICTS ESTABLISHED

In order to achieve the purposes of zoning as set forth in the Zoning Enabling Act of the State of North Carolina and promote the public health, safety, and general welfare, the Wake County Zoning Area is hereby divided into the following classes of districts:

RA:	Research Applications District
CU-RA:	Conditional Use Research Applications District
R-80:	Residential-80 District
CU-R-80:	Conditional Use Residential-80 District
R-80W:	Residential-80 Watershed District
CU-R-80W:	Conditional Use Residential-80 Watershed District
R-40:	Residential-40 District
CU-R-40:	Conditional Use Residential-40 District
R-40W:	Residential-40 Watershed District
CU-R-40W:	Conditional Use Residential-40 Watershed District
R-30:	Residential-30 District
CU-R-30:	Conditional Use Residential-30 District
R-20:	Residential-20 District
CU-R-20:	Conditional Use Residential-20 District
R-15:	Residential-15 District
CU-R-15:	Conditional Use Residential-15 District
R-10:	Residential-10 District
CU-R-10:	Conditional Use Residential-10 District
R-12:	Residential-12 District
CU-R-12:	Conditional Use Residential-12 District
R-5:	Residential-5 District
CU-R-5:	Conditional Use Residential-5 District
GB:	General Business District
CU-GB:	Conditional Use General Business District
HC:	Heavy Commercial District
CU-HC:	Conditional Use Heavy Commercial District
I-I:	Industrial-I District
CU-I-I:	Conditional Use Industrial-I District
I-II:	Industrial-II District
CU-I-II:	Conditional Use Industrial-II District
MH:	Mobile Home District
CU-MH:	Conditional Use Mobile Home District
HD:	Highway District
CU-HD:	Conditional Use Highway District
AD-I:	Airport District-I
CU-AD-I:	Conditional Use Airport District-I
AD-II:	Airport District-II
CU-AD-II:	Conditional Use Airport District-II
O&I:	Office and Institutional District
CU-O&I:	Conditional Use Office and Institutional District
PD:	Planned Development District
SHD:	Special Highway District
CU-SHD:	Conditional Use Special Highway District
SHOD:	Special Highway Overlay District
ED:	Economic Development District
CU-ED:	Conditional Use Economic Development District
WS-II:	Water Supply II Overlay District
WCAO:	Watershed Critical Area Overlay District
WMAO:	Watershed Management Area Overlay District

WPAO: Watershed Protected Area Overlay District
WPAO-2: Watershed Protected Area Overlay-2 District

[Amended 3/5/84 to add R-80W and R-40W Districts (R-84-37); amended 10/21/85 to substitute introductory paragraph for a list of purposes taken from the Zoning Enabling Act, to delete the R-12 District, to add the R-10 and R-5 Districts, to add the SH District, and to add conditional use districts (R-85-205); amended 10/21/85 to add the R-12 and CU-R-12 Districts (R-85-206); amended 11/18/85 to delete the R-12 and CU-R-12 Districts, to add the ED and CU-ED Districts, and to reorder the list of districts (R-85-233); amended 3/16/92 to substitute RA and CU-RA Districts for Research Farming and Conditional Use Research Farming Districts (O-92-10); amended 12/20/93 to add WS-II, WCAO, WMAO, and WPAO Districts (O-93-22); amended 7/21/97 to add WPAO-2 District (O-97-34)]

[Note on unlisted districts: The River Fall Planned Development District was established on 10/21/85 by the amendment of Section 1-1-44.1 (R-85-210); the Beachwood Planned Development District was established on 4/21/87 by the adoption of Section 1-1-44.2 (R-87-42); the Beachwood Amendment Planned Development District was established on 9/19/88 by the adoption of Section 1-1-44.4 (R-88-85); the Resource Conservation Overlay District was established on 10/20/86 by the adoption of Section 1-1-48 (R-86-136R)]

Conditional Use Districts (CU): Each of the above designated conditional use districts bears the designation CU and corresponds to a general use district. All zoning regulations that apply to the general use district are minimum requirements within the corresponding conditional use district. Conditional use zoning shall be considered only upon request of the applicant(s) as set forth in Section 1-1-7 of this Code. *[Added 10/21/85 (R-85-205)]*

SECTION 1-1-3 ZONING MAP

- (A) The location and boundaries of zoning districts shall be as shown on a geographic coverage layer entitled "Zoning" that is maintained as part of the County's geographic information system (GIS) under the direction of the Planning Director. This "Zoning" geographic coverage layer, as amended in accord with the provisions of Section 1-1-7, shall constitute the official zoning map for the County's zoning jurisdiction, and shall be as much a part of this Ordinance as if fully described herein. The Planning Director shall revise the official zoning map to reflect its amendment as soon as possible after the effective date of the amendment. No unauthorized person may alter or modify the official zoning map. The Planning Director may authorize printed copies of the official zoning map to be produced, and shall maintain digital or printed copies of superseded versions of the official zoning map for historical reference.
- (B) Where the ordinance establishing a zoning boundary identifies the boundary as following a particular feature, or reflects a clear intent that the boundary follow the feature, the boundary shall be construed as following that feature as it actually exists. The Planning Director shall note any such relationship between a zoning boundary and other mapped feature on the zoning map when entering the zoning boundary.
- (C) Where any uncertainty exists as to a zoning boundary's relationship to other features shown on the map, the actual location of the boundary shall be determined using the following rules of interpretation:
- (1) A boundary shown on the zoning map as approximately following a river, stream, lake or other watercourse shall be construed as following the actual centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes (flooding, erosion, sedimentation, etc.), the boundary shall be construed as moving with the centerline of the watercourse.
 - (2) A boundary shown on the zoning map as approximately following a ridge line or topographic contour line shall be construed as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes (erosion, slippage, subsidence, etc.), the boundary shall be construed as moving with the ridge line or contour line.
 - (3) A boundary shown on the zoning map as approximately following a lot line or parcel boundary shall be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established. If, subsequent to the establishment of the zoning boundary, the lot line or parcel boundary should be moved as a result of a minor property line adjustment (such as from settlement of a boundary dispute), the zoning boundary shall be construed with moving with the lot line or parcel boundary only if the lot line or parcel boundary is moved no more than ten (10) feet.
 - (4) A boundary shown on the zoning map as approximately following a street or railroad line shall be construed as following the centerline of the street or railroad right-of-way. If, subsequent to the establishment of the boundary, the centerline of the street or railroad right-of-way should be moved as a result of its widening or a minor realignment (such as at an intersection), the boundary shall be construed with moving with the centerline only if the centerline is moved no more than twenty-five (25) feet.
 - (5) A boundary shown on the zoning map as approximately following the zoning jurisdiction boundary of an adjacent municipality shall be construed as following that boundary as described in the ordinance or resolution establishing or extending the municipality's zoning jurisdiction (e.g., an annexation ordinance adopted by the municipality or a resolution

adopted by the County Board of Commissioners granting the municipality extraterritorial jurisdiction).

- (6) A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above shall be construed as being actually parallel to, or an extension of, the feature.
 - (7) If the specific location of the boundary cannot be determined from application of the above rules to the zoning map, it shall be determined by scaling the mapped boundary's distance from other features shown on the map.
- (D) Where a certified field survey of one or more of the features described in Subsection (C) shows that a boundary is not accurately shown on the official zoning map, the Planning Director may authorize revisions to the zoning map necessary to make it accurate.

[Section revised in its entirety 4/21/97 (O-97-17)]

SECTION 1-1-4 COMPLIANCE WITH ORDINANCE

Except as hereinafter provided:

- (1) No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be used, designed, or intended to be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building or land is located.
- (2) No building shall be erected, reconstructed, or structurally altered to exceed in height, the limit hereinafter designated for the district in which such building is located.
- (3) No building shall be erected, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location regulations hereafter designated for the district in which such building or open space is located.
- (4) No yard or other space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or any open space for any other building, and no yard or other open space on one lot shall be considered as providing yard or open space for a building on any other lot.

SECTION 1-1-5 BOARD OF ADJUSTMENT**(A) [BOARD ESTABLISHED]**

A Board of Adjustment is hereby established. Said Board shall consist of five (5) regular members and four (4) alternate members, each to be appointed for a term of three (3) years by the Board of County Commissioners. *[Amended 3/20/89 to increase the number of alternate members from 2 to 4 (R-89-30)]*

(B) RULES OF PROCEDURE

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Except as otherwise provided in this Ordinance, the rules adopted by the Board shall at least provide for selection of the officers of the Board, and procedures for the conduct of public hearings and voting. The rules and minutes of the Board of Adjustment shall be maintained in the office of the Zoning Administrator. *[Amended 7/13/98 to add Subsection title, to delete requirement that Board rules provide forms (for petitions and decision-making) and filing deadlines, and to require rules and Minutes be maintained by the Zoning Administrator rather than Clerk to the Board of Commissioners (O-98-24)]*

(C) APPEALS

Except as limited in Section 1-1-8(D)(4), the Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing or administering any provision of this Ordinance. Any interested person may take an appeal. Appeals shall be taken within thirty (30) days of the order, etc. complained of by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him, that, because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, or that, because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this Ordinance. In that case, proceedings may not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and decide the appeal within a reasonable time. The Board of Adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the circumstances. To this end the Board has all of the powers of the officer from whom the appeal is taken. *[Amended 7/20/92 to add heading, to add reference to Section 1-1-8(D)(4), to change the deadline for appeals from 60 to 30 days, and to add an exception to an appeal's stay of enforcement proceedings for transitory violations (O-92-17); amended 5/16/94 to delete requirement to "give due notice of the appeal to the parties" (O-94-10) - but see Subsection (F)]*

(D) SPECIAL USE PERMITS

The Board of Adjustment shall hear and decide upon petitions to grant permits for those land uses designated by this Ordinance as special uses, in accord with the provisions of Section 1-1-11. *[Amended 7/13/98 to add Subsection title, and to delete provisions referring to land uses permitted only after approval of the Board of Adjustment, authority to impose conditions on approvals, and site specific development plans (moved to Section 1-1-11) (O-98-24)]*

(E) [VARIANCES]

The Board of Adjustment may, in passing upon appeals, vary or modify, in accordance with procedures specified below, any regulation or provision of the Ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the regulation or provision. The Board will ensure, in so doing, that the spirit of the Ordinance is observed, public safety and welfare secured, and substantial justice done, both for the landowner and the public at large. The Board may impose such conditions in granting such variances as will secure substantially the objectives of the regulations or provisions being varied or modified. A variance shall not be granted unless the Board of Adjustment makes findings of fact supporting its conclusions, and concludes, as a minimum, that:

- (1) There are special circumstances or conditions applying to the land, building, or use referred to in the application which exist through no fault of the property owner.
- (2) The granting of the application is necessary for the preservation and enjoyment of substantial property rights.
- (3) The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvement in such neighborhood.
- (4) A denial of the application would cause practical difficulties or unnecessary hardships to the landowner.

In areas of special flood hazard to which Section 1-1-26 applies, the Board must additionally conclude that:

- (5) No increase in flood levels will result within any designated floodway during the base flood discharge as a result of granting the variance.
- (6) A more limited or narrower variance would not provide relief.
- (7) Failure to grant the variance would result in exceptional hardship to the property-owner.

Moreover, the Board of Adjustment must make specific findings of fact, based on evidence introduced, on the following issues, and these findings of fact must not be inconsistent with the conclusions concerning variances in areas of special flood hazard:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding damage;
- (c) The susceptibility of the proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed use to the community;
- (e) The necessity for the use of a waterfront location, where applicable;
- (f) The availability of alternative locations on the same parcel, not subject to flooding damage, for the proposed use;

- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (i) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site; and
- (j) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(F) PUBLIC HEARING AND NOTICE

Upon receipt of an appeal or a petition for a variance or a public hearing on an interpretation of the location of the boundary of an area of special flood hazard (see Subsection (H)), the Board of Adjustment shall cause a public hearing to be held. *[Amended 5/16/94 to refer to appeals in addition to variances and floodplain boundary interpretations, to add reference to Subsection (H), and to delete notice standards requiring notice posted on the site, notice to owners of adjoining properties via certified mail, notice published in a newspaper for 5 consecutive days, and provision of all notices at least 15 days before the hearing (O-94-10) - but see following added Paragraphs]*

At least ten (10) days before a hearing on an appeal involving a particular site, or a petition for a variance or interpretation of the boundary of an area of special flood hazard, the Zoning Administrator shall post notice of the hearing on the affected property and send written notice of the hearing to the petitioner, the owner of the affected property, and the owners of all real property adjoining the affected property (as shown on County tax listings current when the petition is filed). If a requested variance would result in the relaxation of any of the State Environmental Management Commission's minimum watershed management requirements for the low density option (see 15A NCAC 2B), the Zoning Administrator shall, at the same time, send written notice of the hearing to all other local governments having jurisdiction within the same water supply watershed. On determining that the appeal or petition would impact nonadjoining properties in the neighborhood of the affected site, the Zoning Administrator may also send written notices to the owners of those properties, and may require the petitioner to submit the additional materials necessary to provide such notices. Notices to the petitioner and the owner of the affected site shall be sent via certified mail, return receipt requested. All other mailed notices shall be sent via first-class mail. *[Added 5/16/94 (O-94-10); amended 5/19/97 to add sentence regarding notice of variance resulting on relaxation of minimum State watershed management requirements (O-97-21)]*

Where an appeal does not involve a particular site, and where the Zoning Administrator determines that a petition for a variance or interpretation of the boundary of an area of special flood hazard would have significant impacts on properties beyond the neighborhood of the affected site, the Zoning Administrator shall cause notice of the hearing to be published in a newspaper of general circulation in the County or the area of the affected site. The notice shall be published in each of two (2) successive calendar weeks, with the first notice being published between ten (10) and twenty-five (25) days before the hearing date. *[Added 5/16/94 (O-94-10)]*

The hearing notices shall state the time and place of the hearing, briefly summarize the nature of the appeal or petition, and invite interested persons to review the appeal or petition at the Zoning Administrator's office and to submit written or oral comments on the appeal or petition at the hearing. *[Added 5/16/94 (O-94-10)]*

The Zoning Administrator shall make every reasonable effort to comply with these notice requirements. However, where the Zoning Administrator has made a reasonable and good-faith attempt to comply with the requirements for notice to owners of adjoining properties, no failure to

comply with those requirements shall render any decision on the appeal or petition invalid.

[Added 5/16/94 (O-94-10)]

[Amended 5/16/94 to add heading (O-94-10)]

(G) [EXCEPTIONS]

The Board of Adjustment is specifically authorized to grant the following exceptions to the application of the regulations herein established, without changing the boundaries of the respective zones:

- (1) Where a zone boundary line divides a lot in a single ownership at the time this Ordinance became applicable to the land at issue, permit a use authorized on either portion of such lot to extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary line of the zone in which such use is authorized.
- (2) [Reserved] *[Amended 6/16/97 to delete authority to permit the extension of a nonconforming use or building (O-97-24)]*
- (3) Permit the erection of an additional building upon a lot occupied by a business or industrial establishment at the time this Ordinance became applicable to the land at issue, but only when the additional building is a part of such establishment.
- (4) Exempt a proposed building, either in whole or in part, from the front yard requirement. This relief may, however, be granted only in cases where the proposed building adjoins, on both sides, buildings that do not conform to the minimum set-back line, or where compliance with the minimum setback line would cause unnecessary hardship to the owner without any compensating benefit to the community.
- (5) Permit the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.

(H) [RESOLUTION OF DISPUTES]

The Board shall resolve disputes concerning the location of floodways, floodway fringes, and flood hazard soils areas with respect to various lots in accordance with the procedure set forth below:

The boundaries of floodway and floodway fringe areas shall be determined from the Flood Insurance Study. In areas between official cross sections, floodway and floodway fringe boundaries shall be determined by scaling distances on Flood Insurance Study maps. Where interpretation of the lateral location of scaled distances is needed to determine the actual field location of these boundaries, the Community Development Services is directed to make the necessary interpretation and corrections of the maps. The regulatory flood protection elevation shall in all cases be the controlling factor in locating the outer limits of a floodway fringe boundary. Interpretations of floodway boundaries on the maps shall be based on the following standards:

- (1) The main stream must always lie within the floodway boundaries.
- (2) The unobstructed cross sectional area of the floodway must lie below the regulatory floodway protection elevation specified in the FIA study, without exceeding the scaled top width of the floodway as determined from the FIA study and Corps of Engineers data.
- (3) Each side of the floodway contains a flood fringe width of at least five (5) feet.

- (4) The angle of deflection of the centerline of the floodway at any bend created by interpretation may not exceed forty-five (45) degrees.
- (5) The ratio of the radius of the centerline of the floodway to the top width of the floodway in any bend created by interpretation may not be less than three (3).
- (6) The variance of total floodplain cross sectional area below the regulatory flood protection elevation between official sections, as determined from field topographic data, may not exceed plus or minus ten (± 10) percent of the closest official cross section.
- (7) The average retardance (value of "n," a coefficient in Manning's equation) between cross sections and on both sides of the stream centerline are equal.
- (8) The floodway boundaries shall be located laterally such that the flood fringe areas on either side of the floodway satisfy the following equation:

$$\text{(left)} \quad \frac{A^{5/3}}{P^{2/3}} = \frac{A^{5/3}}{P^{2/3}} \quad \text{(right)}$$

where A equals the cross sectional area of the floodway, and P equals wetted perimeter of the floodway.

Interpretation of the flood hazard soils boundaries shall be based upon hydraulic analysis and hydraulic routing methods used by the U.S. Corps of Engineers to establish Flood Insurance Study maps. These methods are contained in *Flood Insurance Study for Wake County*, dated May 1978. Approved interpretations of flood hazard soils' boundaries may be described by bearings and distances and drawn with elevation in mean sea level datum given for each cross section used in the routing computations.

All interpretation requests shall be accompanied with a list of the names, mailing addresses, and County tax parcel numbers of the owners of any property (as such names and address are listed with the Tax Supervisor) affected by the requested interpretation. The Zoning Administrator shall give notice by certified or registered mail, return receipt requested, or by personal service to such property owners at the address listed with the Tax Supervisor. The notice shall inform affected property owners that they can direct the Board of Adjustment to conduct a public hearing on the matter within fourteen (14) days of the date of the letter. All requests for the public hearing shall be directed to the Board of Adjustment. The establishment and documentation of field conditions used in interpretations shall be based on sworn testimony or certified information supplied by a licensed registered land surveyor, and all calculations shall be made and certified by a registered and qualified professional.

[Amended 4/21/97 to delete provision authorizing Board to interpret, and resolve landowner disputes about, the location of zoning district boundary lines (O-97-17) - see Section 1-1-3]

(I) [PROCEDURES]

(1) **[Quasi-Judicial Proceedings]**

Although the Board of Adjustment acts in a quasi-judicial capacity, it is not intended that proceedings before it be conducted as formally as those before courts. Nevertheless, it is necessary that the rules of procedure and evidence set forth in this Code be followed to protect the interests of the parties and of the public. To this end, the presiding officer may administer oaths to any witnesses and may make any rulings as are necessary to preserve fairness, order, or proper decorum in any matter before the Board. In addition, any member of the Board or any interested party may object to, and the presiding officer may

exclude, any evidence or testimony or statement which is so incompetent, irrelevant, immaterial, or unduly repetitious as to fail to reasonably address the issues before the Board.

(2) **[Evidence and Testimony]**

Any interested party may be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. The presiding officer may determine whether testimony, oral argument, or cross-examination shall be limited in duration. Any member of the Board may question any interested party with respect to his evidence or testimony. Persons other than interested parties may make comments. Such comments shall be competent, relevant, and material.

(3) **Decisions**

Every decision of the Board of Adjustment with respect to granting or denying an appeal or variance petition shall include findings of fact and conclusions of law together with the reasons therefor, and shall be based upon substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based upon sworn evidence or testimony unless the party or parties before the Board stipulate the facts or waive this requirement. Every decision of the Board shall also include the vote, abstention from voting, or absence of each member. The burden of producing substantial evidence or testimony is upon the party who files an appeal or petition, and if he fails to do so, the Board shall deny the appeal or petition. *[Amended 7/13/98 to add Paragraph title and to refer to variance petition rather than just petition (O-98-24)]*

(4) **[Additional Evidence]**

Notwithstanding any other provision of this Code, the Board of Adjustment may require additional evidence or memoranda of authority to be submitted, and may reserve its decision until such evidence or memoranda have been submitted and considered.

(5) **[Interested Party Defined]**

An interested party is defined as any officer or employee whose personal duties relate to the matter in issue, any person filing an appeal or petitioning for an interpretation, exception, or variance, and any owner of property adjoining the property at issue, or affected by an interpretation of the location of the boundary of an area of special flood hazard. *[Amended 7/13/98 to add reference to appeal and delete reference to special use (O-98-24)]*

(6) **Variances Constituting Major Variations from State Minimum Watershed Management Requirements**

If the Board of Adjustment grants a variance that would result in the relaxation, by a factor greater than ten (10) percent, of any of the State Environmental Management Commission's minimum watershed management requirements for the low density option (see 15A NCAC 2B), the Board's decision is subject to review and approval by the State Environmental Management Commission before it becomes final. In such cases, the Zoning Administrator shall prepare a preliminary record of the variance petition, the evidence submitted to the Board, and the Board's findings and decision, and submit it to the State Environmental Management Commission. If the Commission approves the variance as granted by the Board of Adjustment, the Board's decision shall then be considered final and the variance granted. If the Commission approves the variance with conditions varying from, or in addition to, those imposed by the Board of Adjustment, the Board shall revise its decision to include the varied or added conditions. If the Commission

denies the variance, the Board of Adjustment shall reverse its decision and deny the variance. *[Added 5/19/97 (O-97-21)]*

(J) RECORDS

The Zoning Administrator shall see that records are maintained for all matters coming before the Board of Adjustment. The Zoning Administrator shall report any variances or interpretations of the location of the boundary of an area of special flood hazard to the Federal Insurance Administration upon request. The Zoning Administrator shall, by January 1, submit to the State Division of Water Quality, or its successor agency, a report of any variances granted within water supply watersheds during the previous calendar year that would result in a variation from the State Environmental Management Commission's minimum watershed management requirements (see 15A NCAC 2B). The report shall describe each project receiving a variance and the reason for granting the variance. *[Amended 12/20/93 to add provisions concerning the annual report of variances to the State (O-93-22); amended 5/19/97 to limit variances to be reported to those resulting in a variation from the State's minimum watershed management requirements and to set the reporting date as January 1 (O-97-21); amended 7/13/98 to substitute "matters" for appeal actions, variances, and special exceptions" (O-98-24)]*

(K) [QUORUM, MINUTES, VOTING]

All meetings of the Board of Adjustment shall be public. The presence of four (4) regular members or alternate members sitting in place of regular members shall be necessary for a quorum. The Clerk of the Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if failing to vote, indicating the fact. The final disposition of any appeal shall be in the form of a resolution either reversing, modifying, or affirming the decision of the zoning enforcement officer. If a resolution fails to receive four (4) votes in favor of the appellant, the action shall be deemed a denial, and a resolution denying the appeal shall be entered upon the record.

(L) [APPEAL TO SUPERIOR COURT]

Any interested party may seek review of the decision of the Board of Adjustment in Superior Court by proceedings in the nature of certiorari. Any appeal to the Superior Court shall be taken within thirty (30) days after decision of the Board is filed with the zoning enforcement officer, or after a written copy thereof is delivered to the person taking the appeal by personal service or registered mail, whichever is later.

SECTION 1-1-5.1 PLANNING BOARD**(A) [BOARD ESTABLISHED]**

A Planning Board is hereby established. Said Board shall consist of ten (10) members, each to be appointed by the Board of County Commissioners to staggered two-year terms.

(B) [RULES OF PROCEDURE]

The Planning Board shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Except as otherwise provided in this Ordinance, the rules adopted by the Board shall at least provide for selection of the officers of the Board, and procedures for the conduct of public hearings and voting. The rules and minutes of the Planning Board shall be maintained in the office of the Planning Director.

(C) [CONDITIONAL USE PERMITS]

The Planning Board shall hear and render decisions upon petitions to grant permits for all uses listed in the following table as requiring a Conditional Use Permit in a conditional use zoning district, in accordance with the provisions of Section 1-1-11.1. All uses listed in the following table as requiring a General Use Permit shall be processed administratively by the Planning Director and shall not be subject to any conditions above and beyond the requirements of the Zoning Ordinance. Subdivisions for only single-family detached homes shall require approval by the Planning Board, or the Planning Director, in conformity with the regulations established by the Subdivision Ordinance.

Type of Permit Required for Proposed Land Uses**Conditional Use Permits**

1. All industrial uses
2. Multi-family residential developments
3. Planned Unit Developments (PUDs)
4. Mixed-use developments (commercial and residential)
5. Residential uses proposed adjacent to existing industrial or heavy commercial uses
6. Schools
7. School additions or renovations that are greater than 50 % of the existing building(s) in size
8. Churches greater than 2,500 square in floor area
9. Accessory uses to residential subdivisions where they are open to the public
10. Group homes
11. Major utility facilities (power plants, sub-stations, water or sewage treatment plants, water towers greater than 35 feet tall, etc....)
12. Airports, airfields
13. Public facilities such as fire stations, EMS stations, law enforcement facilities, prisons, libraries, etc.
14. Daycare centers
15. Service uses greater than 2,500 square feet in floor area (includes health care)
16. Commercial uses greater than 2,500 square feet in floor area
17. Office uses greater than 2,500 square feet in floor area
18. Commercial establishments of any size that have gas sales or drive-thru windows
19. Restaurants
20. Special events
21. Telecommunication, radio and television towers
22. Active recreation facilities or developed parks
23. Kennels or veterinary offices

24. Wholesale, warehouse, storage
25. Hotels/motels
26. Amusements, theaters, night clubs
27. Sexually oriented businesses
28. Cemeteries
29. Automotive sales, service/repair shops
30. Any specific use not listed under General Use Permits

General Use Permits

1. Accessory uses to residential subdivisions where they are not open to the public
2. Service uses less than or equal to 2,500 square feet in floor area (includes health care) (does not include automotive)
3. Commercial uses less than or equal to 2,500 square feet in floor area
4. Office use less than or equal to 2,500 square feet in floor area
5. Churches less than or equal to 2,500 square feet
6. Water towers less than or equal to 35 feet tall
7. Passive recreation facilities or parks
8. Bed and breakfast, rooming house
9. Home occupations
10. Daycare homes, family care homes
11. Co-locations of telecommunication equipment on existing towers or other existing structures

(D) [PROCEDURES]

(1) **[Quasi-Judicial Proceedings (Variances and Appeals)]**

Although the Planning Board acts in a quasi-judicial capacity in the processing of variances and appeals, it is not intended that proceedings before it be conducted as formally as those before courts. Nevertheless, it is necessary that the rules of procedure and evidence set forth in this Code be followed to protect the interests of the parties and of the public. To this end, the presiding officer may administer oaths to any witnesses and may make any rulings as are necessary to preserve fairness, order, or proper decorum in any matter before the Board. In addition, any member of the Board or any interested party may object to, and the presiding officer may exclude, any evidence or testimony or statement which is so incompetent, irrelevant, immaterial, or unduly repetitious as to fail to reasonably address the issues before the Board.

(2) **[Evidence and Testimony]**

Any interested party may be given the opportunity to present evidence or testimony, to cross-examine witnesses, to inspect documents, and to offer evidence or testimony in explanation or rebuttal. The presiding officer may determine whether testimony, oral argument, or cross-examination shall be limited in duration. Any member of the Board may question any interested party with respect to his evidence or testimony. Persons other than interested parties may make comments. Such comments shall be competent, relevant, and material.

(3) **[Decisions]**

Every decision of the Planning Board with respect to granting or denying an appeal or variance petition shall include findings of fact and conclusions of law together with the reasons therefore, and shall be based upon substantial evidence or testimony which is competent, relevant, and material. Findings as to the existence or nonexistence of crucial facts shall be based upon sworn evidence or testimony unless the party or parties before the Board stipulate the facts or waive this requirement. Every decision of the Board shall also include the vote, abstention from voting, or

absence of each member. The burden of producing substantial evidence or testimony is upon the party who files an appeal or petition, and if he fails to do so, the Board shall deny the appeal or petition.

(4) **[Additional Evidence]**

Notwithstanding any other provision of this Code, the Planning Board may require additional evidence or memoranda of authority to be submitted, and may reserve its decision until such evidence or memoranda have been submitted and considered.

(5) **[Interested Party Defined]**

An interested party is defined as any officer or employee whose personal duties relate to the matter at issue and any owner of property adjoining the property at issue.

(E) **[RECORDS]**

The Planning Director shall see that records are maintained for all matters coming before the Planning Board.

(F) **[QUORUM, MINUTES, VOTING]**

All meetings of the Planning Board shall be public. The presence of five (5) members shall be necessary for a quorum. The Clerk of the Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if failing to vote, indicating the fact. The final disposition of any appeal shall be in the form of a resolution either reversing, modifying, or affirming the decision of the zoning enforcement officer. If a resolution fails to receive four (4) votes in favor of the appellant, the action shall be deemed a denial, and a resolution denying the appeal shall be entered upon the record.

(G) **[APPEAL TO SUPERIOR COURT]**

Any interested party may seek review of the decision of the Planning Board in Superior Court by proceedings in the nature of certiorari. Any appeal to the Superior Court shall be taken within thirty (30) days after decision of the Board is filed with the Planning Director, or after a written copy thereof is delivered to the person taking the appeal by personal service or registered mail, whichever is later.

SECTION 1-1-6 INTERPRETATION AND APPLICATION

The provisions of this Ordinance are cumulative and pose limitations and requirements in addition to all other applicable federal, state and county laws and ordinances. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provisions of the law or ordinances or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises; nor is it intended by this Ordinance to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinances, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provisions of this Ordinance shall control. It is intended that decisions made pursuant to this Ordinance will be consistent with both the express terms of this ordinance and with the spirit and intent of the Land Use Plan, Transportation Plan and the Consolidated Open Space Plan of Wake County. *[Amended 5-3-05; added "The provisions of this Ordinance..." and "It is intended ..." sentences, (OA 04/14)]*

SECTION 1-1-7 CHANGES AND AMENDMENTS**(A) PURPOSE**

This section sets forth procedures for amending the text of this Ordinance and for amending the zoning map incorporated in this Ordinance ("rezoning"). These procedures are intended to allow changes to this Ordinance's text and zoning map that are consistent with the Wake County Land Use Plan and otherwise advance the public health, safety, and general welfare. They are not intended to relieve particular hardships or to confer special rights or privileges. *[Amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(B) GENERAL

The Board of Commissioners may amend the text of this Ordinance or the zoning map incorporated in this Ordinance in accord with the provisions of this Section.

(C) INITIATION OF AN AMENDMENT REQUEST**(1) Amendment of Ordinance Text**

A proposal to amend the text of this Ordinance may be initiated by:

- (a) The Board of Commissioners, by passing a motion directing County staff to consider the proposal;
- (b) The Planning Board, the Board of Adjustment, any resident of Wake County, or any owner of real property in Wake County, by submitting a request for consideration of the proposal to the Board of Commissioners; or
- (c) The Planning Director, on preparing a petition for the amendment.

(2) Amendment of Zoning Map - General Use District

A proposal to amend this Ordinance's zoning map to rezone land to a general use district may be initiated by:

- (a) The Board of Commissioners, by passing a motion directing County staff to consider the proposal;
- (b) The Planning Board, the Board of Adjustment, any resident of Wake County, or any owner of real property in Wake County, by submitting a request for consideration of the proposal to the Board of Commissioners;
- (c) The Planning Director, on preparing a petition for the amendment; or
- (d) Any resident of Wake County, or any owner of real property in Wake County, on submitting a petition for the amendment to the Planning Director.

(3) Amendment of Zoning Map - Conditional Use District

A request to amend this Ordinance's zoning map to rezone land to a Conditional Use District may be initiated only by the owner(s) of the land, on submitting a petition for the amendment to the Planning Director.

(4) Commissioners' Acceptance of Amendment Requests

If a request for consideration of an amendment proposal is submitted to the Board of Commissioners (as provided by Paragraphs (1)(b) and (2)(b) above), the Board may decline to consider the request or may refer the amendment proposal to the Planning Director for preparation of a petition in accord with the provisions of this Section.

(5) Pre-Petition Conference

A person intending to submit an amendment petition is strongly encouraged to confer with Planning Department staff before submitting the petition. At such conference, Planning Department staff shall explain requirements applicable to the petition and shall identify potential conflicts with the Land Use Plan and other relevant County policies concerning land development. *[Amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(D) CONTENT OF PETITION**(1) All Petitions**

A petition to amend this Ordinance shall include those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the petitioner, to describe the nature of the requested amendment, and to state justifications for the amendment. If the amendment request proposes amending the zoning map, the petition shall also include those forms, maps, plans, and other materials prescribed by the Planning Director as necessary to identify and describe the land proposed to be rezoned, to identify its owners, and to identify and notify the owners of properties adjacent to it. If required by Section 1-1-30, the petition shall also include a traffic impact analysis prepared in accordance with the requirements of Section 1-1-30. The petitioner shall also submit the fee prescribed for the type of petition by the Board of Commissioners, including any fee authorized for review of traffic impact analysis. *[Added If required by Section 1-1-30 sentence and including any fee authorized fragment on 4/6/05 (OA 04/13)]*

(2) Petitions for Rezoning to a Conditional Use District**(a) Signed by Property Owners**

A petition to rezone land to a Conditional Use District shall be signed by all owners of the land proposed to be rezoned, or by their authorized agents. Petitions signed by a landowner's agent rather than the landowner shall also include documentation of the agent's authorization to sign on behalf of the owner.

(b) Proposed Rezoning Conditions

1. A landowner petitioning to rezone land to a Conditional Use District may propose conditions to be placed on the requested rezoning. The petition shall specify any proposed conditions, either in writing or with maps, plans, or drawings.
2. Any proposed conditions shall impose requirements that are more restrictive than those generally applicable in the proposed Conditional Use District. For example, conditions might propose to limit the amount of floor area, the location and size of structures, the location and extent of buffer areas, the hours of business operation, or the timing of development. *[Added from "of floor area" 1/14/05 (OA04/03)]*

3. A conditional use zoning petition must specify the proposed use or uses for all property specified in the petition and such uses must be permitted uses in the corresponding general use district. *[Added 1/14/05 (OA04/03)]*
4. No condition, however, may restrict the race, religion, ownership status, or character of District occupants, or contain any other exclusionary restrictions. Nor may any condition purport to abridge or affect any other applicable federal, state, or local law.

(c) **Conditional Use Permit A Prerequisite to Any Use or Development**

A Conditional Use Permit issued by the Planning Board is required as a prerequisite to the establishment of any use or development in a Conditional Use District for those uses designated as requiring such a permit in the table. Type of Permit Required for Proposed Land Uses (see Section 1-1-5.1) *[Amended 1/14/05 (OA 04/03)]*

(E) **ACCEPTANCE OF PETITION**

The Planning Director shall review a submitted amendment petition and determine whether it complies with submittal requirements. If the petition does not comply with submittal requirements, the Director shall notify the petitioner of the submittal deficiencies and invite the petitioner to revise the petition to correct the deficiencies. If or when the petition complies with all submittal requirements, the Director shall accept the petition as complete and notify the petitioner of its acceptance.

(F) **NOTICE OF ACCEPTANCE OF REZONING PETITIONS**

If the amendment petition proposes amending the zoning map, the Planning Director shall provide notice of the petition's acceptance in accord with the provisions of Section 153A-343 of the North Carolina General Statutes and Chapter 252 of the North Carolina Session Laws, 1989. The notice shall briefly summarize the nature of the proposed amendment and invite interested persons to review the petition at the Planning Department and to submit written or oral comments on the petition. *[On 7/23/93, effective 1/1/94, the N.C. Legislature substantially revised Section 153A-343 of the General Statutes and repealed Chapter 252 of the North Carolina Session Laws, 1989.]*

(G) **STAFF REVIEW**

After accepting a petition as complete, the Planning Director shall review the petition and analyze the proposed amendment's consistency with the Land Use Plan and the County's other development-related policies. The Director shall notify the petitioner of his findings and, on determining that revisions to the petition could constructively address the staff findings, invite the petitioner to revise the petition to address those findings. If a revised petition is submitted, the Director shall review and analyze it in the same manner as the original petition. The Director shall prepare a staff report that summarizes the analysis and recommends approval or denial of the proposed amendment. *[Amended 4/21/97 to add provisions regarding revised petitions (O-97-14); amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(H) **PLANNING BOARD REVIEW**

(1) **Submittal of Petition to Board**

After completing the staff report, the Planning Director shall schedule the amendment petition for review by the Planning Board and send Planning Board members copies of the amendment petition and the staff report. The Planning Director shall also notify the petitioner of the time and place of the Planning Board meeting and send the petitioner a copy of the staff report.

(2) Board Hearing of Presentations

At its meeting, the Planning Board shall receive the amendment petition and staff report, and hear presentations of additional comments, exhibits, and arguments pertaining to the petition by the Planning Director and the petitioner. The Board may also hear presentations by any other interested party. To avoid unnecessary delay, the Board's presiding officer may impose reasonable limits on the number of persons heard and on the nature and length of their presentation.

(3) Board Review and Action

After hearing presentations, the Planning Board shall review the amendment petition, the staff report, and additional information and comments submitted or presented to the Board, and shall recommend approval or denial of the proposed amendment. Before completing its review and making its recommendation, the Board may refer the petition to a committee for further consideration. In deciding whether to recommend approval or denial of an amendment petition, the Planning Board shall consider whether the proposed amendment is consistent with the Wake County Land Use Plan and otherwise advances the public health, safety, and general welfare. *[Amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(4) Opportunity to Revise Petition

After the Planning Board has heard presentations and completed its discussion of the petition, but before the Board recommends action on the petition, the petitioner may ask the Board for permission to revise the petition to address concerns raised by the presentations and Board discussion. If the Board grants the request, the revised petition shall be submitted to the Planning Director, and shall be reviewed in the same manner as an original petition. *[Amended 4/21/97 to require Board's permission to revise petition (O-97-14)]*

(I) BOARD OF COMMISSIONERS PUBLIC HEARING AND REVIEW**(1) Public Hearing Required**

After the Planning Board has completed its review, the Board of Commissioners shall hold a public hearing on the amendment petition at its next available regularly scheduled public hearing. Once a public hearing on the petition has been scheduled and advertised for a particular meeting, it shall be held at that meeting unless some emergency or special circumstance requires cancellation or early recess of the meeting itself. *[Amended 7/17/95 to substitute requirement that Commissioners hold hearing for requirement that Planning Director ask Commissioners to schedule hearing (O-95-14); amended 6/16/97 to add requirement that hearing be held when scheduled and advertised (O-97-26)]*

(2) Notice of Public Hearing

The Planning Director shall provide notice of the public hearing in accord with the provisions of Section 153A-323 of the North Carolina General Statutes. The notice shall state the time and place of the public hearing, briefly summarize the nature of the proposed amendment, and invite interested persons to review the petition at the Planning Department and to submit written or oral comments on the petition to the Board of Commissioners at the hearing.

(3) Submittal of Petition to Board

Before the public hearing, the County Manager shall send members of the Board of Commissioners copies of the amendment petition, the recommendations of the Planning

Director and Planning Board, and any written comments submitted by the public (or an accurate summary of those comments). The Planning Director shall send the petitioner a copy of the Planning Director's and Planning Board's recommendations.

(4) Public Hearing

At the public hearing, the Board of Commissioners shall receive the amendment petition and recommendations of the Planning Director and Planning Board, and hear presentations of additional comments, exhibits, and arguments pertaining to the petition by the Planning Director, petitioner, representatives of the Planning Board, and any other interested party. To avoid unnecessary delay, the Board's presiding officer may impose reasonable limitations on the number of persons heard and on the nature and length of their presentation. The Board may continue the hearing to a later meeting to accommodate additional comments, information, or speakers. If the Board continues the hearing to a named date, no further notice of the continued hearing is required. *[Amended 6/16/97 to add provisions regarding hearing continuation (O-97-26)]*

(5) Board Review and Action

Following the public hearing, the Board of Commissioners shall review the amendment petition, recommendations of the Planning Director and Planning Board, and other information and comments submitted or presented at the hearing, and shall approve the proposed amendment, deny the amendment petition, or approve a modified amendment that is within the scope of matters considered at the public hearing. Before completing its review and making its final decision, the Board may postpone its discussion and/or action to a later meeting, or refer the petition to a committee or back to the Planning Director and Planning Board for further consideration. In deciding whether to approve or deny an amendment petition, the Board of Commissioners shall consider whether the proposed amendment is consistent with the Wake County Land Use Plan and otherwise advances the public health, safety, and general welfare. *[Amended 6/16/97 to add authority to postpone discussion or action (O-97-26); amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(6) Opportunity to Revise Petition

After the Board of Commissioners has heard presentations and completed its discussion of the petition, but before the Board takes action on the petition, the petitioner may ask the Board for permission to revise the petition to address concerns raised by the presentations and Board discussion. If the Board grants the request, the revised petition shall be submitted to the Planning Director, and shall be reviewed in the same manner as an original petition. *[Amended 4/21/97 to require Board's permission to revise petition (O-97-14)]*

(7) Identification of Site Specific Development Plans

If the Board of Commissioners approves a petition for rezoning to a Conditional Use District that includes a plan qualifying as a site specific development plan, the Board shall identify the approved plan as a site specific development plan that triggers a vested right pursuant to Section 153A-344.1 of the North Carolina General Statutes. *[Added 10/21/91 (R-91-78)]*

(J) OPPORTUNITY TO REVISE PETITION LIMITED

To revise an amendment proposal at any time other than allowed under Subsections (G), (H)(4), or (I)(6), above, the petitioner must first withdraw the original amendment petition in accord with Subsection (M), then resubmit a new amendment petition in accord with Subsection (N).

[Amended 4/21/97 to revise heading, to replace repetitions of when and how petitions may be revised with appropriate references (O-97-14)]

(K) TIMELY PROCESSING OF PETITIONS

The Planning Director, Planning Board, and Board of Commissioners shall make every reasonable effort to process, review, and act on amendment petitions in a timely manner, consistent with the need to fully consider the proposed amendment's impact and ensure that it is consistent with the Wake County Land Use Plan and otherwise advances the public health, safety, and general welfare. *[Amended 7/21/97 to refer to Land Use Plan instead of General Development Plan (O-97-32)]*

(L) ACTIONS SUBSEQUENT TO FINAL DECISION

The Planning Director shall send the petitioner written notice of the Board of Commissioners' final decision on the amendment petition, and shall file a copy of the decision in the Planning Department. If the Board approved the petition, the Planning Director shall record the changes onto official copies of this Ordinance's text and zoning map.

(M) WITHDRAWAL OF PETITION

A petitioner may withdraw an amendment petition at any time by submitting written notice of the withdrawal to the Planning Director.

(N) WAITING PERIOD FOR SUBSEQUENT PETITIONS

If the Board of Commissioners denies an amendment petition, or if the petitioner withdraws the petition after the hearing notice required in Subsection (I)(2), the Planning Director shall not accept another petition for the same or similar amendment until at least one (1) year after the denial or withdrawal, unless the Board of Commissioners first approves the petitioner's request for an exception to this provision.

(O) CHANGES TO CONDITIONAL USE ZONING CONDITIONS

Any proposed change to the conditions approved as part of an amendment rezoning land to a Conditional Use District shall be considered a proposed amendment to the zoning map and shall be processed as a new amendment petition.

(P) AMENDMENTS OF PROVISIONS AND DISTRICT BOUNDARIES RELATED TO WATER SUPPLY WATERSHED PROTECTION

(1) **Compliance with State Watershed Rules**

Those provisions of this Ordinance relating to the protection of water supply watersheds, as well as those zoning district boundaries reflecting the boundaries of any water supply watershed or its critical or protected area, shall not be amended except in compliance with the watershed rules adopted by the State Environmental Management Commission (Title 15A, Subchapter 2B, of the North Carolina Administrative Code).

(2) **Filing of Amendments with State**

The Planning Director shall submit copies of any amendment relating to the protection of water supply watersheds to the State Division of Water quality, or its successor agency.

[Amended 5/19/97 to change submitter from County Attorney and update agency reference and renumber from (3) (O-97-21)]

[Added 12/20/93 (O-93-22); amended 5/19/97 to delete former Paragraph (2) providing for State pre-approval of rezonings reflecting changes of water supply watershed boundaries (O-97-21)]

[Section revised in its entirety 9/3/91 (R-91-51)]

SECTION 1-1-8 ENFORCEMENT**(A) PURPOSE**

This Section sets forth the procedures by which the County seeks correction of violations of this Ordinance. It also sets forth the remedies and penalties the County may apply where necessary to ensure correction of violations. The provisions in this Section are intended to encourage the voluntary correction of violations.

(B) VIOLATIONS

Any failure to comply with a requirement, prohibition, or limitation imposed by the provisions of this Ordinance, or the terms and conditions of any permit or other authorization granted pursuant to this Ordinance, shall constitute a violation of this Ordinance.

(C) RESPONSIBLE PERSONS

One or more of the following persons may be held responsible for a violation of this Ordinance and be subject to the remedies and penalties provided in this section:

- (1) An architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance, and
- (2) An owner of the property on which a violation of this Ordinance occurs, or any tenant or occupant of that property who has control over, or responsibility for, its use or development.

(D) ENFORCEMENT PROCEDURES**(1) Investigation**

On receiving complaints or other information suggesting a violation of this Ordinance, the Zoning Administrator shall investigate the situation and determine whether a violation exists.

(2) Initial Notice of Violation

On determining that a violation exists, the Zoning Administrator shall give the responsible person(s) written notice of the violation, either in person or by certified or registered mail, return receipt requested. The notice shall describe the nature of the violation, state the actions necessary to correct the violation, and invite the alleged violator to meet with the Zoning Administrator to discuss the violation and how it may be corrected. The Zoning Administrator may provide the alleged violator additional written notices of violation.

(3) Final Notice of Violation; Correction Order

The Zoning Administrator's final written notice of violation (which may be the initial notice) shall also order correction of the violation, specify a reasonable time period within which the violation must be corrected, state which of the remedies and penalties authorized in Subsection (E) the Zoning Administrator may pursue if the violation is not corrected within the specified time limit, and state that the correction order may be appealed to the Board of Adjustment.

(4) Appeal to Board of Adjustment

Any person aggrieved by the Zoning Administrator's determination of a violation or correction order may appeal that determination or order to the Board of Adjustment in accord with the provisions of Subsection 1-1-5(C). As provided by that Subsection, an appeal generally stays all further actions to enforce a correction order until the Board of Adjustment has decided the appeal.

If the recipient of a correction order does not appeal the order to the Board of Adjustment within the time limit specified in Subsection 1-1-5(C), that person may not later appeal to the Board of Adjustment the subsequent imposition of any remedy or penalty specified in the order.

(5) Extension of Time Limit to Correct Violation

The recipient of a correction order, or the owner of the property on which the violation occurs, may submit to the Zoning Administrator a written request for extension of the order's specified time limit for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Zoning Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

(6) Enforcement Action After Time Limit to Correct Violation

Following the time limit for correction of the violation, including any stay or extension thereof, the Zoning Administrator shall determine whether the violation has been corrected. If the violation has been corrected, the Zoning Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the Zoning Administrator may act to impose one or more of the remedies and penalties specified in the correction order.

(7) Emergency Enforcement Without Notice

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in Subsection (E).

(E) REMEDIES AND PENALTIES

The Zoning Administrator may pursue one (1) or more of the following remedies and penalties to prevent, correct, or abate a violation of this ordinance. Use of one (1) of the authorized remedies and penalties does not preclude the Zoning Administrator from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (1) remedy or penalty from imposition of any other authorized remedies or penalties.

(1) Permit Revocation

In accord with the provisions of Subsection 1-1-23(E) of this Ordinance and the provisions of Chapter 2-4 (BUILDINGS AND BUILDING REGULATIONS) of the Wake County Code, the Zoning Administrator or Building Inspector may revoke any permit or other authorization granted under this Ordinance or under Chapter 2-4 of the Wake County Code for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance.

(2) **Permit Denial**

As long as a violation of this Ordinance remains uncorrected, the Zoning Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs.

(3) **Civil Penalty**

Violation of this Ordinance subjects the violator to a civil penalty in the amount of one hundred dollars (\$100.00). The Zoning Administrator may impose a civil penalty by giving the violator a written citation, either in person or by certified or registered mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the County within ten (10) days of the date the citation is received. If the violator fails to either pay the civil penalty or correct the violation within this time limit, the Zoning Administrator may institute a civil action in the nature of a debt in a court of competent jurisdiction to recover the civil penalty.

For purposes of assessing the amount of a civil penalty, each day the violation remains uncorrected after receipt of the correction order (or the receipt of the citation itself in the case of emergency enforcement) shall constitute a separate violation that subjects the violator to additional civil penalty.

(4) **Criminal Penalty**

As provided in Section 14-4 of the North Carolina General Statutes, violation of this Ordinance constitutes a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00), imprisonment for up to thirty (30) days, or both. The Zoning Administrator may refer a violation to the County Attorney for institution of a criminal prosecution of the alleged violator.

(5) **Injunction and Abatement Order**

The Zoning Administrator may institute action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the violator to correct or cease a violation of this Ordinance. Under Section 153A-123 of the North Carolina General Statutes, if the violator fails to comply with a court injunction or order of abatement and the County executes the order, the County will have a lien on the property on which the violation occurred for the County's costs in executing the order.

(6) **Other Equitable Relief**

In addition to the above remedies and penalties, the Zoning Administrator may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct, or abate a violation of this Ordinance.

[Section revised in its entirety 7/20/92 (O-92-17)]

SECTION 1-1-9 EFFECT OF INVALIDITY OF ONE SECTION; REPEALER

Should any Section or provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so held to be unconstitutional or invalid.

All ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 1-1-10 DATE EFFECTIVE

The date of effect of this Ordinance shall be from and after its passage and legal publication.

SECTION 1-1-11 SPECIAL USE PERMITS**(A) PURPOSE**

Regulations for the various zoning districts recognize and permit certain uses and developments that, because of their inherent nature, extent, and external effects, require special care in the control of their location, design, and methods of operation to ensure that their location in the particular district is appropriate and the public health, safety, and general welfare is protected. Such uses and developments are designated as special uses or as uses allowed only pursuant to a Special Use Permit. This Section sets forth procedures for submitting, reviewing, and approving a petition for a Special Use Permit, and for issuance and recordation of such Permits.

(B) GENERAL

Any use or development designated by applicable zoning district regulations as a special use, or as allowed only pursuant to a Special Use Permit, may be established in that district only after the use or development is authorized by a validly issued and recorded Special Use Permit. A Special Use Permit authorizes its holder to use or develop a particular parcel of land in a particular way, as specified by the Permit's terms and conditions. A Special Use Permit imposes on its holder the responsibility of ensuring that the authorized use or development continues to comply with the Permit's terms and conditions as long as the Permit remains valid. Issuance of a Special Use Permit does not relieve the Permit holder of the additional responsibility of obtaining a building permit or any other permit or approval required by any other applicable law.

(C) REQUIRED CONCLUSIONS

The Board of Adjustment shall not approve a petition for a Special Use Permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the hearing. The considerations listed below each required conclusion are intended to suggest some of the primary concerns pertinent to reaching the conclusion, but are not intended to be all-inclusive.

- (1) The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.
 - b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
 - c. Soil erosion and sedimentation.
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.
- (3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
 - b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.
- (4) The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- (5) The proposed development will be consistent with the Wake County Land Use Plan.

Considerations:

- a. Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- b. Consistency with the municipal and joint land use plans incorporated in the Plan.

(D) PROCEDURES FOR REVIEWING SPECIAL USE PERMIT PETITIONS**(1) Quasi-Judicial Nature of the Review Process**

Review of Special Use Permit petitions is a quasi-judicial process, where the Board of Adjustment acts much like a panel of judges. It hears factual evidence presented to it at an evidentiary hearing, then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the Board decides whether or not it can reach each of the required conclusions specified in Subsection (C) above.

Although Special Use Permit review procedures need not be as formal as those used by the courts, the same constitutional due process requirements apply. Thus interested parties have the right to offer evidence, cross-examine adverse witnesses, inspect documents, have sworn testimony, have the decision based only on evidence that is properly in the hearing record, and have written findings of fact supported by competent, substantial, and material evidence.

All interested parties have a right to know all the evidence being considered as part of the Board's decision. Hence the Board may consider only evidence presented at the evidentiary hearing on the petition, and it is improper for the petitioner or any other interested party to communicate with Board members about the petition outside of the hearing.

(2) **Pre-Petition Conference**

A person intending to submit a Special Use Permit petition is strongly encouraged to confer with the Planning Director before submitting the petition. At such conference, the Planning Director shall explain requirements applicable to the petition, (including the traffic impact analysis requirements of Section 1-1-30, if applicable) and shall identify potential conflicts with applicable standards, the Land Use Plan, and other relevant County policies concerning land development. *[Added Section 1-1-30 fragment and changed Zoning Administrator to Planning Director on 4/6/05 (OA 04/13)]*

(3) **Petition Submittal and Acceptance**

(a) Submittal

A person proposing uses or development requiring a Special Use Permit shall submit a Special Use Permit petition to the Planning Director. The petition shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the petitioner and owner(s) of the property on which development is proposed, describe the development site, identify and notify the owners of properties adjacent to the site, depict the nature and scope of the proposed development, and show how the development would allow each of the required conclusions to be reached. If required by Section 1-1-30, the petition shall also include a traffic impact analysis prepared in accordance with the requirements of Section 1-130. The Planning Director may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations or address the required conclusions. The petitioner shall also submit the fee prescribed for the type of petition by the Board of Commissioners, including any fee authorized for review of traffic impact analysis. *[Added Section 1-1-30 fragment, changed Zoning Administrator to Planning Director and added including any fee authorized fragment on 4/6/05 (OA 04/13)]*

(b) Acceptance of Petition

The Zoning Administrator shall review a submitted petition and determine whether it complies with submittal requirements. If the petition does not comply with submittal requirements, the Zoning Administrator shall notify the petitioner of the submittal deficiencies and invite the petitioner to revise the petition to correct the deficiencies. If or when the petition complies with all submittal requirements, the Zoning Administrator shall accept the petition as complete and notify the petitioner of its acceptance.

(4) **Staff Review**

After accepting a petition as complete, the Zoning Administrator shall refer it to appropriate staff for review. The review staff shall determine whether the proposed development complies with all applicable regulations and standards, and identify any other significant concerns as to whether the other required conclusions can be reached. The Zoning Administrator shall notify the petitioner of the staff findings and concerns, and, on determining that revisions to the petition could constructively address the staff findings, invite the petitioner to revise the petition to address those findings. If a revised petition is submitted, the Zoning Administrator shall cause it to be reviewed in the same manner as the original petition. The Zoning Administrator shall then prepare a staff report that summarizes the analysis and recommends approval or denial of the petition.

(5) Hearing Required

After the staff has completed its review, the Board of Adjustment shall hold a hearing on the petition at its next available regularly scheduled meeting. Once a hearing on the petition has been scheduled and advertised for a particular meeting, it shall be held at that meeting unless some emergency or special circumstance requires cancellation or early recess of the meeting itself.

(6) Notice of Hearing

At least ten (10) days before the hearing, the Zoning Administrator post notice of the hearing on the proposed development site and send written notice of the hearing to the petitioner and the owner of the property on which development is proposed, and to the owners of all real property adjoining or across the street from the property on which development is proposed (as identified in County tax listings current when the petition is filed).

On determining that the proposed development would likely have significant impacts on other properties in the neighborhood, the Zoning Administrator shall also send written notices to the owners of those properties (as identified in current County tax listings), and may require the petitioner to submit the additional materials necessary to provide such notices.

Notices to the petitioner and owner of the property on which the development is proposed shall be sent via certified mail, return receipt requested. All other mailed notices shall be sent via first-class mail.

On determining that the proposed development would likely have significant impacts on properties beyond the neighborhood of the proposed development site, the Zoning Administrator shall cause notice of the hearing to be published in a newspaper of general circulation in the County or area of the proposed development site. The notice shall be published in each of two (2) successive calendar weeks, with the first notice being published between ten (10) and twenty-five (25) days before the hearing date.

The hearing notices shall state the time and place of the hearing, briefly summarize the nature of the proposed development, and invite interested persons to review the petition at the Zoning Administrator's office and submit written or oral comments on the petition at the hearing.

(7) Submittal of Petition to Board

At a reasonable time before the hearing, the Zoning Administrator shall send members of the Board of Adjustment copies of the petition and the staff report. The Zoning Administrator shall also send the petitioner a copy of the staff report.

(8) Hearing

At the hearing, the Board shall receive the petition and staff report as evidence, and shall allow the petitioner and other interested parties the opportunity to offer evidence, cross-examine adverse witnesses, inspect documents, and offer evidence in explanation and rebuttal. Board members may question any interested party with respect to his or her testimony or evidence. Any Board member who has prior or specialized knowledge relevant to the petition (such as that gathered from a visit to the proposed development site) shall disclose such evidence at the hearing.

Unless waived by all parties, witnesses presenting evidence must do so under oath (sworn or affirmed). The Board's presiding officer may administer oaths to witnesses. The presiding officer may also take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the petition, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include barring the presentation of obvious hearsay evidence (e.g., another person's statement supporting or opposing the proposal), barring the presentation of non-expert opinion (i.e., an opinion from a person lacking sufficient experience or knowledge to form a basis for the opinion), interrupting digressions into immaterial testimony, interrupting repetitive testimony, reasonably limiting the time allotted each witness or cross-examination, providing for the selection of spokespersons to represent groups of persons with common interests, interrupting personal attacks, and ordering an end to disorderly conduct.

The Board may continue the hearing to a later meeting to accommodate additional witnesses or the presentation of additional testimony or evidence. If the time and place of the continued hearing is announced in open session during the hearing, no further notice need be given for the continued hearing.

(9) Board Review and Decision

Following the hearing, the Board shall review and discuss the evidence presented at the hearing, make specific findings of fact supported by that evidence, and determine whether or not such findings allow it to reasonably reach each of the required conclusions. In making findings of fact and reaching conclusions, the Board may consider only competent, substantial, and material evidence presented at the hearing.

The petitioner bears the burden of presenting sufficient evidence in support of the petition to allow the Board, after weighing such evidence against that presented in opposition to the petition, to make findings of fact that reasonably support each of the required conclusions. If that burden is met, the Board shall approve the petition. If that burden is not met, the Board shall deny the petition - provided, however, that if the Board determines that specific minor changes or additions to, or restrictions on, the proposed development are necessary and sufficient to overcome impediments to its reaching the required conclusions, it may approve the petition subject to reasonable conditions requiring such changes or additions or imposing such restrictions. Such conditions may include time limits for completion of development or for the start or end of certain uses or activities.

A resolution or motion to approve the petition shall state the required conclusions and include findings of fact on which the conclusions are based, plus any proposed conditions of approval. The favorable vote of at least four (4) Board members is necessary to adopt such a resolution or pass such a motion. A resolution or motion to deny the petition shall state which of the required conclusions cannot be reached and include findings of fact on which the inability to reach the conclusions is based. The favorable vote of a majority of Board members present is necessary to adopt such a resolution or pass such a motion. If a resolution or motion to approve the petition fails, the petition shall be deemed denied, and those members voting against the resolution or motion shall state which of the required conclusions they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

If the Board approves a petition that includes one or more plans qualifying as a site-specific development plan under Section 153A-344.1(b)(5) of the North Carolina General Statutes, it shall identify the approved plan(s) as a site specific development plan that triggers a vested right pursuant to Section 153A-344.1 of the North Carolina General Statutes.

(10) Opportunity to Revise Petition

After the Board has held the hearing and fully discussed the petition, but before it takes action on the petition, the petitioner may ask the Board for permission to revise the petition to address concerns raised during the hearing and Board discussion. If the Board grants the request, the revised petition shall be submitted to the Zoning Administrator, and shall be reviewed in the same manner as an original petition.

(11) Withdrawal of Petition

A petitioner may withdraw a Special Use Permit petition at any time by submitting written notice of the withdrawal to the Zoning Administrator.

(12) Timely Review of Petitions

The Zoning Administrator and Board of Adjustment shall make every reasonable effort to process, review, and act on Special Use Permit petitions in a timely manner, consistent with the need to fully consider the proposal's impact with respect to the required conclusions.

(E) NOTICE OF DECISION AND ISSUANCE OF SPECIAL USE PERMIT

The Zoning Administrator shall send the petitioner - via certified mail, return receipt requested - written notice of the Board's final decision on the petition, and shall file a copy of the decision in his or her office. If the petition is denied, the notice shall state the Board's reasons for its decision.

If the petition is approved, the Zoning Administrator shall issue the petitioner a Special Use Permit identifying the property to which it applies, the development plans on which it is based, and any conditions to which it is subject. The petitioner shall record the Permit in the office of the Wake County Register of Deeds.

(F) APPEAL OF DECISION

Any person aggrieved by the Board of Adjustment's decision to approve or deny a petition for a Special Use Permit may appeal the decision to Superior Court by an action in the nature of certiorari, provided the appeal is made within thirty (30) days after written notice of the decision is delivered to the petitioner, or a copy of the decision is filed in the Zoning Administrator's office, whichever is later.

(G) WAITING PERIOD FOR SUBSEQUENT PETITIONS

If the Board of Adjustment denies a Special Use Permit petition, or if the petitioner withdraws the petition after the hearing notice required in Subsection (D)(6), the Zoning Administrator shall not accept another petition for the same or similar use or development until at least one (1) year after the denial or withdrawal, unless the Board of Adjustment first approves the petitioner's request for an exemption from this provision.

(H) FINAL PLANS**(1) Final Plan Approval Required**

No use or development authorized by approval of a Special Use Permit petition may be established until the Special Use Permit has been recorded and the Zoning Administrator has approved, or certified others' approval of, final plans for the authorized development,

or for an approved phase thereof, as conforming to the plans, terms, and conditions of the Special Use Permit petition approval and as complying with all applicable requirements of this Ordinance.

(2) Plan Modifications

The Zoning Administrator may approve, or certify approval of, final plans that reflect minor modifications of the plans approved as part of the Special Use Permit petition on determining that the modifications continue to be consistent with the Board of Adjustment's approval of the Special Use Permit petition - i.e., that the modifications are necessary to comply with conditions of approval or would not significantly change the development's general function, form, intensity, character, appearance, demand on public facilities, relationship to adjacent properties, impact on adjacent properties, or other characteristic from that indicated by the plans and materials approved as part of the Special Use Permit petition. Before making such a determination, the Zoning Administrator shall review the record of the proceedings on the Special Use Permit petition and consider whether any proposed modification would require evidentiary support in addition to that on which the Board of Adjustment based its approval of the Special Use Permit petition.

(I) VALIDITY OF PERMIT

(1) Special Use Permit Binding on Land

A Special Use Permit runs with the land covered by the Permit and shall be binding on the original petitioner as well as any subsequent successor, heir, or assign of the property to which it applies. Once the Permit is recorded with the Register of Deeds, no use or development other than that authorized by the Permit shall be approved on that land unless the Permit is first voided or revoked in accord with this Subsection.

(2) Time Limits and Extensions

(a) Starting Time Limits

Approval of a Special Use Permit petition, as well as any County permit or approval granted pursuant to that approval, shall automatically become void if:

1. The approval authorizes development that requires a building permit, and the building permit is not been issued within two (2) years after the petition's approval date; or
2. The approval authorizes a use or development that does not require a building permit, and such use or development is not substantially started within two (2) years after the petition's approval date.

If the Special Use Permit has already been recorded when the approval expires, the Zoning Administrator shall record an instrument noting the voiding of the Special Use Permit in the office of Wake County Register of Deeds.

(b) Extension of Starting and Completion Time Limits

1. On request by the holder of a Special Use Permit, the Zoning Administrator may extend the date on which the Permit would otherwise expire under (a) by up to six (6) months on determining that:
 - a. The Permit has not yet expired;

- b. The Permit holder has proceeded with due diligence and good faith to start or continue the authorized use or development; and
 - c. Conditions or applicable regulations have not changed so substantially as to warrant reconsideration of the proposed use or development with respect to the public health, safety, and general welfare.
- 2. If a Special Use Permit petition is approved subject to a condition specifying a time limit for completion of authorized development, the Zoning Administrator may grant a single extension to that time limit for a period of up to twelve (12) months - provided that:
 - a. The holder of the Permit requests such extension within sixty (60) days of the completion date;
 - b. The Permit holder has proceeded with due diligence and good faith to complete the authorized development by the completion date; and
 - c. Conditions or applicable regulations have not changed so substantially as to warrant reconsideration of the proposed use or development with respect to the public health, safety, and general welfare.

(3) Abandonment of Permit

On request by the holder of a Special Use Permit, the Zoning Administrator shall approve the abandonment of the Special Use Permit on determining that the starting time limit established in Paragraph (2) has not expired, or that the use or development authorized by the Permit no longer requires a Special Use Permit.

On approving the abandonment of a Special Use Permit, the Zoning Administrator shall issue the Permit holder a certification of Permit abandonment. The abandonment shall not become effective until the Permit holder records that certification in the office of the Register of Deeds.

(4) Cessation of Use

If the use authorized by a Special Use Permit is started, but ceases for a continuous period of twelve (12) months, the Permit shall automatically become void. The Zoning Administrator shall then record an instrument noting the voiding of the Special Use Permit in the office of Wake County Register of Deeds.

(5) Revocation of Permit

In accord with Section 1-1-23(E), the Zoning Administrator may revoke a Special Use Permit for failure to comply with the requirements of this Section or the terms and conditions of the Permit. The Zoning Administrator may also revoke a Special Use Permit in response to a request by the Permit holder on determining that:

- (a) The Permit is still valid and any completion time limit has not yet expired;
- (b) The request is made in conjunction with an application for approval of development other than that authorized by the Permit; and

- (c) The proposed design of the new development incorporates adequate consideration of the site's already-disturbed land area and previous commitments made as part of the Special Use Permit review process.

On revoking a Special Use Permit, the Zoning Administrator shall record an instrument noting the voiding of the Special Use Permit in the office of Wake County Register of Deeds.

(J) **TEMPORARY SPECIAL USES**

Subject to the provisions in Subsections (A) through (I), the Board of Adjustment may grant a temporary special use permit for the following uses. Except as otherwise provided in Subparagraph (1) (c), such permits shall authorize the temporary use for a period of no more than two (2) years. Temporary special use permits shall not be renewed except upon a compelling showing of the need therefor.

(1) **Temporary Second Dwellings for Custodial Care**

In all zoning districts which allow residences as a general use, the Board of Adjustment may permit a second nonpermanent dwelling on a lot when the landowner or occupant, or a family member of the landowner or occupant, requires at-home custodial care because of advanced age or medical condition.

- (a) The following shall be submitted as part of the petition for the temporary special use permit:
 1. A recommendation from the Director of the Wake County Department of Human Services that the permit shall be considered based on the attending physician's written statement certifying medical need for custodial care because of advanced age or medical condition;
 2. An improvements permit from the Wake County Department of Environmental Services for a septic system for the second dwelling, or a statement from the Department's Director certifying that an improvements permit is not required;
 3. A floor plan showing that the existing dwelling is insufficient to provide independent private living space for both the needy individual and the custodian(s); and
 4. An affidavit signed by the petitioner declaring and acknowledging that the petitioner will remove the second dwelling within sixty (60) days after the medical necessity ceases to exist or after the temporary special use permit expires, whichever occurs first.
- (b) If the temporary special use permit is approved by the Board of Adjustment, adjacent property owners shall be notified that the temporary special use permit is for purposes of custodial care and is not permission to allow a rental unit on the property:
- (c) If the need for custodial care still exists after two (2) years, the Zoning Administrator may renew the temporary special use permit. The Permit holder shall submit information to the Zoning Administrator sufficient to make a finding that requirements (a) 1. and 2. above, will still be met.

[Added 11/21/88 (R-88-113); Amended 7/13/98 to replace references to application and applicant with references to petitioner or Permit holder, and to update Department references (O-98-24)]

(2) Temporary Development-Related Activities

In all zoning districts except R-80W and R-40W Districts, where such uses are prohibited other than as permitted in Paragraph (3), the Board of Adjustment may permit the following development-related activities:

- (a) Asphalt plants;
- (b) Quarries;
- (c) Saw mills;
- (d) Other types of uses which are necessary for development or redevelopment of the area, and which will not have an unduly injurious effect upon adjoining or nearby areas which are already developed.

[Amended 5/18/87 to add prohibition in R-80W and R-40W Districts, and to move from Section (E) to Paragraph (1) (R-87-52); amended 11/21/88 to renumber from (1) to (2) and to change reference from Subsection 1-1-11(E)(2) to 1-1-11(E)(3) (R-88-113); amended 7/13/98 to add Paragraph title and to add the last clause to the introductory provision (O-98-24)]

(3) Temporary Quarries in Watershed Districts

In R-80 Watershed and R-40 Watershed Districts, temporary quarries for special materials not practicably available in other areas of the County may be granted as a temporary special use by the Board of Adjustment. *[Added 5/18/87 (R-87-52); amended 11/21/88 to renumber from (2) to (3) (R-88-113); amended 7/13/98 to add Paragraph title and to provide for approval by the Board of Adjustment rather than Board of Commissioners (O-98-24)]*

[Amended 11/21/88 to add reference to (1)(c) (R-88-113); amended 7/13/98 to renumber Subsection from (E), to refer to the procedural provisions in Subsections (A) - (I), and to require a compelling showing of need for Permit renewals (O-98-24)]

[Section added 4/2/79; amended 7/13/98 to substitute Subsections (A)-(I) for previous Subsections (A)-(D) and (F) (O-98-24)]

SECTION 1-1-11.1 CONDITIONAL USE PERMITS**(A) PURPOSE**

Regulations for the various zoning districts recognize and permit certain uses and developments that, because of their inherent nature, extent, and external effects, require special care in the control of their location, design, and methods of operation to ensure that their location in the particular district is appropriate and the public health, safety, and general welfare is protected. Such uses and developments are designated as uses allowed only pursuant to a Conditional Use Permit in the table, Type of Permit Required for Proposed Land Uses (see Section 1-1-5.1). This Section sets forth procedures for submitting, reviewing, and approving a petition for a Conditional Use Permit, and for issuance and recordation of such Permits.

(B) GENERAL

Any use or development designated by applicable zoning regulations as allowed only pursuant to a Conditional Use Permit in the table, Type of Permit Required for Proposed Land Uses (see Section 1-1-5.1), may be established only after the use or development is authorized by a validly issued and recorded Conditional Use Permit. A Conditional Use Permit authorizes its holder to use or develop a particular parcel of land in a particular way, as specified by the Permit's terms and conditions. A Conditional Use Permit imposes on its holder the responsibility of ensuring that the authorized use or development continues to comply with the Permit's terms and conditions as long as the Permit remains valid. Issuance of a Conditional Use Permit does not relieve the Permit holder of the additional responsibility of obtaining a building permit or any other permit or approval required by any other applicable law.

(C) REQUIRED CONCLUSIONS

The Planning Board shall not approve a petition for a Conditional Use Permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence presented at the hearing. The considerations listed below each required conclusion are intended to suggest some of the primary concerns pertinent to reaching the conclusion, but are not intended to be all-inclusive.

- (1) The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.
 - b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
 - c. Soil erosion and sedimentation.
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of Conditional Use Permit or class of Conditional Use Permits.

(D) PROCEDURES FOR REVIEWING CONDITIONAL USE PETITIONS**(1) Nature of the Review Process**

The Planning Board acts as the permit issuing authority for all uses listed as requiring a Conditional Use Permit in the table, Type of Permit Required for Proposed Land Uses (see

Section 1-1-5.1). It hears factual evidence presented to it at an evidentiary hearing, then makes findings of fact supported by competent, substantial, and material evidence. Based on those findings, the Board decides whether or not it can reach each of the required conclusions specified in Subsection (C) above.

Although Conditional Use Permit review procedures need not be as formal as those used by the courts or the Wake County Board of Adjustment, the same constitutional due process requirements apply. Thus interested parties have the right to offer evidence, cross-examine adverse witnesses, inspect documents, have sworn testimony, have the decision based only on evidence that is properly in the hearing record, and have written findings of fact supported by competent, substantial, and material evidence.

All interested parties have a right to know all the evidence being considered as part of the Board's decision. Hence the Board may consider only evidence presented at the evidentiary hearing on the petition, and it is improper for the petitioner or any other interested party to communicate with Board members about the petition outside of the hearing.

(2) Pre-Petition Conference

A person intending to submit a Conditional Use Permit petition is strongly encouraged to confer with the Planning Director before submitting the petition. At such conference, the Planning Director shall explain requirements applicable to the petition and shall identify potential conflicts with applicable standards, the Land Use Plan, and other relevant County policies concerning land development.

(3) Petition Submittal and Acceptance

(a) Submittal

A person proposing uses or development requiring a Conditional Use Permit shall submit a Conditional Use Permit petition to the Planning Director. The petition shall include, with sufficient copies for necessary referrals and records, those forms, maps, plans, and other documents prescribed by the Planning Director as necessary to identify the petitioner and owner(s) of the property on which development is proposed, describe the development site, identify and notify the owners of properties adjacent to the site, depict the nature and scope of the proposed development, and show how the development would allow each of the required conclusions to be reached. The Planning Director may waive submittal requirements he or she certifies in writing as unnecessary in the particular case to determine compliance with applicable regulations or address the required conclusions. The petitioner shall also submit the fee prescribed for the type of petition by the Planning Board.

(b) Acceptance of Petition

The Planning Director shall review a submitted petition and determine whether it complies with submittal requirements. If the petition does not comply with submittal requirements, the Planning Director shall notify the petitioner of the submittal deficiencies and invite the petitioner to revise the petition to correct the deficiencies. If or when the petition complies with all submittal requirements, the Planning Director shall accept the petition as complete and notify the petitioner of its acceptance.

(4) Staff Review

After accepting a petition as complete, the Planning Director shall refer it to appropriate staff for review. The review staff shall determine whether the proposed development complies with all applicable regulations and standards, and identify any other significant concerns as to whether the other required conclusions can be reached. The Planning Director shall notify the petitioner of the staff findings and concerns, and, on determining that revisions to the petition

could constructively address the staff findings, invite the petitioner to revise the petition to address those findings. If a revised petition is submitted, the Planning Director shall cause it to be reviewed in the same manner as the original petition. The Planning Director shall then prepare a staff report that summarizes the analysis and recommends approval or denial of the petition.

(5) Hearing Required

After the staff has completed its review, the Planning Board shall hold a hearing on the petition at its next available regularly scheduled meeting. Once a hearing on the petition has been scheduled and advertised for a particular meeting, it shall be held at that meeting unless some emergency or special circumstance requires cancellation or early recess of the meeting itself.

(6) Notice of Hearing

At least ten (10) days before the hearing, the Planning Director shall post notice of the hearing on the proposed development site and send written notice of the hearing to the petitioner and the owner of the property on which development is proposed, and to the owners of all real property adjoining or across the street from the property on which development is proposed (as identified in County tax listings current when the petition is filed).

On determining that the proposed development would likely have significant impacts on other properties in the neighborhood, the Planning Director shall also send written notices to the owners of those properties (as identified in current County tax listings), and may require the petitioner to submit the additional materials necessary to provide such notices.

Notices to the petitioner and owner of the property, on which the development is proposed, shall be sent via certified mail, return receipt requested. All other mailed notices shall be sent via first-class mail.

On determining that the proposed development would likely have significant impacts on properties beyond the neighborhood of the proposed development site, the Planning Director shall cause notice of the hearing to be published in a newspaper of general circulation in the County or area of the proposed development site. The notice shall be published in each of two (2) successive calendar weeks, with the first notice being published between ten (10) and twenty-five (25) days before the hearing date.

The hearing notices shall state the time and place of the hearing, briefly summarize the nature of the proposed development, and invite interested persons to review the petition at the Planning Director's office and submit written or oral comments on the petition at the hearing.

(7) Submittal of Petition to Board

At a reasonable time before the hearing, the Planning Director shall send members of the Planning Board copies of the petition and the staff report. The Planning Director shall also send the petitioner a copy of the staff report.

(8) Hearing

At the hearing, the Board shall receive the petition and staff report as evidence, and shall allow the petitioner and other interested parties the opportunity to offer evidence, cross-examine adverse witnesses, inspect documents, and offer evidence in explanation and rebuttal. Board members may question any interested party with respect to his or her testimony or evidence. Any Board member who has prior or specialized knowledge relevant to the petition (such as that gathered from a visit to the proposed development site) shall disclose such evidence at the hearing.

Unless waived by all parties, witnesses presenting evidence must do so under oath (sworn or affirmed). The Board's presiding officer may administer oaths to witnesses. The presiding officer may also take whatever action is necessary to limit testimony to the presentation of new factual evidence that is material to the petition, to ensure fair and orderly proceedings, and to otherwise promote the efficient and effective gathering of evidence. Such actions may include barring the presentation of obvious hearsay evidence (e.g., another person's statement supporting or opposing the proposal), barring the presentation of non-expert opinion (i.e., an opinion from a person lacking sufficient experience or knowledge to form a basis for the opinion), interrupting digressions into immaterial testimony, interrupting repetitive testimony, reasonably limiting the time allotted each witness or cross-examination, providing for the selection of spokespersons to represent groups of persons with common interests, interrupting personal attacks, and ordering an end to disorderly conduct.

The Board may continue the hearing to a later meeting to accommodate additional witnesses or the presentation of additional testimony or evidence. If the time and place of the continued hearing is announced in open session during the hearing, no further notice need be given for the continued hearing.

(9) Board Review and Decision

Following the hearing, the Board shall review and discuss the evidence presented at the hearing, make specific findings of fact supported by that evidence, and determine whether or not such findings allow it to reasonably reach each of the required conclusions. In making findings of fact and reaching conclusions, the Board may consider only competent, substantial, and material evidence presented at the hearing.

The petitioner bears the burden of presenting sufficient evidence in support of the petition to allow the Board, after weighing such evidence against that presented in opposition to the petition, to make findings of fact that reasonably support each of the required conclusions. If that burden is met, the Board shall approve the petition. If that burden is not met, the Board shall deny the petition - provided, however, that if the Board determines that specific minor changes or additions to, or restrictions on, the proposed development are necessary and sufficient to overcome impediments to its reaching the required conclusions, it may approve the petition subject to reasonable conditions requiring such changes or additions or imposing such restrictions. Such conditions may include time limits for completion of development or for the start or end of certain uses or activities.

A resolution or motion to approve the petition shall state the required conclusions and include findings of fact on which the conclusions are based, plus any proposed conditions of approval. The favorable vote of at least six (6) of the ten (10) Board members (a simple majority) is necessary to adopt such a resolution or pass such a motion. A resolution or motion to deny the petition shall state which of the required conclusions cannot be reached and include findings of fact on which the inability to reach the conclusions is based. The favorable vote of a majority of Board members present is necessary to adopt such a resolution or pass such a motion. If a resolution or motion to approve the petition fails, the petition shall be deemed denied, and those members voting against the resolution or motion shall state which of the required conclusions they could not reach as well as findings of fact on which their inability to reach the conclusions is based.

If the Board approves a petition that includes one or more plans qualifying as a site-specific development plan under Section 153A-344.1(b)(5) of the North Carolina General Statutes, it shall identify the approved plan(s) as a site specific development plan that triggers a vested right pursuant to Section 153A-344.1 of the North Carolina General Statutes.

(10) Opportunity to Revise Petition

After the Board has held the hearing and fully discussed the petition, but before it takes action on the petition, the petitioner may ask the Board for permission to revise the petition to address concerns raised during the hearing and Board discussion. If the Board grants the request, the revised petition shall be submitted to the Planning Director, and shall be reviewed in the same manner as an original petition.

(11) Withdrawal of Petition

A petitioner may withdraw a Conditional Use Permit petition at any time by submitting written notice of the withdrawal to the Planning Director.

(12) Timely Review of Petitions

The Planning Director and Planning Board shall make every reasonable effort to process, review, and act on Conditional Use Permit petitions in a timely manner, consistent with the need to fully consider the proposal's impact with respect to the required conclusions.

(E) NOTICE OF DECISION AND ISSUANCE OF CONDITIONAL USE PERMIT

The Planning Director shall send the petitioner - via certified mail, return receipt requested - written notice of the Board's final decision on the petition, and shall file a copy of the decision in his or her office. If the petition is denied, the notice shall state the Board's reasons for its decision.

If the petition is approved, the Planning Director shall issue the petitioner a Conditional Use Permit identifying the property to which it applies, the development plans on which it is based, and any conditions to which it is subject. The petitioner shall record the Permit in the office of the Wake County Register of Deeds.

(F) APPEAL OF DECISION

Any person aggrieved by the Board of Commissioner's decision to approve or deny a petition for a Conditional Use Permit may appeal the decision to the Wake County Board of Commissioners, provided the appeal is made within thirty (30) days after written notice of the decision is delivered to the petitioner, or a copy of the decision is filed in the Planning Director's office, whichever is later.

(G) WAITING PERIOD FOR SUBSEQUENT PETITIONS

If the Planning Board denies a Conditional Use Permit petition, or if the petitioner withdraws the petition after the hearing notice required in Subsection (D)(6), the Planning Director shall not accept another petition for the same or similar use or development until at least one (1) year after the denial or withdrawal, unless the Planning Board first approves the petitioner's request for an exemption from this provision.

(H) FINAL PLANS**(1) Final Plan Approval Required**

No use or development authorized by approval of a Conditional Use Permit petition may be established until the Conditional Use Permit has been recorded and the Planning Director has approved, or certified others' approval of, final plans for the authorized development, or for an approved phase thereof, as conforming to the plans, terms, and conditions of the Conditional Use Permit petition approval and as complying with all applicable requirements of this

Ordinance.

(2) Plan Modifications

The Planning Director may approve, or certify approval of, final plans that reflect minor modifications of the plans approved as part of the Conditional Use Permit petition on determining that the modifications continue to be consistent with the Board of Commissioner's approval of the Conditional Use Permit petition - i.e., that the modifications are necessary to comply with conditions of approval or would not significantly change the development's general function, form, intensity, character, appearance, demand on public facilities, relationship to adjacent properties, impact on adjacent properties, or other characteristic from that indicated by the plans and materials approved as part of the Conditional Use Permit petition.

Before making such a determination, the Planning Director shall review the record of the proceedings on the Conditional Use Permit petition and consider whether any proposed modification would require evidentiary support in addition to that on which the Planning Board based its approval of the Conditional Use Permit petition.

(I) VALIDITY OF PERMIT

(1) Conditional Use Permit Binding on Land

A Conditional Use Permit runs with the land covered by the Permit and shall be binding on the original petitioner as well as any subsequent successor, heir, or assign of the property to which it applies. Once the Permit is recorded with the Register of Deeds, no use or development other than that authorized by the Permit shall be approved on that land unless the Permit is first voided or revoked in accordance with this Subsectionu.

(2) Time Limits and Extensions

(a) Starting Time Limits

Approval of a Conditional Use Permit petition, as well as any County permit or approval granted pursuant to that approval, shall automatically become void if:

1. The approval authorizes development that requires a building permit, and the building permit is not been issued within two (2) years after the petition's approval date; or
2. The approval authorizes a use or development that does not require a building permit, and such use or development is not substantially started within two (2) years after the petition's approval date.

If the Conditional Use Permit has already been recorded when the approval expires, the Planning Director shall record an instrument noting the voiding of the Conditional Use Permit in the office of Wake County Register of Deeds.

(b) Extension of Starting and Completion Time Limits

1. On request by the holder of a Conditional Use Permit, the Planning Director may extend the date on which the Permit would otherwise expire under (a) by up to six (6) months on determining that:
 - a. The Permit has not yet expired;
 - b. The Permit holder has proceeded with due diligence and good faith to start or continue the authorized use or development; and
 - c. Conditions or applicable regulations have not changed so substantially as to

warrant reconsideration of the proposed use or development with respect to the public health, safety, and general welfare.

2. If a Conditional Use Permit petition is approved subject to a condition specifying a time limit for completion of authorized development, the Planning Director may grant a single extension to that time limit for a period of up to twelve (12) months - provided that:
 - a. The holder of the Permit requests such extension within sixty (60) days of the stated completion date;
 - b. The Permit holder has proceeded with due diligence and good faith to complete the authorized development by the stated completion date; and
 - c. Conditions or applicable regulations have not changed so substantially as to warrant reconsideration of the proposed use or development with respect to the public health, safety, and general welfare.

(3) Abandonment of Permit

On request by the holder of a Conditional Use Permit, the Planning Director shall approve the abandonment of the Conditional Use Permit on determining that the starting time limit established in Paragraph (2) has not expired, or that the use or development authorized by the Permit no longer requires a Conditional Use Permit.

On approving the abandonment of a Conditional Use Permit, the Planning Director shall issue the Permit holder a certification of Permit abandonment. The abandonment shall not become effective until the Permit holder records that certification in the office of the Wake County Register of Deeds.

(4) Cessation of Use

If the use authorized by a Conditional Use Permit is started, but ceases for a continuous period of twelve (12) months, the Permit shall automatically become void. The Planning Director shall then record an instrument noting the voiding of the Conditional Use Permit in the office of Wake County Register of Deeds.

(5) Revocation of Permit

In accordance with Section 1-1-23(E), the Planning Director may revoke a Conditional Use Permit for failure to comply with the requirements of this Section or the terms and conditions of the Permit. The Planning Director may also revoke a Conditional Use Permit in response to a request by the Permit holder on determining that:

- (a) The Permit is still valid and any completion time limit has not yet expired;
- (b) The request is made in conjunction with an application for approval of development other than that authorized by the Permit; and
- (c) The proposed design of the new development incorporates adequate consideration of the site's already-disturbed land area and previous commitments made as part of the Conditional Use Permit review process.

On revoking a Conditional Use Permit, the Planning Director shall record an instrument noting the voiding of the Conditional Use Permit in the office of Wake County Register of Deeds.

[Added entire section on 1/14/05 (OA 04/03)]

SECTION 1-1-12 MUNICIPAL SOLID WASTE LANDFILLS**(A) APPLICATION OF SECTION**

Municipal solid waste landfills, as defined in Section 1-1-1 of this Ordinance, are permitted as special uses in any zoning district in compliance with the terms and conditions of this Section and the Wake County Code, except in R-80W, R-40W, WS-II, WCAO, WMAO, WPAO, and WPAO-2 districts, where these uses are prohibited.

(B) PROCEDURAL EQUIREMENTS

Municipal solid waste landfills shall only be established as special uses approved in accordance with the Special Use Permit review procedures set forth in Section 1-1-11, as modified by the following:

(1) Preliminary Site Plan

A petition for a special use permit for a municipal solid waste landfill shall include a preliminary site plan that indicates the following: soils on the site according to the Wake County Soil Survey; location of community water supplies within one thousand (1,000) feet of the site; drainage area upstream from the property; and proposed access to the site, including the intersection with a state maintained road. The petition shall also include a written report that includes the following: name of person or persons responsible for operation and maintenance of the site; proposed uses of the site after closing of the operations; population and area expected to be served by the site; anticipated type, quantity, and source of material to be disposed of at the site; anticipated lifetime of the project; and any other information pertinent to the proposed use.

(2) Final Site Development Plan

If the Special Use Permit petition is approved, the petitioner shall then submit a final site development plan to the Zoning Administrator. The final site development plan shall meet the requirements of Subsection (D) and indicates the methods by which the standards of Subsection (C) shall be fulfilled, and shall be consistent with the approval of the special use petition and preliminary plan. It shall be accompanied by evidence of approval of applicable plans and permits in accord with State regulations. No land use permit for the landfill shall be issued, and no development of the landfill shall begin, unless and until the Zoning Administrator has approved the final site development plan as fully complying with the requirements of this Section.

(C) SITE AND LOCATION STANDARDS FOR MUNICIPAL SOLID WASTE LANDFILLS**(1) Traffic and Access**

Ingress to and egress from the landfill shall be along a road or driveway that is designed to serve only the landfill, and such road or driveway shall intersect directly with a State-maintained road. Landfill traffic routed to and from such intersection shall not be through a residential neighborhood where the streets are primarily intended to provide access to adjacent residences.

(2) Buffer Area

A buffer area of undisturbed land around all sides of the landfill shall be established to fulfill the following purposes: conserving the value of buildings and protecting groundwater supplies on adjacent properties; minimizing such operational effects of the landfill,

including, but not limited to, noise, odor, dust, and vibrations; and protecting adjacent land uses that are particularly sensitive to the presence of a municipal solid waste landfill. A standard buffer area of undisturbed land of fifty (50) feet shall be established around all sides of the landfill. The standard buffer area may be increased where it is necessary to fulfill the purposes of buffering. Where a proposed municipal solid waste landfill is adjacent to an existing landfill that has been officially closed in accordance with appropriate governmental regulations, the required buffer area on the side adjacent to the existing landfill shall be thirty (30) feet in width when the landfills are under separate ownership, and zero (0) feet when under common ownership.

(3) **Reserved**

(4) **Visual Screen**

A visual screen of at least fifty (50) percent opacity shall be established around that portion of the landfill that is excavated or being filled for current operations. Such screening is required only when the excavated or filled area is visible at eye level at ground elevation from State-maintained thoroughfares, residences, and buildings, but not including accessory buildings on properties adjacent to the landfill. When in the course of landfill operations, excavated or filled areas are stabilized in accordance with the standards and specifications of the Wake County Soil Erosion and Sedimentation Control Ordinance, required artificial screening may be removed.

(5) **Existing Vegetation**

Community Services may exempt the applicant from all or part of the visual screening requirements of Subsection (C)(4) when existing vegetative cover will fulfill these requirements. Such natural screening may consist of existing vegetative cover including but not limited to trees and shrubs having an opacity of not less than fifty (50) percent at all seasons of the year. Screening may also consist of earthen berms or other artificial screens used individually or in combination with each other and existing vegetation to achieve a screening effect of at least fifty (50) percent opacity during all seasons of the year. Screening materials and vegetation may be located in required buffer areas.

(6) **Modify Screen**

The Board of Adjustment may waive or modify the screening requirements where, due to topographic conditions, screening cannot provide a fifty (50) percent opacity screening effect.

(7) **Waive Screen**

Screening requirements may be waived along those sides or portions thereof of the landfill not visible from state maintained roads where the adjacent property owner entitled to screening by this Section indicates in writing to the Board of Adjustment that such screening is not necessary or desirable.

(8) **Storage Prohibited in Buffer Areas**

Notwithstanding any other provision of this Code, no storage of vehicles or machinery and no accessory buildings are permitted within any buffer area.

(9) **Hours of Operation**

The hours of operation shall be limited from 7:00 a.m. to 7:00 p.m. except that the hours of

operation may be extended when the Director of Wake County Department of Community Services certifies that sanitation conditions require an extension of operating hours.

(10) Cover, Stabilize

Municipal solid waste landfills shall be covered in accordance with the "Solid Waste Management Rules" of the North Carolina Department of Human Resources, Division of Health Services, or successor agency, 10 NCAC Subchapter 10G, as amended periodically. Municipal solid waste landfills shall be stabilized in accordance with the standards and specifications of the Wake County Soil Erosion and Sedimentation Control Ordinance.

(11) Exterior Lighting

Exterior lighting shall not cause illumination in excess of one (1) foot-candle at any property line; except that internally illuminated signs at the entrance to the landfill may exceed this standard where necessary.

(12) Transitional Bufferyards and Screening

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-12, the Section 1-1-29 requirements shall control.

(D) SITE DEVELOPMENT PLAN REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILLS

Site development plans shall be at a scale appropriate to show and include the following information:

- (1) All of the information required by the "Solid Waste Management Rules" of the North Carolina Department of Human Resources, Division of Health Services, or successor agency.
- (2) Proposed access to the landfill including its location on the site, intersection with a State-maintained road, sight distances, and construction and maintenance standards.
- (3) Views from thoroughfares, residences, and other buildings enumerated in Subsection (C)(4) shall be illustrated through graphics showing topographic sections in the affected areas and through photographs.
- (4) Proposed screening, where it is required in initial or subsequent phases, shall be shown, and the plan shall describe how these requirements shall be fulfilled by specifically mentioning dimensions, varieties, timing, and other specifications.
- (5) Buffer areas shall be indicated on site development plans.
- (6) Location of utilities, accessory buildings, and storage areas.
- (7) Erosion control and final stabilization plans.

[Section added 4/2/79; revised in its entirety 5/1/00 (O-00-15)]

SECTION 1-1-13 LAND CLEARING AND INERT DEBRIS LANDFILLS AND CONSTRUCTION AND DEMOLITION LANDFILLS**(A) APPLICATION OF SECTION**

Land clearing and inert debris landfills and construction and demolition landfills, as defined in Section 1-1-1 of this Ordinance, are permitted as special uses in any zoning district in compliance with the terms and conditions of this Section and the Wake County Code, except in R-80-W and WCAO districts, where these uses are prohibited.

(B) PROCEDURAL REQUIREMENTS

Land clearing and inert debris landfills and construction and demolition landfills shall only be established as special uses approved in accordance with the Special Use Permit review procedures set forth in Section 1-1-11, as modified by the following:

(1) Preliminary Site Plan

A petition for a special use permit for a land clearing and inert debris landfill or construction and demolition landfill shall include a preliminary site plan that indicates the following: soils on the site according to the Wake County Soil Survey; location of community water supplies within one thousand (1,000) feet of the site; drainage area upstream from the property; and proposed access to the site, including the intersection with a state maintained road. The petition shall also include a written report that includes the following: name of person or persons responsible for operation and maintenance of the site; proposed uses of the site after closing of the operations; population and area expected to be served by the site; anticipated type, quantity, and source of material to be disposed of at the site; anticipated lifetime of the project; and any other information pertinent to the proposed use.

(2) Final Site Development Plan

If the Special Use Permit petition is approved, the petitioner shall then submit a final site development plan to the Zoning Administrator. The final site development plan shall meet the requirements of Subsection (D) and indicates the methods by which the standards of Subsection (C) shall be fulfilled, and shall be consistent with the approval of the special use petition and preliminary plan. It shall be accompanied by evidence of approval of applicable plans and permits in accord with State regulations. No land use permit for the landfill shall be issued, and no development of the landfill shall begin, unless and until the Zoning Administrator has approved the final site development plan as fully complying with the requirements of this Section.

(C) SITE AND LOCATION STANDARDS FOR LAND CLEARING AND INERT DEBRIS LANDFILLS AND CONSTRUCTION AND DEMOLITION LANDFILLS**(1) Traffic and Access**

Land clearing and inert debris landfills and construction and demolition landfills shall be located where roads which will provide access to such landfills are constructed to NCDOT standards for the width and rated tonnage of the trucks that will be using the landfill. The additional truck traffic to the site shall not cause roads providing access to the site to drop to a level of service below "D" as defined by NCDOT. Ingress to and egress from the landfill shall be along a road or driveway that intersects directly with a State-maintained road. Landfill traffic routed to and from such intersection shall not be through a residential neighborhood where the streets are primarily intended to provide access to adjacent

residences.

(2) **Buffer Area**

A buffer area of undisturbed land around all sides of the landfill shall be established to fulfill the following purposes: conserving the value of buildings and protecting groundwater supplies on adjacent properties; minimizing such operational effects of the landfill, including, but not limited to, noise, odor, dust, and vibrations; and protecting adjacent land uses that are particularly sensitive to the presence of a land clearing and inert debris landfill or construction and demolition landfill. A standard buffer area of undisturbed land of fifty (50) feet shall be established around all sides of the landfill. The standard buffer area may be increased where it is necessary to fulfill the purposes of buffering. Where a proposed land clearing and inert debris landfill or construction and demolition landfill is adjacent to an existing landfill that has been officially closed in accordance with appropriate governmental regulations, the required buffer area on the side adjacent to the existing landfill shall be thirty (30) feet in width when the landfills are under separate ownership, and zero (0) feet when under common ownership.

(3) **Locations in Noncritical Areas of Water Supply Watersheds**

Land clearing and inert debris landfills and construction and demolition landfills may be located in R-40W, WS-II, WMAO, WPAO, and WPAO-2 districts if the applicant can demonstrate, through information and plans submitted during the review process, that there will be no adverse effects from the landfill on public water supplies.

(4) **Visual Screen**

A visual screen of at least fifty (50) percent opacity shall be established around that portion of the landfill that is excavated or being filled for current operations. Such screening is required only when the excavated or filled area is visible at eye level at ground elevation from State-maintained thoroughfares, residences, and buildings, but not including accessory buildings on properties adjacent to the landfill. When in the course of landfill operations, excavated or filled areas are stabilized in accordance with the standards and specifications of the Wake County Soil Erosion and Sedimentation Control Ordinance, required artificial screening may be removed.

(5) **Existing Vegetation**

Community Services may exempt the applicant from all or part of the visual screening requirements of Subsection (C)(4) when existing vegetative cover will fulfill these requirements. Such natural screening may consist of existing vegetative cover including but not limited to trees and shrubs having an opacity of not less than fifty (50) percent at all seasons of the year. Screening may also consist of earthen berms or other artificial screens used individually or in combination with each other and existing vegetation to achieve a screening effect of at least fifty (50) percent opacity during all seasons of the year. Screening materials and vegetation may be located in required buffer areas.

(6) **Reserved**

(7) **Waive Screen**

Screening requirements may be waived along those sides or portions of the landfill not visible from state maintained roads where the adjacent property owner entitled to screening by this Section indicates in writing to the Board of Adjustment that such screening is not necessary or desirable.

(8) **Storage Prohibited in Buffer Areas**

Notwithstanding any other provision of this Code, no storage of vehicles or machinery and no accessory buildings are permitted within any buffer area.

(9) **Hours of Operation**

The hours of operation shall be limited from 7:00 a.m. to 7:00 p.m. except that the hours of operation may be extended when the Director of Wake County Department of Community Services certifies that sanitation conditions require an extension of operating hours.

(10) **Exterior Lighting**

Exterior lighting shall not cause illumination in excess of one (1) foot-candle at any property line; except that internally illuminated signs at the entrance to the landfill may exceed this standard where necessary.

(11) **Transitional Bufferyards and Screening**

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-12, the Section 1-1-29 requirements shall control.

(D) **SITE DEVELOPMENT PLAN REQUIREMENTS**

Site development plans shall be at a scale appropriate to show and include the following information:

- (1) All of the information required by the "Solid Waste Management Rules" of the North Carolina Department of Human Resources, Division of Health Services, or successor agency.
- (2) Proposed access to the landfill including its location on the site, intersection with a State-maintained road, sight distances, and construction and maintenance standards.
- (3) Views from thoroughfares, residences, and other buildings enumerated in Subsection (C)(4) shall be illustrated through graphics showing topographic sections in the affected areas and through photographs.
- (4) Proposed screening, where it is required in initial or subsequent phases, shall be shown, and the plan shall describe how these requirements shall be fulfilled by specifically mentioning dimensions, varieties, timing, and other specifications.
- (5) Buffer areas shall be indicated on site development plans.
- (6) Location of utilities, accessory buildings, and storage areas.
- (7) Erosion control and final stabilization plans.

[Section added 5/1/00 (O-00-15)]

SECTION 1-1-14 HAZARDOUS AND LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT REGULATIONS**(A) STATEMENT OF PURPOSE**

The purpose of these regulations is to:

- (1) Ensure that hazardous or low-level radioactive waste facilities are located in a manner consistent with the public health, safety, and welfare, and that surface waters, ground waters, population centers, adjacent land uses, and Wake County in general will be protected from the potential injurious effects of a hazardous or low-level radioactive waste facility.
- (2) Provide that decisions pertaining to location of hazardous or low-level radioactive waste facilities are made according to objective criteria.
- (3) Ensure that no hazardous or low-level radioactive waste facility will be located within Wake County's zoning jurisdiction unless a special use has been approved by the Board of Adjustment. *[Amended 7/13/98 to refer to Board of Adjustment rather than Board of Commissioners (O-98-24)]*
- (4) Ensure that all applicants requesting a hazardous or low-level radioactive waste permit shall pay Wake County an application fee set by Wake County Commissioners.
- (5) Provide that adequate money is available, through levy of a privilege license tax, to compensate Wake County for monitoring the effects of hazardous and low-level radioactive waste facilities in the County.

(B) SPECIAL USE PERMITS

- (1) Hazardous or low-level radioactive waste landfills may be permitted as a special use only in the Triassic Basin, subject to the terms and conditions of this Section and Section 1-1-11 of this Code.
- (2) Hazardous or low-level radioactive waste facilities other than hazardous or low-level radioactive waste landfills may be permitted as a special use only in Industrial Districts and Airport Districts subject to the terms and conditions of this Section and Section 1-1-11 of this Code.
- (3) Hazardous or low-level radioactive waste facilities shall not be permitted in those sections of the Triassic Basin or Industrial Districts lying within a water supply watershed, as defined in Section 1-1-1 of this Code. *[Amended 7/21/97 to change reference from Water Supply Watershed Planning Area to water supply watershed (O-97-32)]*
- (4) Hazardous or low-level radioactive waste facilities shall not be permitted in floodway, floodway fringe, or flood hazard soil areas, as defined in Section 1-1-26 of this Code.
- (5) Ingress to and egress from hazardous or low-level radioactive waste facilities shall be permitted by roads to serve only the hazardous or low-level radioactive waste facilities. Such roads shall be designed and constructed to North Carolina Secondary Road Standards, with roadway design to allow a weight limit of nineteen thousand (19,000) pounds per axle, and shall intersect directly with a State-maintained road. Approach and departure traffic routes for a hazardous or low-level radioactive waste facility shall not be permitted through a system of streets primarily intended to provide access to residences in a neighborhood.

- (6) A three hundred (300) foot bufferyard, in accordance with Section 1-1-29 of this Code, shall be required around all sides of a hazardous or low-level radioactive waste facility to fulfill the following purposes:
 - (a) To conserve the value of buildings on adjacent properties;
 - (b) To reduce or eliminate the effects of noise, odor, dust, and vibrations; and
 - (c) To protect adjacent land uses that would be particularly sensitive to the presence of hazardous or low-level radioactive waste facilities.
- (7) A security fence designed to severely discourage unauthorized entry and at least seven (7) feet in height shall be installed around all portions of hazardous or low-level radioactive waste facilities directly involved in the storage, handling, and disposal of hazardous waste.
- (8) All storage, treatment, processing, recycling, collection, recovery, and disposal of hazardous or low-level radioactive waste shall be located at least five hundred (500) feet from any exterior property line when such property line abuts a Residential District.
- (9) Issuance of a special use permit for a hazardous or low-level radioactive waste facility shall provide Wake County the opportunity to monitor the facility as a condition of the permit.
- (10) Special use approval will not become effective unless all applicable permits for hazardous or low-level radioactive waste facilities have been issued by the appropriate State and Federal agencies governing operation of the facility.
- (11) Special use permits will automatically expire if at any time after the issuance, State or Federal permits are revoked or terminated.
- (12) Wake County shall be compensated for costs incurred as a result of the location of hazardous or low-level waste facilities by a privilege license tax, in accordance with the General Statutes of North Carolina, Section 153A-152.1(a), as amended. The hazardous or low-level radioactive waste facility operator(s) shall be assessed in accordance with a privilege license tax schedule to offset costs incurred by the County attributable to the facility.

(C) PETTTION SUBMITTAL REQUIREMENTS

Special Use Permit petitions for hazardous or low-level radioactive waste facilities shall be submitted in accordance with Section 1-1-11. The petition shall include four (4) copies of all documents required by any State of North Carolina agency or any Federal agency for a permit to operate a hazardous or low-level radioactive waste facility, as defined by this Code. *[Amended 7/13/98 to delete provision requirements that application fee be paid and that petition be reviewed by Planning Department and Community Services Department, reviewed by Planning Board at its meeting immediately preceding the Commissioners' hearing, and acted on by the Board of Commissioners within 45 days of receiving Planning Board recommendation (O-98-24)]*

[Section added 3/21/83 (R-83-36)]

SECTION 1-1-15 MINING**(A) FINDINGS**

Extraction of mineral resources is a basic and essential industry which plays an important part in the County's economy. While mining of crushed stone is presently the most important mining activity in the County, other mineral products can become important to the economy of the County. Mining is a peculiar land use in that the location of mineral deposits will, in part, be determined only after exploration and discovery in the future. Consequently, the precise location of zoning districts wherein mining may take place cannot always be predetermined. Mineral extraction involves several methods - quarrying, open-pit, drilling, tunneling, etc. - each of which would affect a neighborhood environment differently. Therefore, the Board of Commissioners concludes that extraction of mineral resources should be encouraged; that the fundamental purposes and procedures of zoning would be served best by adoption of general regulations governing mining, which apply to all use-specific districts; that the Board of Adjustment should consider each location proposed to be mined to determine whether, and under what conditions or safeguards, they should authorize mining by the issuance of special use permits.

(B) GENERAL

- (1) No mining shall be commenced in the County's zoning jurisdictions until a special use permit has been approved by the Board of Adjustment.
- (2) Special use approval granted by the Board of Adjustment shall not become effective until a mining permit is issued by the North Carolina Department of Environment and Natural Resources, Division of Land Resources, Land Quality Section, or successor agency.
- (3) Mining may occur in any Wake County zoning district except R-80W, R-40W, WS-II, WCAO, WMAO, WPAO, and WPAO-2 Districts, where this use is prohibited, subject to the terms and conditions of this Section and Section 1-1-11, except 1-1-11(D)(2)(a) and (b), of this Code. Mining for special materials, however, may occur as a temporary special use in R-80W, R-40W, WS-II, WCAO, WMAO, WPAO, and WPAO-2 Districts subject to the terms and conditions of Section 1-1-11(E)(2). To aid in the interpretation of the word "harmony" in Section 1-1-11(D)(2)(d), the following guidelines shall be used:
 - (a) The operation will not constitute a substantial physical hazard to a neighboring dwelling house, a school, church, hospital, commercial, or industrial building, public road, or public property.
 - (b) The operation will not have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area.
 - (c) The operation will not have an adverse effect on public, community, or private water supplies, surface or ground waters, including but not limited to water supply watershed areas as designated in the Wake County Land Use Plan.
- (4) A special use permit shall automatically expire if, at any time after its issuance, the State mining permit is revoked or terminated.

(C) DEFINITIONS

Definitions as listed in Article 7, Section 74-49 of the General Statutes of North Carolina, as amended, (North Carolina Mining Act of 1971), shall apply to this Subsection.

(D) PETITION SUBMITTAL REQUIREMENTS

Special Use Permit petitions shall include two (2) copies of all documents required by the State for a State mining permit. This shall include, but not be limited to, the mining permit application, the reclamation plan, and any maps and charts accompanying these documents.

(E) TRAFFIC AND ACCESS

Mining operations shall be located where roads which will provide access to such operations are constructed to NCDOT standards for the width and rated tonnage of the trucks that will be using the operation. The additional truck traffic to the site shall not cause roads providing access to the site to drop to a level of service below "D" as defined by NCDOT. Ingress to and egress from the site shall be along a road or driveway that intersects directly with a State-maintained road. Traffic routed to and from such intersection shall not be through a residential neighborhood where the streets are primarily intended to provide access to adjacent residences.

(F) SCREENING STANDARDS

(1) **Required Screening**

A visual screen of at least fifty (50) percent opacity shall be established and maintained around that portion of the mining site that is being excavated or being used for the storage of minerals if required in writing by property owners adjacent to the mining site. A copy of said written request shall be submitted to the permittee. Such screening is required only when such areas are visible at eye level at ground elevation, at the time of permit issuance, from State-maintained thoroughfares, publicly owned areas which have been maintained essentially in their natural state of vegetation, residences, and other buildings, but not including accessory buildings or properties adjacent to the mining site. When excavated areas have been reclaimed in accordance with the North Carolina Mining Act of 1971, as amended, and Chapter 5 of the North Carolina Administrative Code, Title 15, as amended, required artificial screening may be removed.

(2) **Exemptions**

The visual screening requirements of Subsection (E)(1) may be exempted when:

- (a) The Zoning Administrator determines that existing vegetative cover will fulfill these requirements. Such natural screening may consist of existing vegetative cover including, but not limited to, trees and shrubs having an opacity of not less than fifty (50) percent at all seasons of the year. Screening may also consist of earthen berms or other artificial screens used individually or in combination with each other and existing vegetation to achieve a screening effect of at least fifty (50) percent opacity during all seasons of the year. Screening materials and vegetation may be located in required buffer areas. All berms and other artificial screens requiring extensive land disturbance shall comply with the Erosion and Sediment Control Ordinance.
- (b) It is determined that, due to topographic or other circumstances where through no fault of the permittee, a fifty (50) percent opacity cannot be provided.

(G) VIBRATION STANDARDS

All mining activities in the County shall conform to the vibration policy adopted by the Land Quality Section of North Carolina Department of Environment and Natural Resources, or successor agency.

(H) TEMPORARY SPECIAL USES

Temporary special use permits for not more than two (2) years may be approved subject to the requirements of this Section and Subsection (E) of Section 1-1-11 of this Code.

(I) PRIOR MINING OPERATIONS

Mining operations conducted in Industrial-II districts prior to November 17, 1980, shall be allowed to continue as nonconforming uses after that date. "Mining operations," for purposes of this Section, are defined as those in operation or for which an application for a mining permit has been made to the North Carolina Department of Environment and Natural Resources, or successor agency.

(J) TRANSITIONAL BUFFERYARDS AND SCREENING

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-13, the Section 1-1-29 requirements shall control.

[Section added 3/21/81; revised in its entirety and renumbered from 1-1-13 5/1/00 (O-00-15)]

SECTION 1-1-16 through SECTION 1-1-20 [RESERVED]

ARTICLE II

GENERAL REGULATIONS

SECTION 1-1-21 SIGNS**(A) STATEMENT OF PURPOSE**

For the purpose of encouraging the positive economic development of the County by preserving the natural beauty of the area, protecting existing property values in both residential and nonresidential areas, these regulations are designed to prevent over-concentration, improper placement and excessive height, bulk, and area of outdoor signs. It is recognized that, unlike on-premise identification signs which are in actuality a part of a business, off-premise signs are a separate and distinct use and should be regulated differently from on-premise signs. It is intended that off-premise signs be located away from residential areas, that such signs be regulated to protect the character of the area wherein off-premise signs are located, and that property values in these areas be conserved. It is further intended that these regulations neither favor signs displaying commercial speech over those displaying noncommercial speech nor favor signs displaying one type of noncommercial speech over those displaying another.

[Amended 2/18/91 to add statement of intent regarding commercial and noncommercial speech (R-91-14)]

(B) DEFINITIONS OF SIGNS ACCORDING TO FUNCTION

- (1) **Sign**: Any identification, description, animation, illustration, or device, illuminated or nonilluminated, which is visible from any thoroughfare or road and which directs attention to any realty, product, service, place, activity, person, institution, performance, commodity, firm, business, solicitation, idea, or concept, including permanently installed or situated merchandise or any emblem, painting, banner, poster, bulletin board, pennant, placard, or temporary sign designed to identify or convey information, with the exception of state, municipal, or national flags. *[Amended 2/18/91 to add ", idea, or concept" (R-91-14)]*
- (2) **On-premise sign**: Any sign or structure, pictorial or otherwise, regardless of size or shape, which directs attention to a business, profession, commodity, attraction, service, entertainment, idea, or concept conducted, offered, sold, manufactured, existing, provided, or entertained at a location on the premises where the sign is located or to which it is affixed. *[Amended 2/18/91 to add ", idea, or concept" and ", or entertained" (R-91-14)]*
- (3) **Off-premise sign**: Any sign or structure, pictorial or otherwise, regardless of size or shape, which directs attention to a business, profession, commodity, attraction, service, entertainment, idea, or concept conducted, offered, sold, manufactures, existing, provided, or entertained at a location other than the premises where the sign is located or to which it is affixed. *[Amended 2/18/91 to add ", idea, or concept", and ", or entertained", and to substitute "location other than the premises" for "location on the premises" (R-91-14)]*
- (4) **Incidental sign**: A sign which provides only information for the convenience and necessity of the public, such as "entrance," "exit," "no admittance," etc.

(C) CLASSIFICATION AND DEFINITION OF SIGNS ACCORDING TO STRUCTURAL TYPE

Signs shall be classified according to structural type as follows:

- (1) **Ground sign**: Any sign, other than a pole sign, which is attached directly to the ground by means of one (1) or more upright pillars, braces, or posts placed upon the ground, and not attached to any part of a building.
- (2) **Marquee sign**: A sign affixed to a hood, canopy, or projecting roof structure over the entrance to a building, store, or place of public assembly.

- (3) Pole sign: A sign more than twelve (12) feet in height which is attached directly to the ground by one (1) or more upright supports placed upon the ground and not attached to any part of a building.
- (4) Projecting sign: A sign projecting out from, and attached to, the exterior wall of any building, and forming an angle of thirty (30) degrees or more to said wall.
- (5) Roof sign: A sign which is painted or placed on or above the roof of any building to which it is attached.
- (6) Suspended sign: A sign which is suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and is supported by such surface.
- (7) Wall sign: Any sign, other than a projection sign, which is attached to or painted on any wall of any building.
- (8) Awning sign: A sign constructed of fabric-like nonrigid material which is a part of a fabric or flexible plastic awning.
- (9) Windblown sign: Any banner, pennant, spinner, streamer, moored blimp, gas balloon, or flag (with the exception of state, municipal, or national flags).
- (10) Poster: Any sign made of a rigid or semi-rigid nondurable material, such as paper or cardboard, other than billboard copy. "Billboard copy" is defined as a temporary message applied to a permanent sign structure which message is changed periodically.
- (11) Portable sign: A sign which rests on the ground or any other surface, and is not directly and permanently attached to such surface.
- (12) V-Type sign: A sign structure constructed in the form of a "V" with an angle no greater than forty-five (45) degrees and at no point separated by a distance greater than five (5) feet.
- (13) Double-faced sign: Sign structures placed back to back with a distance between the backs of the signs of not greater than three (3) feet.

(D) OTHER DEFINITIONS RELATING TO SIGNS

- (1) Copy (permanent and temporary): The words and pictorial graphics on a sign surface, either in permanent or removable form.
- (2) Cut-out: Part of the copy of an outdoor advertising sign which extends beyond the edge or border of the sign; sometimes called a "top-out," "extension," or "pop-up."
- (3) Height of sign: The height of a sign is the vertical distance measured from the top of the sign and supporting frame or trim, if any, to the ground at the base of the sign or street grade level, whichever may be the lower.
- (4) Sign area: The sign or copy area is that surface area of a sign structure available for conveying a message, including the supporting trim or frame. Where the copy is mounted on or affixed to a solid structure such as a building wall, the sign area is that portion of the decoration. The sign area shall be calculated by determining the smallest rectangle, triangle, circle, or combination of geometric figures which will enclose the copy and associated decoration. Where signs employ cut-outs, the area of such appurtenances shall be included in the total sign area.

- (5) Unlawful sign: Any sign installed, erected, or constructed in violation of any of the provisions of the Wake County Zoning Ordinance or State Building Code.
- (6) Unsafe sign: Any sign which is structurally unsound or otherwise unsafe according to the provisions of the State Building Code.
- (7) Building official: The County official or other designated authority charged with the administration and enforcement of the North Carolina State Building Code (State Building Code).
- (8) Improperly maintained sign: Any sign, together with its supports, braces, buoys, and anchors, which is not maintained in accordance with the State Building Code.
- (9) Obsolete sign: A sign identifying business establishments no longer in existence, products no longer being sold, services no longer being rendered, or events which have already occurred.
- (10) Nonconforming sign: A sign which was lawfully constructed and erected but which fails to comply with any of the provisions of this Section by virtue of amendment to the Wake County Zoning Ordinance.
- (11) Temporary sign: A sign displayed for a period of not more than thirty (30) days. Any sign not constructed according to the requirements of the North Carolina State Building Code shall be considered a temporary sign unless otherwise exempted from permit requirements by the provisions of this Section.
- (12) Flashing sign: Any sign displaying flashing or intermittent lights or lights of varying intensity, except for signs indicating time and/or temperature which change at intervals of a least five (5) seconds.

(E) GENERAL REGULATIONS.

The following regulations shall apply to all signs in all districts except when in conflict with the provisions of Section 1-1-21(F) of this Code, in which case the provision of Section 1-1-21(F) shall control.

(1) **Compliance**

No outdoor sign of any type shall be constructed, erected, painted, repainted, posted, reposted, placed, replaced, or hung in any district except in compliance with this Ordinance. The location and size of each proposed sign must be included in plans submitted for approval.

(2) **Plan Approval and Sign Permit Required**

A sign permit issued by the Wake County Zoning Administrator shall be required for all outdoor signs.

(3) **Name of Owner**

All signs with a copy area greater than two (2) square feet shall display the name of the owner of the sign in letters no less than one and one-half (1½) inches high.

(4) **Construction and Maintenance**

All outdoor signs shall be constructed and maintained in accordance with the North Carolina State Building Code.

(5) **Unlawful, Unsafe, or Improperly Maintained Signs**

If the Wake County Zoning Administrator has reason to believe that a sign is or may be in violation of any provision of the North Carolina State Building Code, he shall refer the matter to the Wake County building inspector, who shall immediately investigate the possible violation and take appropriate action under the provisions of the State Building Code. Such referral shall not preclude other methods of enforcement of this Ordinance.

(6) **Removal of Obsolete Signs**

Signs advertising events such as shows, displays, festivals, circuses, fairs, athletic contests, fund drives, election, contests, exhibits, meetings, sales, performances, dances, and the like shall be removed within thirty (30) days after the date of termination of such events. All other obsolete signs shall be removed from the premises within one hundred eighty (180) days after the first date of obsolescence.

(7) **Temporary Signs**

A permit issued by the Wake County Zoning Administrator shall be required for the display of any temporary sign. Temporary sign permits and renewal permits shall be effective for thirty (30) days. Temporary signs may be displayed only in General Business, Heavy Commercial, Industrial, and Airport Districts.

(8) **Prohibited Signs**

Flashing signs, illuminated tubing or strings of lights outlining roof or building lines of structures, roof signs, portable signs, windblown signs, and suspended signs shall be prohibited in all zoning districts.

(9) **Illumination and Movement**

Permitted signs may be indirectly illuminated if shielded so as not to cast direct light on adjoining properties or thoroughfares. No moving or flashing signs shall be permitted.

(10) **Signs for Which No Permit is Required**

The following signs may be erected or displayed in any district without a permit, provided the uses of the premises upon which such signs are erected or displayed are in compliance with all other zoning regulations:

- (a) Any sign containing less than two (2) square feet.
- (b) Real estate signs containing thirty-two (32) square feet or less, located on premises for sale or for rent, if in compliance with all zoning regulations, and set back at least twelve (12) feet from all street right-of-way lines.
- (c) Bulletin boards not more than thirty-two (32) square feet in area located upon the premises of public, charitable, or religious institutions. Temporary signs announcing activities of such institutions may be displayed, without a permit, for a maximum of thirty (30) days.

- (d) Signs advertising the sale of farm, florist, or horticultural products to be sold at the farm or nursery where they are produced, providing that there shall not be more than two (2) separate signs with an area not exceeding thirty-two (32) square feet each.
- (e) Signs indicating the name of an active farm or nursery, providing that there shall not be more than two (2) separate signs with an area not exceeding thirty-two (32) square feet each.
- (f) Temporary signs identifying the name of architects or contractors for projects under construction.
- (g) Official traffic and warning signs, including private signs pertaining to hunting, fishing, trespassing, or dumping of refuse.
- (h) Memorial signs or tablets, names of buildings, date of erection, and the like, when cut into masonry or permanently affixed to the surface of a building.
- (i) Incidental signs, provided that the number and location of such signs are approved on plans submitted to the Wake County Zoning Administrator and that the number of signs is no greater than reasonably necessary.
- (j) Political signs, provided no political sign shall be erected earlier than the established filing date for an election nor allowed to remain longer than fifteen (15) days after the election.

(11) Type, Number, Area, Height, Location and Design of Signs

(a) Types of Signs Permitted

- 1. On-premise signs: Ground signs and pole signs (including V-type and double-faced signs), marquee signs, projection signs, wall signs, and awning signs in districts where authorized.
- 2. Off-premise signs: Ground signs and pole signs (including V-type and double-faced signs) or wall signs may be permitted as off-premise signs in districts where allowed.
- 3. Double-sided signs may be considered a single sign for purposes of this Subparagraph.

(b) Maximum Number of Signs

- 1. Double-sided signs and V-type signs may be considered as a single sign for purposes of this Subparagraph.
- 2. On-Premise Signs
 - a. Pole signs and ground signs: One sign per lot frontage along a public road, provided the frontage is at least three hundred (300) feet and direct public vehicular access to the site is provided along it.
 - b. Marquee and projection signs: One sign per building facade that is at least fifty (50) feet wide and faces a public road from which direct vehicular or pedestrian access is provided.

- c. Wall signs: No limit on the number of signs permitted, but see (c)(1) below.
- d. Incidental signs: Number to be determined by the need for such signs.

[Amended 7/9/01 to substitute a. and b. for provision permitting 2 on-premise signs per use (O-01-19)]

(c) Maximum Sign Area

1. On-premise signs

- a. Wall signs: One (1) square foot per one (1) linear foot of building facade width, provided the facade faces a public road from which public vehicular or pedestrian access is provided, and the facade includes a public entrance to the building. For multi-tenant buildings, allowable sign area shall be allocated among tenants in accord with a unified sign plan.
[Added 7/9/01 (O-01-19)]

- b. All other signs (except incidental signs): One hundred (100) square feet per sign face.

- c. Incidental signs: Four (4) square feet per sign face.

2. Off-premise signs: Three hundred (300) square feet per sign face. *[Added 7/30/84 (Motion of 7/30/84)]*

(d) Maximum Sign Height

1. On-premise signs

- a. Pole signs: Thirty (30) feet.
- b. Ground signs: Twelve (12) feet.
- c. Projection signs: Twelve (12) feet.
- d. Marquee signs and wall signs: The parapet or eave line of the building to which the sign is attached. *[Replaced inclusion under a. 7/9/01 (O-01-19)]*

2. Off-premise signs

- a. Pole signs: Thirty (30) feet.
- b. Ground signs: Twelve (12) feet.
- c. Wall signs: The parapet or eave line of the building to which the sign is attached. *[Replaced inclusion under a. 7/9/01 (O-01-19)]*

3. Incidental signs

- a. Ground signs: Eight (8) feet.
- b. Projection signs, marquee signs, wall signs, and awning signs: Twelve (12) feet.

(e) Sign Location and Design

1. Not Allowed in Right-of-Way

No sign may be located in or overhang any public right-of-way except as permitted and erected by the North Carolina Department of Transportation. No sign may be located in such manner as to create a visual obstruction for traffic or otherwise create a traffic hazard.

2. On-Premise Signs

a. On-premise signs may be located in required front or side yards.

b. Wall signs shall not cover up or interrupt major architectural features.

[Added 7/9/01 (O-01-19)]

c. Walls signs shall project no more than eighteen (18) inches from the wall to which the sign is attached. *[Added 7/9/01 (O-01-19)]*

3. Off-Premise Signs

a. All off-premise signs shall conform to the main building setback and yard requirements of the district in which they are located.

b. No off-premise sign shall be located within a radius of two thousand five hundred (2,500) feet from any other off-premise sign. Double-sided and V-type signs may be considered as a single sign for purposes of this Section.

c. The landscaping requirements of the district in which the structure is located shall apply to off-premise sign structures.

d. No off-premise sign shall be located closer than seven hundred fifty (750) feet from a residence, when built.

4. Incidental Signs: May be located in all required yards.

[Amended 7/9/01 to consolidate and reorganize provisions in previous Paragraphs (11) and (12) (O-01-19)]

(F) SIGN REGULATIONS FOR SPECIFIC ZONING DISTRICTS

Specific sign regulations applicable within Research Applications, Residence, General Business, Heavy Commercial, Industrial-I, Industrial-II, Mobile Home, Highway, Airport-I, Airport-II, Office and Institutional, Special Highway, Special Highway Overlay, and Economic Development Districts are listed herein. Except where in conflict with other provisions of Section 1-1-21, these regulations supplement rather than supersede the general sign provisions of this Ordinance.

[Amended 11/18/85 to add "Special Highway Overlay" (R-85-233); amended 11/18/85 to add "Economic Development" (R-85-232); amended 3/16/92 to substitute "Research Applications" for "Research-Farming" (O-92-10)]

(1) **Research Applications Districts**

(a) Permitted signs: On-premise identification and incidental ground or wall signs.

[Amended 3/16/92 to add "ground or wall" (O-92-10)]

(b) Prohibited signs: Off-premise signs.

- (c) A maximum of one (1) sign per vehicular access point and one (1) additional sign per lot shall be allowed.

[Amended 3/16/92 to change heading from "Research Farming Districts" (O-92-10); amended 12/4/00 to add (c) (O-00-39)]

(2) **Residence Districts**

(a) Permitted Signs for General Uses

1. On-premise signs: On-premise signs shall identify the name and use in letters constructed of wood, plastic, or metal, or in letters painted onto or carved into a wooden sign. Wood, plastic, or metal letters may be displayed upon a building wall or framed or mounted on a concrete or masonry ground sign. On-premise signs shall not exceed four (4) square feet per side in sign area, except that on-premise signs for churches, colleges, schools, public libraries, public museums, art galleries, residential subdivisions, and multifamily dwelling developments may be as large as thirty-two (32) square feet per side in sign area, and these uses may have two (2) on-premise identification signs per driveway or vehicular entrance. On-premise signs shall not exceed eight (8) feet in height nor ten (10) feet in width. Except as otherwise specified herein, a maximum of one (1) on-premise sign per nonresidential general use may be erected on a lot. *[Amended 1/21/85 to increase the number of allowable on-premise identification signs for churches, etc. from one to two (R-85-2); amended 10/21/85 to add "multifamily dwelling developments" to the churches, etc. list of uses (R-85-205); amended 4/15/96 to delete reference to Consolidated Open Space Development (O-96-7)]*
2. Incidental signs.

(b) Permitted Signs for Special Uses

1. On-premise identification signs: A maximum of one (1) on-premise sign per special use may be erected on a lot. Signs for bed and breakfast homestays and bed and breakfast residences shall not exceed four (4) square feet in area; all other signs shall not exceed thirty-two (32) square feet per side in area. No ground sign shall exceed eight (8) feet in height. *[Amended 7/18/94 to add sign area limitation for bed and breakfast homestays and residences (O-94-16)]*
2. Incidental signs.

(c) Prohibited Signs: Off-premise signs.

(3) **Business Districts (General Business and Heavy Commercial Districts)**

(a) Permitted Signs

1. Off-premise signs.
2. On-premise signs, provided that no on-premise sign shall be located within fifty (50) feet of a residence and, if illuminated, it shall not be closer than one hundred (100) feet to a residence.
3. Incidental signs.
4. Temporary signs.

(b) Location of Permitted Signs

Neither on-premise nor off-premise signs may be located in any required side yard adjacent to a Residence District.

(4) **Industrial Districts**

(a) Permitted Signs

1. Off-premise signs.
2. On-premise signs, provided that no on-premise sign shall be located within fifty (50) feet of a residence and, if illuminated, it shall not be closer than one hundred (100) feet to a residence.
3. Incidental signs.
4. Temporary signs.

(b) Location of Permitted Signs

Neither on-premise nor off-premise signs may be located in any required side yard adjacent to a Residence District.

(5) **Mobile Home Districts**

(a) Permitted Signs

1. On-premise signs, subject to the following regulations: On-premise signs may not be located less than five (5) feet from any property line. Such signs shall be limited to thirty-two (32) square feet per sign face in area, and eight (8) feet in height. Only one (1) double-sided or V-type sign, or two (2) single-sided on-premise signs, shall be permitted per park entrance.
2. Incidental signs of ground sign or wall sign structural type only.

(b) Prohibited Signs: Off-premise signs.

(6) **Highway Districts**

(a) Permitted Signs

1. Off-premise signs shall be allowed only as special uses.
2. On-premise signs.
3. Incidental signs.

(7) **Airport Districts**

(a) Permitted Signs

1. Off-premise signs.
2. On-premise signs.

3. Incidental signs.

(b) [Shielding of Illuminated Signs]

All illuminated signs shall be shielded in such a manner that no direct glare from the light source can be seen from above.

(8) Office and Institutional Districts

(a) Permitted Signs

1. On-premise signs, provided that no such sign is located within twenty (20) feet of an adjacent Residence District.
2. Incidental signs.

(b) Prohibited Signs: Off-premise signs.

(9) Special Highway Districts

(a) Permitted Signs

1. On-premise signs, provided that only one (1) such sign per lot may be erected so as to be visible from the interstate or Special Highway.
2. Incidental signs, provided that no incidental sign may be more than eight (8) feet in height.

(b) Prohibited Signs

1. Off-premise signs.
2. Pole signs.

(c) [Shielding of Illuminated Signs]

All illuminated signs shall be shielded in such a manner that no direct glare from the light source can be seen from the highway or thoroughfare or from above.

(10) Special Highway Overlay Districts

(a) [Relation to Underlying District Sign Regulations]

Where the sign regulations of the overlay district and the underlying zoning district differ, the more restrictive sign regulation shall apply.

(b) Permitted Signs

1. On-premise signs, provided that they are located along, or facing, the road(s) from which direct or principal vehicular access to the premises is obtained.
[Amended 9/7/93 to substitute for provision allowing on-premise signs provided that only one of them is visible from an interstate or special highway (O-93-17)]
2. Incidental signs, provided that no incidental sign may be more than eight (8) feet in height.

(c) Prohibited Signs

1. Off-premise signs.
2. Pole signs.

(d) [Shielding of Illuminated Signs]

All illuminated signs shall be shielded in such a manner that no direct glare from the light source can be seen from the highway or thoroughfare or from above.

[Added 11/18/85 (R-85-233)]

(11) Economic Development Districts

(a) Permitted Signs

1. On-premise identification signs.
2. Incidental signs.

(b) Prohibited Signs

1. Off-premise signs.
2. Pole signs.

[Added 11/18/85 (R-85-233)]

(G) AMORTIZATION OF NONCONFORMING SIGNS

- (1) Notwithstanding the provision of Section 1-1-24 of this Code, all nonconforming signs shall be removed or rendered conforming within seven (7) years from the effective date of this Ordinance except when such amortization is explicitly prohibited by state and federal law. All signs which are rendered nonconforming by future amendments to this Section of the Wake County Zoning Ordinance or by amendment to the official zoning map shall be removed or made conforming within seven (7) years after the effective date of such amendment except where explicitly prohibited by state or federal law. *[Amended 1/21/92 to number as Paragraph (1)]*

- (2) Off-premise signs which are located adjacent to a highway on the National System of Interstate and Defense Highways or the Federal-aid Primary Highway System, and which are authorized by a current and valid permit issued by the North Carolina Department of Transportation pursuant to the provisions of Article 11 of Chapter 136 of the North Carolina General Statutes (Outdoor Advertising Control Act) and regulations promulgated pursuant to those provisions, are exempt from the provisions of Subsection (1) of this Section.

[Added 1/21/92 (O-92-2)]

(H) ENFORCEMENT OF SIGN PROVISIONS

The provisions of this Section of the Wake County Zoning Ordinance shall be enforced as provided in Section 1-1-8 of this Ordinance.

(I) REPEALER

All clauses and provisions in conflict herewith are hereby repealed to the extent of such conflict. Section 1-1-24, NONCONFORMING BUILDINGS AND USES, is expressly superseded to the extent that it purports to prohibit the removal of nonconforming signs.

[Section revised in its entirety 7/16/84 (R-84-156)]

SECTION 1-1-22 ACCESSORY BUILDINGS AND USES**(A) GENERAL REQUIREMENTS**

- (1) Accessory buildings permitted by this Ordinance shall be placed only in rear yards.
- (2) No accessory building in any Residence District which is within ten (10) feet of any lot line shall exceed fifteen (15) feet in height nor contain more than one (1) story. No accessory building shall exceed thirty-five (35) feet in height or contain more than two (2) stories, including basement.
- (3) A garage or other accessory use attached to any dwelling and constructed as a part of such dwelling and constructed as a part of such dwelling shall be considered as a part of the dwelling and not as an accessory building.
- (4) A fence or other structure deemed by the Zoning Administrator (zoning enforcement officer) to be designed primarily to cause annoyance or damage to an adjoining owner shall in no case be permitted as an accessory use.

[Amended 5/1/00 to delete former Subsection (4) prohibiting garages for more than 3 vehicles as an accessory use to single-family dwellings (O-00-6)]

(B) LOCATION OF ACCESSORY BUILDINGS IN RESIDENCE DISTRICTS

Accessory buildings in Residence Districts shall conform to the following regulations as to their location upon the lot:

- (1) In the case of an interior lot fronting upon only one (1) street, no accessory building shall be erected or altered so as to encroach upon that half of the lot depth nearest the street.
- (2) In the case of a through lot, no accessory building shall be erected or altered so as to encroach upon that fourth of the lot depth nearest each and every street.
- (3) In the case of a corner lot fronting upon two (2) streets, no accessory building shall be erected or altered so as to encroach upon that area between each respective street and a line drawn parallel to such street in a manner to divide the lot into equal parts.
- (4) In the case of a corner lot fronting upon three (3) or more streets, no accessory building shall be erected or altered so as to encroach upon that fourth of the lot depth nearest each and every street.
- (5) No accessory building shall be located within ten (10) feet of its rear lot line or side lot line when such line forms part of the front half of the side line of an adjacent interior lot, or the front quarter of an adjacent through lot whether the latter be an interior or corner lot.
- (6) Notwithstanding any requirement in this Section, the foregoing rules shall not prohibit an accessory building fifty (50) feet or more from any street bounding the block.
- (7) The limitations imposed by this Section upon the location of an accessory building shall be waived when the accessory building is incorporated as an integral part of and enclosed by the same enclosing walls as the building to which it is accessory.

SECTION 1-1-23 PERMITS**(A) PERMIT REQUIRED**

No excavation shall be commenced, no wall, structure, premises, or land used, building or part thereof shall be built, constructed or altered, nor shall any building be moved, nor shall any sign be erected or structurally altered (unless exempted), until application has been made and the proper permit has been obtained. When the Zoning Administrator, with the technical assistance of other County departments or upon direction by the Wake County Planning Board or Board of Adjustment, has determined that the proposed land use may be made under the provisions of this Code, a permit for the proposed use shall be issued.

(B) APPLICATIONS

All applications for land use permits shall be accompanied by accurate plot plans, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the legal description of the lot to be built upon or used; or the location of the plan as recorded by the Wake County Register of Deeds, the exact sizes and location on the lot of all existing buildings and accessory buildings; the lines within which the proposed building or structure shall be erected or altered; the existing and intended use of each building or part of building, the number of families or housekeeping units the building is designed to accommodate; the location, dimensions, and arrangements of all bufferyards required by this Ordinance, including a landscape plan showing the design and specifications for any plant materials earth berms, fences, or walls required thereon; and any other data deemed necessary by the Planning Director to determine compliance of a proposed development with the terms of this Ordinance. If required by Section 1-1-30, the application shall also include a traffic impact analysis prepared in accordance with the requirements of Section 1-1-30, including any additional fee authorized for review of traffic impact analysis. *[Amended 11/18/85 to add requirements to show bufferyards and include a landscape plan (R-85-230)]*
[Added If required by Section 1-1-30 sentence and changed Zoning Admin to Planning Director on 4/6/05 (OA 04/13)]

No certificate of occupancy or compliance shall be issued by the Zoning Administrator or Building Inspector until:

- (1) Applicable standards of this Ordinance have been met; or
- (2) Written assurances are provided to the Building Inspector that applicable standards of this Ordinance will be met within a reasonable period of time. Assurances shall include posting of a surety bond or submission of a notarized letter of credit for the value of the incomplete improvements required.

The Zoning Administrator shall be responsible for determining compliance with any applicable standard of this Ordinance not under the purview of the Building Inspector.

For nonresidential use: In addition to the above, the following information shall accompany applications:

- (1) Location of parking areas including the layout of spaces (on paved lots only), and ingress and egress from a public right-of-way.
- (2) Driveway entrance permit from North Carolina Division of Highways, District Engineer.
[Amended 11/18/85 to substitute "North Carolina Division of Highways, District Engineer" for "district highway engineer" (R-85-230)]
- (3) Location of signs, if any, including ownership and type (identification, commercial, or those not requiring a permit).

- (4) Whether excavation, clearing of ground, or moving of earth other than that actually required for the building, is expected to occur.

(C) EXEMPTIONS

The following land uses shall be exempt from the permit requirements as stated in Section 1-1-23(A) and (B) above, unless the property at issue is located in a area of special flood hazard, in which case these exemptions do not apply:

- (1) Bona fide farm uses and land primarily used for forestry. *[Amended 7/20/92 to substitute for "All realty, and all buildings being or to be used for bona fide agriculture, farming, livestock or poultry operation, and forestry land." (O-92-17)]*
- (2) Excavation for installation of septic tank systems under the control of Wake County Health Department or grading permits issued by Wake County Natural Resources Department or excavation and grading permits issued by North Carolina Department of Natural Resources and Community Development, or successor agency.
- (3) Fences designed primarily to enclose perimeter, wholly or partially, of a lot.
- (4) An accessory building used for storage in connection with use authorized within the district, not exceeding twelve (12) feet by twelve (12) feet base and ten (10) feet in height, and located on the lot not nearer than fifty (50) feet from a public right-of-way.
- (5) Utility structures covering a well or pump, providing structure is used only for a covering well and pump; utility poles or structures supporting utility lines; excavation for installation of underground utilities; transformer enclosures or pad-mounted transformers; sewage treatment plants under the control of the North Carolina Department of Natural Resources and Community Development.

(D) PERMITS IN FLOOD HAZARD AREAS

See Section 1-1-26(D) for further requirements regarding land use permits where the property at issue is located within an area of special flood hazard.

(E) PERMIT REVOCATION

The Zoning Administrator may revoke any permit or other authorization granted under this ordinance for failure to comply with the provisions of this ordinance or the terms and conditions of the permit or authorization, or for false statements or misrepresentations made in securing the permit or authorization, or if the permit or authorization was mistakenly granted in violation of applicable State or local law.

Before revoking a permit or other authorization, the Zoning Administrator shall give the holder of the permit or authorization ten (10) days written notice of intent to revoke the permit or authorization. The notice shall state the reasons for the intended revocation and state that the holder may have an informal hearing on the intended revocation before the Zoning Administrator. On revoking a permit or other authorization, the Zoning Administrator shall give the holder of the permit or authorization a written notice of the revocation and the reasons for it. The holder of a revoked permit or authorization may, within ninety (90) days after the revocation, submit to the Zoning Administrator a written request to reinstate the revoked permit or authorization. On determining that the conditions justifying the revocation have been eliminated and that the development fully complies with all applicable requirements of this ordinance, the Zoning Administrator may reinstate the permit or authorization.

[Section added 7/20/92 (O-92-17)]

SECTION 1-1-24 NONCONFORMITIES**(A) INTENT****(1) Statement of Intent** [Subheading added 02/03/03 (O-03-01)]

It is the intent of this Section to recognize that the eventual elimination of existing development that is not in conformity with the provisions of this Ordinance is as important to preserving the integrity of this Ordinance, and to achieving its purpose of promoting the public health, safety, and general welfare, as is the prevention of new development that would violate the provisions of this Ordinance. It is also the intent of this Section that the elimination of nonconforming development be effected so as to afford the owner of nonconforming development a reasonable opportunity to recoup his prior investment in the nonconformity and to make it conforming. This Section's provisions seek to balance the public interest in eliminating nonconforming development against the rights of the owner of nonconforming development by generally allowing the continuation of nonconformities, but curtailing substantial investment in their expansion or change so as to encourage their eventual elimination.

(2) Exemption

Notwithstanding the above statement of intent, it is not the intent of this Section to prohibit the reconstruction of any residential structure used for a legally nonconforming owner occupied single-family residential use which is damaged or destroyed, in whole or in part, by a natural calamity or an accidental fire, provided that:

- (a) the extent of the nonconformity is not expanded in scale, scope or intensity beyond that of the original structure (e.g.—the square footage of the replacement structure must not exceed that of the original structure);
- (b) any dimensional nonconformities are corrected to the extent reasonable and practicable;
- (c) adequate documentation (e.g.—insurance report) is provided to demonstrate that the damage or destruction, which is necessitating the reconstruction or total replacement, is the result of a natural calamity or an accidental fire;
- (d) a valid site plan and building permit for its reconstruction must be applied for within nine (9) months from the date that the damage occurs; and
- (e) any site plan and building permit issued under this exemption must be pursued in good faith with regards to active construction resulting in the obtainment of a new Certificate of Occupancy within 24 months of the issuance of the site plan and building permit.

[Added 02/03/03 (O-03-01)]

(B) NONCONFORMING USES**(1) Defined**

A nonconforming use is a use of land or structures that lawfully existed, or for which a vested right was established, before the adoption or amendment of this Ordinance but that fails, by reason of such adoption or amendment, to conform to the present use regulations for the zoning district in which the use is located.

(2) Regulations

- (a) Changing a nonconforming use to a conforming use is encouraged, but not required. Except as otherwise provided in Subparagraphs (b) through (f), a nonconforming use

may be continued so long as it remains otherwise lawful. Routine maintenance of and minor repairs to structures or other elements of development devoted to a nonconforming use are permitted.

- (b) No nonconforming use may be extended, expanded, enlarged, or moved to occupy a different or greater area of land or structures than was occupied by the use when it became nonconforming - provided, however, that a nonconforming use may be extended throughout any parts of a structure that were manifestly designed or arranged for such use alone when the use became nonconforming, except as provided for in subsection (A) above. *[Amended 02/03/03 to add "except as provided for in Subsection (A) above." (O-03-01)]*
- (c) No structure or other element of development devoted to a nonconforming use may be extended, expanded, enlarged, or moved unless it is thereafter devoted to a conforming use, except as provided for in subsection (A) above. *[Amended 02/03/03 to add "except as provided for in Subsection (A) above." (O-03-01)]*
- (d) If a structure or other element of development devoted to a nonconforming use is damaged to the extent of fifty (50) percent or more of its current assessed taxable value, it may not be restored, reconstructed, or replaced unless it is thereafter devoted to a conforming use, except as provided for in subsection (A) above. *[Amended 02/03/03 to add "except as provided for in Subsection (A) above." (O-03-01)]*
- (e) No nonconforming use may be changed to another nonconforming use.
- (f) A nonconforming use may not be resumed if (i) the nonconforming use ceases for more than one hundred eighty (180) consecutive days, or (ii) the nonconforming use is discontinued for any period of time without a present intention of resuming the nonconforming use. If the land, structures, and other elements of development previously devoted to a ceased or discontinued nonconforming use are devoted to a conforming use for any period of time, they shall thereafter be devoted to conforming uses.

(C) NONCONFORMING FEATURES

(1) **Defined**

A nonconforming feature is a characteristic or aspect of a use, structure, or other element of development (other than signs) that lawfully existed, or for which a vested right was established, before the adoption or amendment of this Ordinance but that fails, by reason of such adoption or amendment, to conform to the present regulations for the zoning district in which the development is located. A nonconforming feature may be an existing element of development that is prohibited (e.g., impervious surface coverage, floor area, or building height exceeding the maximum allowed, or an structure's encroachment into a required yard or bufferyard), the absence of a required element of development (e.g., the lack of a required transitional bufferyard or screening, or fewer off-street parking spaces than minimally required), or a failure to meet minimum design requirements (e.g., a transitional bufferyard with less depth or screening than minimally required, less dense landscaping than minimally required, or shallower or narrower parking spaces than minimally required).

(2) **Regulations**

- (a) Changing a nonconforming feature to make it conforming is encouraged, but not required. Except as otherwise provided in Subparagraphs (b) and (c), a nonconforming feature may be continued so long as it remains otherwise lawful.

Routine maintenance of and minor repairs to structures or other elements of development composing a nonconforming feature are permitted.

- (b) No action may be taken that increases the degree or extent of the nonconforming feature (for example: if impervious surface coverage exceeds the maximum allowed, no net increase in impervious surface coverage may occur; a structure encroaching into a required yard or bufferyard may not be extended further within the yard or bufferyard; if a development lacks the minimum number of off-street parking spaces, it may not be expanded so as to increase the shortage).
- (c) If a structure or other element of development composing a nonconforming feature is damaged to the extent of fifty (50) percent or more of its assessed taxable value, it may not be restored, reconstructed, or replaced unless the nonconforming feature is eliminated or made conforming, except as provided for in subsection (A) above.

[Amended 02/03/03 to add "except as provided for in Subsection (A) above." (O-03-01)]

[Section substantially revised 5/1/79; Section revised in its entirety 6/16/97 (O-97-24)]

SECTION 1-1-25 COMPLETION AND RESTORATION OF EXISTING BUILDINGS

Nothing contained herein shall require any change in the plans, construction, or designated use of a building under construction at the time of the passage of this Ordinance, and the construction of which shall have been diligently prosecuted within a year of the effective date, and the ground story framework of which, including the second tier of beams, shall be completed within such year, and which entire building shall have been completed within two (2) years from the date of the passage of this Ordinance.

SECTION 1-1-26 FLOOD HAZARD AREAS**(A) STATEMENT OF PURPOSE**

Flood hazard areas of the County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety or general welfare. The cumulative effect of obstructions in floodplains causes increased flood heights and velocities and, therefore, increase flood losses. *[Added 6/19/89 (R-89-62)]*

It is the purpose of this Ordinance to promote the public health, safety and general welfare by reducing public and private losses caused by flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety and property when flooded;
- (2) Require that uses vulnerable to floods, including ancillary facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in passage of flood waters;
- (4) Control filling, grading, dredging and other land alterations which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or increase flood hazards elsewhere;
- (6) Protect individuals from purchasing lands which are unsuitable for intended purposes because of flood hazards.

[Amended 6/19/89 to delete former Subsection (B), Findings of Fact, and re-lettered Subsection (C) - (L) as (B) - (K) (R-89-62)]

(B) DEFINITIONS

Unless specifically defined below, words or phrases used in this Section shall be interpreted in accordance with Section 1-1-1 or, if not defined therein, so as to give them their most common dictionary meaning, and to give this Ordinance its most reasonable application.

Area of special flood hazard: The land in a floodplain subject to a one (1) percent or greater chance of flooding in any given year. The areas of special flood hazard are:

- (1) Those areas specified by the Federal Emergency Management Agency, in its *Flood Insurance Study #370368*, dated May 1978, and any subsequent revision thereof;
- (2) Those areas specified by the Federal Emergency Management Agency within a report entitled *Flood Insurance Study for the County of Wake*, dated May 1978, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, and any subsequent revisions thereto; and
- (3) Those areas specified as "regulated discharge floodplain areas." *[Added 6/19/89 (R-89-62)]*
- (4) Those areas specified as flood hazard soils in the *Soil Survey, Wake County, North Carolina*, dated November 1970, and any subsequent revisions thereto, as delineated by transparent photographic enlargements of soil maps taken therefrom, hereafter referred to

as "soil overlay maps." (These maps shall be used in all areas of the County where flood hazards exist but are not shown on maps in the *Flood Insurance Study*.) Soil overlay maps were produced at the same scale as the County tax maps in order that flood hazard areas may be located with reference to property lines. Flood hazard areas are identified by those soils (listed in the definition below) described in the *Soil Survey, Wake County, North Carolina*, subject to flooding and having severe limitations for home sites and certain other uses because of flooding. *[Amended 6/19/89 to renumber from (3) to (4), and to add references to photographic enlargements and soil overlay maps (R-89-62)]*

Base flood: The flood having a one (1) percent chance of being equaled or exceeded in any given year (100-year flood). *[Added 3/23/87 (R-87-30)]*

Basement: The lowest level or story which has its floor subgrade on all sides. *[Added 3/23/87 (R-87-30)]*

Breakaway wall: A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten (10), and no more than twenty (20), pounds per square foot. A wall with loading resistance of more than twenty (20) pounds per square foot requires a registered architect or professional engineer to certify that the designs proposed meet the following conditions:

- (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have no more than a one (1) percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

Such enclosed space (formed by the breakaway wall and the elevated building) shall be usable solely for parking of vehicles, building access, or storage. It shall not be used as habitable space.

[Added 3/23/87 (R-87-30)]

Elevated building: A nonbasement building which has the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls, or breakaway walls. *[Added 3/23/87 (R-87-30)]*

Existing manufactured home park: A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Section 1-1-26 (January 17, 1983). *[Added 3/23/87 (R-87-30); amended 3/16/92 to substitute "A manufactured home park" for "A parcel" (O-92-8)]*

FEMA: The Federal Emergency Management Agency or its successor.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal water or the unusual and rapid accumulation of runoff or surface waters from any source. *[Added 3/23/87 (R-87-30)]*

Flood Hazard Boundary Map (FHBM): An official map issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A. *[Added 3/23/87 (R-87-30)]*

Flood hazard soils: Soils described in the *Soil Survey, Wake County, North Carolina*, as being subject to flooding, and identified in engineering interpretations therein as having severe limitations for home sites and certain other exemplary uses because of flooding, and recommended for inclusion among flood hazard areas by the Wake County District Conservationist, U.S. Department of Agriculture, Soil Conservation Service. Flood hazard soil boundaries may be modified by field investigation by a soil scientist. The report of the field investigation shall conclude with a description of the actual soil horizons which were encountered on the site. These soils shall be placed in a soil complex or major soil association as prescribed by the standards and guidelines of the American Registry of Certified Professionals in Agronomy, Crops, and Soils, or the checklist of the Wake County Environmental Services Department. *[Amended 6/19/89 to add requirements for a field investigation report (R-89-62); amended 3/16/92 to add reference to the Engineering Division (O-92-8). Amended 05/19/03 to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department (O-03-03).]*

LIST OF FLOOD HAZARD SOILS

Soil Map Symbol	Name
AfA	Altavista fine sandy loam 0 to 4% slopes
Au	Augusta fine sandy loam 0 to 4% slopes
Bu	Buncombe 0 to 2% slopes
Cm	Chewacla 0 to 2% slopes
Cn	Colfax sandy loam 0 to 6% slopes
Co	Congaree fine sandy loam 0 to 2% slopes
Cp	Congaree silt loam 0 to 2% slopes
Ly	Lynchburg sandy loam 0 to 2% slopes
Me	Mantachie soils 0 to 4% slopes
Ps	Plummer sand 0 to 2% slopes
Ra	Rains fine sandy loam 0 to 2% slopes
Ro	Roanoke fine sandy loam 0 to 2% slopes
Sw	Swamp
Wh	Wahee fine sandy loam 0 to 2% slopes
Wn	Wehadkee silt loam 0 to 2% slopes
Wo	Wehadkee and Bibb soils 0 to 4% slopes
Wy	Worsham sandy loam 0 to 4% slopes

[Amended 6/19/89 to add Cn, Ly, Me, and Wy soil types (R-89-62). Amended 05/19/03 to correct definitional slopes of Ly, Ps and Wo soils (O-03-03).]

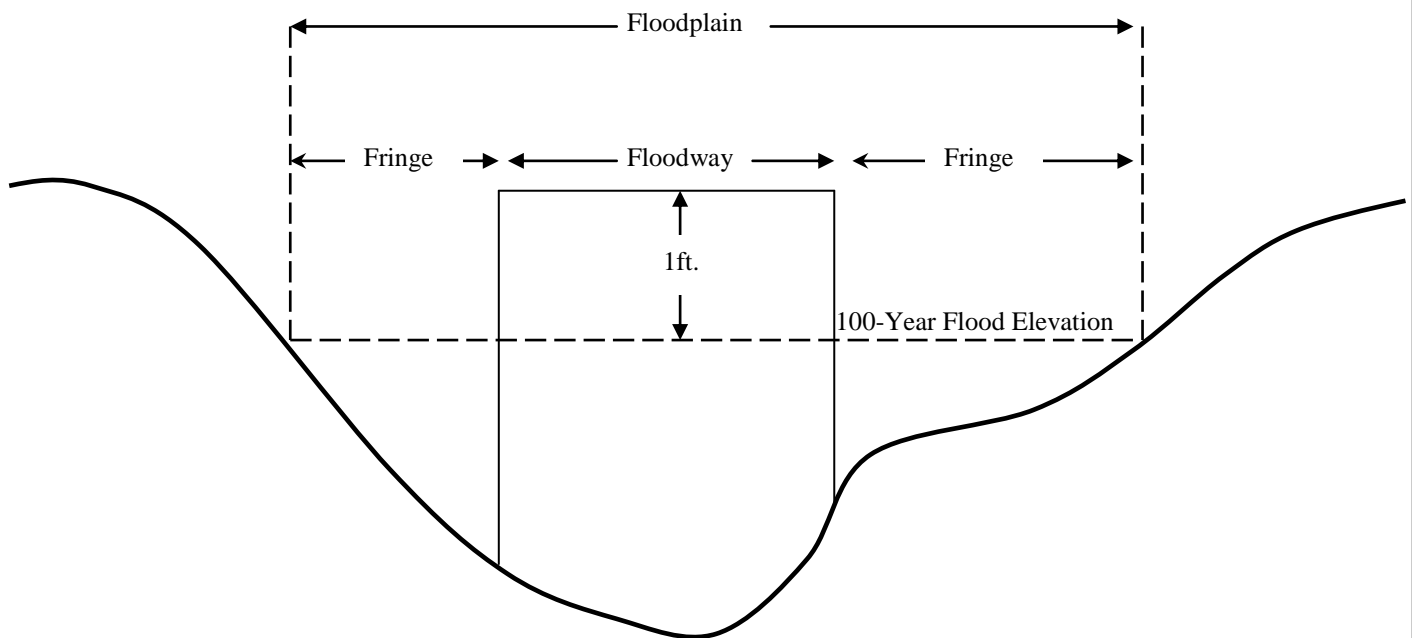
Base flood elevation studies prepared and certified by a registered professional engineer, landscape architect, or surveyor, as appropriate for their licensing, may supersede existing flood hazard soil boundary designations when approved by the Wake County Environmental Services Department. Base flood elevation studies relating to FEMA designated floodplains shall only be prepared by a registered professional engineer. *[Amended 3/16/92 to substitute "flood hazard soil boundary" for "flood hazard boundary", and to add reference to Engineering Division (O-92-10). Amended 05/19/03 to add "as appropriate for their licensing", to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department and to specify who may prepare base flood elevation studies (O-03-03).]*

Flood Insurance Rate Map (FIRM): An official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the applicable risk premium zones. *[Amended 3/23/87 to substitute "An official map" for "Official maps of the County" (R-87-30)]*

Flood Insurance Study: The official report (*Flood Insurance Study for the County of Wake*) provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

Floodplain Definitions

- Floodplain -- Any area susceptible to being flooded by the 100-year flood.
Floodplain= Floodway + Flood fringe
- Floodway -- The stream channel that must be reserved to discharge the 100-year flood without increasing the water level by more than 1 foot.
- Flood fringe -- Portion of floodplain that is outside the floodway.



Stream Cross-Section Showing Floodplain, Flood Fringe and Floodway

Floodplains accommodate increased water flow during storm events. As we increase the level of development within a watershed, many characteristics of streams change including the location/elevation of the floodplain. As development occurs and impervious surfaces increase, there is more runoff during storms, and the water levels within urban streams rise quickly.

Limiting development in the floodplain minimizes the amount of property damage that will occur during storms and protect lives. In addition, undeveloped floodplains filter sediment and other pollutants and help protect water quality.

[Amended 05/19/03 to add diagram and associated text (O-03-03).]

Flood study: A study of the potential changes in the 100-year flood elevation caused by the obstruction, encroachment, alteration or relocation of:

- (1) A FEMA mapped floodway.
- (2) A FEMA mapped area of special flood hazard which has not previously been studied in detail.
- (3) Flood hazard soils areas with a total drainage area of more than five (5) acres but no more than twenty-five (25) acres.
- (4) Flood hazard soils areas with a total drainage area of more than twenty-five (25) acres, but less than one hundred (100) acres. *[Amended 3/16/92 to add ", but less than one hundred (100) acres" (O-92-8)]*
- (5) Flood hazard soils area with a total drainage area of one hundred (100) acres or more. *[Added 3/16/92 (O-92-8)]*

[Added 6/19/89 (R-89-62); amended 3/16/92 to delete paragraph requiring flood studies to be prepared in accord with methods of the U.S. Army Corps of Engineers, FEMA, or Subsections (C) and (D) (O-92-8)]

Floodproofing: Any combination of structural and nonstructural features, additions, changes, or adjustments to land and structures in accordance with or comparable to guidelines set forth in *Floodproofing Regulations* (June 1972 edition, published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C.), which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway:

- (1) For areas which have been studied and mapped in detail by FEMA, the floodway shall be the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. *[Amended 6/19/89 to limit provision to FEMA-mapped areas (R-89-62)]*
- (2) For areas which have not been studied in detail by FEMA, but have been designated by this Ordinance to be areas of special flood hazard, the entire flood boundary shall be considered as the floodway. *[Added 6/19/89 (R-89-62)]*

Floodway fringe: That part of the area of special flood hazard, shown on the Federal Emergency Management Agency's maps, exclusive of the floodway.

Functionally dependent facility: A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities. *[Added 3/23/87 (R-87-30)]*

[Amended 3/16/92 to delete definition of "habitable floor" (O-92-8)]

Highest adjacent grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure. *[Added 3/23/87 (R-87-30)]*

Historic structure: Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior), or preliminarily determined by the Secretary of the Interior

as meeting the requirements for individual listing on the National Register of Historic Places;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary as qualifying as a registered historic district; or
- (3) Listed individually on the State Study of Historic Places (a listing maintained by the North Carolina Department of Cultural Resources, Division of Archives and History). *[Added 3/16/92 (O-92-8)]*

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Section. *[Added 3/23/87 (R-87-30)]*

Major repairs: For the purposes of this Section, major repairs means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure. The market value shall be determined at the time the improvement or repair is started, or if the structure has been damaged and is being restored, at the time immediately preceding the damage. For the purposes of the definition, major repair is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State inventory of historic places.

[Amended 3/23/87 to add "For the purposes of this Section, major repairs means", and to number exclusions as (1) and (2) (R-87-30)]

Manufactured home: Any structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities, including, and interchangeable with, the term "mobile home" as defined in Section 1-1-1 of this Ordinance. This term does not include a "recreational vehicle." *[Added 3/23/87 (R-87-30); amended 3/16/92 to substitute "structure" for "vehicle or structure", and to substitute exclusionary reference to a "recreational vehicle" for an inclusionary reference to trailers and "similar transportable structures" placed on a site for at least 180 days (O-92-8)]*

Manufactured home park: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. *[Added 3/23/87 (R-87-30)]*

Mean sea level: The average height of the sea for all stages of tide.

Minimum finished floor elevation: The highest water surface elevation predicted for the base flood in a non-FEMA mapped area obtained by the methods prescribed by Article 1-1-26(C) and (D) of this Ordinance. *[Added 6/19/89 (R-89-62)]*

Mobile home: See Section 1-1-1 of this Code.

National Geodetic Vertical Datum (NGVD): As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain. *[Added 3/23/87 (R-87-30)]*

New construction: Structures for which the start of construction commenced on or after the effective date of this Section (January 17, 1983), and includes any subsequent improvements to such structures. *[Added 3/23/87 (R-87-30); amended 3/16/92 to add inclusionary reference to subsequent improvements (O-92-8)]*

New manufactured home park: A manufactured home park is considered new if the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, final site grading or pouring of concrete pads, and the construction of streets), is completed on or after the effective date of this Section. *[Amended 3/16/92 to substitute "manufactured home park" for "mobile home park", to delete a reference to Section 1-1-1's definition of "mobile home park", and to add "for servicing the lots on which the mobile homes are to be affixed" (O-92-10)]*

Nondetailed 100-year flood boundary (FEMA) area: An area on the Flood Boundary and Floodway Map that has not been studied in detail (no floodway-floodway fringe). The entire flood boundary in these areas shall be considered to be the floodway until the area is studied. *[Added 6/19/89 (R-89-62)]*

Nuisance flooding: The ponding of water in ditches, watercourses, yards, sites, or parcels, created by a rainfall event occurring in total drainage areas of four (4) acres or less. *[Added 6/19/89 (R-89-62)]*

Recreational vehicle: A vehicle that is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less in area when measured at its largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use, and not for use as a permanent dwelling. *[Added 3/16/92 (O-92-8)]*

Regulated discharge floodplain areas: Those areas subject to reservoir-regulated flood releases within the 100-year floodplain are designated as "Special Limited Use Areas" as delineated by the U.S. Army Corps of Engineers and adopted by the Wake County Board of Commissioners. *[Added 6/19/89 (R-89-62)]*

Regulatory Flood Protection Elevation (RFPE): The highest water surface elevation reached by the base (100-year) flood, also known as the base flood elevation or the 100-year flood elevation. In FEMA areas of detailed study, the RFPE shall be considered to be the 100-year flood elevation with floodway as listed in the floodway data tables of the *Flood Insurance Study*. *[Amended 6/19/89 to add references to base flood elevation and 100-year flood elevation, and the provision recognizing the 100-year flood elevation with floodway as RFPE (R-89-62)]*

Remedy a violation: To bring a structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to substantially reduce the impacts of its noncompliance. *[Added 3/23/87 (R-87-30)]*

Soil overlay maps: Transparent photographic enlargements of soils maps taken from *Soil Survey, Wake County, North Carolina*. These overlay maps are at the same scale as the Wake County Tax Maps.

Soil Survey: The *Soil Survey, Wake County, North Carolina*.

Start of construction: The first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or the placement of pilings, columns, or piers or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include clearing or grading; neither does it include excavation for a basement, footing, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the start of construction is the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building. *[Amended 3/23/87 to substitute "manufactured home" for "mobile home", and to delete "neither does it include the installation of streets or utilities;" (R-87-30); amended 3/16/92 to delete separate definition of "start of construction" for manufactured homes and to add definition of "start of construction" for substantial improvements" (O-92-8)]*

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. *[Amended 3/23/87 to delete "that is principally above ground", and to substitute "manufactured homes" for "mobile homes" (R-87-30); amended 3/16/92 to substitute "walled and roofed building" for "building or other man-made construction", to add the inclusionary reference to above-ground storage tanks, and to substitute "as well as a manufactured home" for "including manufactured homes" (O-92-8)]*

Substantial damage: Damage, of any origin, sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. *[Added 3/16/92 (O-92-8)]*

Substantial improvement or major repairs: Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the costs of which equals or exceeds fifty (50) percent or more of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not include either (1) any improvement of a structure needed to comply with existing State and local health, sanitary, or safety code specifications, or (2) any alteration of a "historic structure," provided the alteration will not preclude the structure's continued designation as a "historic structure." *[Added 3/23/87 (R-87-30); amended 3/16/92 to substitute references to "start of construction" and "substantial damage" for part of definition, and to substitute proviso regarding preclusion of "historic structure" designation for "listed on the Historic Register of Historic Places or a State Inventory of Historic Places" (O-92-8)]*

Violation of flood hazard regulations: The failure of a structure or other development to fully comply with the provisions of this Section 1-1-26. A structure or other development without the elevation certificate, other certifications, or other required evidence of compliance is presumed to be in violation until such time as that documentation is provided. *[Added 3/23/87 (R-87-30)]*

(C) **PERMITS**

No permit for any new construction, substantial improvements, or other development proposed in an area of special flood hazard shall be issued until the Wake County Environmental Services Department has reviewed the plans for the development and has accepted the findings of the applicant that the development, as proposed, would comply with all relevant requirements of this Section. As provided in Section 1-1-23(C), those land uses otherwise exempted from the general permit requirements of Section 1-1-23(A) and (B) - including land uses associated with bona fide farms - shall not be so exempted where the proposed development is located within an area of special flood hazard. *[Added 3/16/92 (O-92-8). Amended 05/19/03 to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department to add "has accepted the findings of the applicant's" and "as proposed" (O-03-03).]*

In addition to the requirements imposed by Section 1-1-23 of this Code, all applications for building permits for property located in areas of special flood hazards shall be accompanied by evidence showing:

- (1) Elevation of the 100-year flood, in relation to mean sea level, on the property;

- (2) Existing or proposed cut and fill;
- (3) Existing or proposed drainage facilities;
- (4) As-built elevations, certified by a professional land surveyor, of the lowest floor (basement floor or otherwise) of all existing structures or the proposed lowest floor elevation of all proposed structures; *[Amended 05/19/03 to change "registered surveyor" to "professional land surveyor" and to require elevations for proposed structures (O-03-03).]*
- (5) As-built elevations to which any nonresidential structure has been floodproofed;
- (6) Certification from a registered professional engineer or architect showing that nonresidential floodproofing meets the floodproofing criteria in *Floodproofing Regulations* as referenced in Subsection (B). *[Amended 3/16/92 to substitute "registered professional engineer" for "professional registered engineer" (O-92-8) Amended 05/19/03 to allow architects to certify floodproofing (O-03-03).]*
- (7) The extent to which any watercourse will be altered or relocated as a result of proposed development, including sufficient hydraulic information to show that such alteration or relocation will not increase the base flood elevation at any point along the watercourse above the allowable rise listed in the FEMA floodway tables or, in non-FEMA mapped areas, increase the depth of flood waters on property not controlled by the property owner. *[Amended 6/19/89 to add "above the allowable rise ... property owner." (R-89-62). Amended 05/19/03 to add "along the watercourse (O-03-03).]*
- (8) Permit approval for proposed development from those federal, state, or local governmental agencies from which prior approval is required.

If a nonresidential structure must be floodproofed, the applicant shall provide a pre-construction certificate from a registered professional engineer or architect that such structure shall meet the floodproofing criteria specified in Subsection C(6), and a post-construction certification from a registered professional engineer or architect which states that such structures do in fact comply with the required floodproofing criteria. If any watercourse is to be altered or relocated, the applicant must provide financial sureties and deed restrictions to ensure that sufficient maintenance of the altered or relocated portion of said watercourse would be provided to ensure that the flood-carrying capacity of the watercourse is undiminished. *[Amended 6/19/89 to renumber from (D) to (C) (R-89-62). Amended 05/19/03 to change "assurances" to "financial sureties and deed restrictions to ensure" (O-03-03).]*

(D) EXEMPTIONS AND SPECIAL REQUIREMENTS

- (1) Driveways, as defined in Section 1-1-1 of this Code, shall be exempt from all flood hazard soil area regulations in this Section provided the conditions of Section 1-1-26(D)(2), (3), and (4), and 1-1-26(J)(1) are met. Driveways shall not be exempt from floodway and floodway fringe regulations. *[Amended 6/19/89 to substitute "Section 1-1-26(D)(2), (3), and (4), and Section 1-1-26(J)(1)" for "this Section" (R-89-62)]*
- (2) Development in flood hazard soil locations involving four (4) acres or less of drainage area shall be exempt from all flood hazard soil area regulations in this Section. *[Added 6/19/89 (R-89-62)]*
- (3) Development in flood hazard soil locations involving more than four (4) acres but less than twenty-five (25) acres of drainage area shall be subject to the following requirements:
 - (a) Natural conditions: All relevant information related to development occurring adjacent to a flood hazard soils area but not encroaching into the area, shall be certified by a professional land surveyor. The certification shall be based on the

Wake County Soils Map which will be adjusted to conform to the Wake County Topographic Maps. Alternatively, the certification may be based upon the results of field investigations, surveys and engineering studies conducted by appropriate professionals if found to be acceptable by the Environmental Services Department. The professional land surveyor shall establish the limits of the flood hazard soil area based on the adjusted soils map and the proposed property lines. *[Amended 3/16/92 to add substitute "Engineering Division" for "staff" (O-92-8). Amended 0519/03 to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department and to add "All relevant information related to" and "Alternatively,...by the Environmental Services Department" and to change "registered" land surveyor to "professional" land surveyor (O-03-03).]*

- (b) Modified conditions: Encroachments into a flood hazard soils area shall be designed and certified by a registered professional engineer, registered landscape architect, or registered land surveyor. The design shall be based upon the establishment of a temporary or permanent benchmark and an analysis of the effects of the proposed encroachment to establish a base flood elevation or depth of flow, using Mannings Equation, field surveyed cross-sections including channel slope, Wake County Topographic Maps, and, where appropriate, use of Culvert Headwater Charts. No benchmarks are required when establishing a depth of flow. A minimum of one (1.0) vertical feet shall be added to the calculated base flood elevation or depth of flow to provide a factor of safety due to the potential backwater effects of the encroachment. The analysis must conclude that no existing or proposed structures or offsite properties will be inundated by the base flood. As-built certification of compliance with the construction drawings shall be required from the landowner prior to receiving a footing inspection from the Wake County Building Inspections Division on any structures on any lots involved in the analysis. The as-built certification with the construction drawings is in addition to any elevation certifications which may be required for the structures. *[Amended 3/16/92 to require as-built drawings before "footing" instead of "framing" inspection (O-92-8); amended 12/16/96 to allow use of depth of flow and to add reference to topographic maps (O-96-52)]*

[Added 6/19/89 (R-89-62)]

- (4) Development in flood hazard soil locations involving twenty-five (25) acres or more of drainage area but less than one hundred (100) acres of drainage area shall be subject to the following requirements:
 - (a) Natural conditions: Certification shall be required in accordance with Section D(3)(a) of this Ordinance.
 - (b) Modified conditions: Encroachments into a flood hazard soils area shall be designed and certified by a registered professional engineer, registered landscape architect, or registered land surveyor. The design shall be based upon the establishment of a temporary or permanent benchmark and an analysis of the effects of the proposed encroachment to establish a base flood elevation or depth of flow; using Mannings Equation, field surveyed cross sections including channel slope, Wake County Topographic Maps, and where appropriate use of Culvert Headwater Charts. No benchmarks are required when establishing a depth of flow. A minimum of one (1.0) vertical feet shall be added to the calculated base flood elevation or depth of flow to provide a factor of safety due to the potential backwater effects of the encroachment. The analysis must conclude that no existing or proposed structures, or offsite properties will be inundated by the base flood. As-built certification of compliance with the construction drawings shall be required from the landowner prior to receiving a footing inspection from the Wake County Building Inspections Division on any structures on any lots involved in the analysis. The as-built certification with the construction drawings is in addition to any elevation certifications which may be required for the structures. *[Amended 3/16/92 to require as-built drawings before "footing" instead*

of "framing" inspection (O-92-8); amended 12/16/96 to allow use of depth of flow and to add reference to topographic maps (O-96-52)]

[Added 6/19/89 (R-89-62)]

- (5) Development in flood hazard soil locations involving one hundred (100) acres or more of drainage area shall be subject to the following requirements:
 - (a) Natural conditions: Certification shall be required in accordance with Section D(3)(a) of this Ordinance.
 - (b) Modified conditions: Encroachments into a flood hazard soils area shall be designed and certified by a registered professional engineer, registered landscape architect, or registered land surveyor. The design shall be based upon the establishment of a temporary or permanent benchmark based on National Geodetic Vertical Datum and an analysis of the effects of the proposed encroachment to establish a base flood elevation; using Mannings Equation, the Standard Step Method to analyze backwater effect, field-surveyed cross sections including channel slope, and where appropriate, use of Culvert Headwater Charts. The analysis must conclude that no existing or proposed structures, or offsite properties will be inundated by the base flood. As-built certification of compliance with the construction drawings shall be required from the landowner prior to receiving a footing inspection from the Wake County Building Inspections Division on any structures on any lots involved in the analysis. The as-built certification with the construction drawings is in addition to any elevation certifications which may be required for the structures.

[Added 3/16/92 (O-92-8)]

- (6) Development of farm ponds as part of a bona fide farm use in flood hazard soil locations shall either comply with the provisions of Paragraph (2), (3), (4), or (5) of this Subsection, as appropriate to the size of the drainage area, or comply with the following alternative requirements:
 - (a) Natural conditions: Certification shall be required in accordance with Section (D)(3)(a) of this Ordinance.
 - (b) Section 1-1-26(D)(6)(b) Modified conditions (farm ponds only): Farm ponds shall be designed and constructed such that no offsite properties shall experience an increase in flood elevations resulting from the 100-year storm event, unless the property is obtained or controlled through a recorded easement in favor of the party introducing the use. Furthermore, the dam must comply with all State and federal laws and regulations including the Dam Safety Law of 1967 (NCGS 143-215.23 through 143-215.37).

[Added 3/16/92 (O-92-10). Amended 6/19/89 to renumber from (E) to (D) (R-89-62); amended 3/16/92 to add "and Special Requirements" in heading (O-92-8)]

(E) ADMINISTRATION

The Director of the Wake County Environmental Services Department, or his duly appointed designee, shall, in addition to other duties identified by this Code, perform the following duties:
Amended 05/19/03 to change reference from County Engineer to Director of the Wake County Environmental Services Department, to add "or his duly appointed designee" and to change "conferred upon him" to "identified" (O-03-03).]

- (1) Notify, or see that notification is given to, adjacent communities and to the State Coordinator of the National Flood Insurance Program (located in the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management) prior

to any alteration or relocation of a watercourse, or submit evidence of such notification to the Federal Emergency Management Agency, or successor agency; *[Amended 3/16/92 to update reference to the responsible State official (O-92-8)]*

- (2) Ensure, by requiring appropriate financial sureties and deed restrictions, that maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; *[Amended 3/23/87 to substitute "Ensure" for "Assure" (R-87-30). Amended 05/19/03 to add "by requiring appropriate financial sureties and deed restrictions (O-03-03).]*
- (3) Ensure that any base flood elevation data available from a federal, State, or other source is considered when base flood elevation data has not been provided by the Federal Emergency Management Agency, or successor agency, in order to administer the provisions of Subsections (H), (I), and (J); *[Note: Subsections (H), (I), and (J) were renumbered on 6/19/89 to (G), (H), and (I), but this reference was not changed to reflect that renumbering (R-89-62)]*
- (4) Advise permittee that additional federal or State permits may be required, and if specific federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit. *[Added 3/23/87 (R-87-30)]*
- (5) Determine the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) when interpretation is necessary. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the Director of the Environmental Services Department's interpretation to the Wake County Board of Adjustment as provided in Section 1-1-5 of this Ordinance. *[Added 3/23/87 (R-87-30); amended 6/19/89 to substitute "County Engineer's" for "Zoning Administrator's" (R-89-62). Amended 05/19/03 to change reference from County Engineer to Director of the Wake County Environmental Services Department (O-03-03).]*
- (6) Maintain all records pertaining to the flood hazard regulations of Wake County, which shall be open for public inspection. *[Added 3/23/87 (R-87-30)]*

[Amended 3/23/87 to substitute "Zoning Administrator" for "zoning enforcement officer" (R-87-30); amended 6/19/89 to renumber from (F) to (E), and to substitute "County Engineer" for "Zoning Administrator" (R-89-62)]

(F) DELINEATION OF AREAS OF SPECIAL FLOOD HAZARD INTO FLOODWAY, FLOODWAY FRINGE, AND FLOOD HAZARD SOIL AREAS

The areas of special flood hazard within the jurisdiction of Wake County are divided into three categories:

- (1) Floodway, as defined in Subsection (B) of this Section, and as shown on the *Flood Insurance Study* maps;
- (2) Floodway fringe, as defined in Subsection (B) of this Section, and as shown on the *Flood Insurance Study* maps;
- (3) Flood hazard soils, as defined in Subsection (B) of this Section, and as shown on the soil overlay maps.

[Amended 6/19/89 to renumber from (G) to (F) (R-89-62)]

(G) STANDARD FOR AREAS OF SPECIAL FLOOD HAZARD

A registered professional engineer, architect, landscape architect, or surveyor, shall certify that the standards of this Subsection are satisfied. The certification shall be submitted to the Wake County Environmental Services Department. *[Amended 3/23/87 to add ", architect, landscape architect, or surveyor", and to substitute "Zoning Administrator" for "zoning enforcement officer" (R-87-30); amended 6/19/89 to substitute*

"County Engineer" for "Zoning Administrator" (R-89-62). Amended 05/19/03 to change reference from County Engineer to Wake County Environmental Services Department (O-03-03).]

- (1) In all areas of special hazards, the following general provisions shall apply:
 - (a) All new construction and major repairs shall be anchored to prevent floatation, collapse, or lateral movement of the structure;
 - (b) All new construction and major repairs shall be floodproofed;
 - (c) All new construction or major repairs shall be constructed by methods and practices that minimize flood damage;
 - (d) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage; *[Added 3/23/87 (R-87-30)]*
 - (e) All new and replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system;
 - (f) New and replacement sanitary sewage systems shall be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
 - (g) On-site waste disposal systems shall be located to prevent impairment of them, or contamination from them, during the flooding;
 - (h) All other public utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage; and
 - (i) In regulated discharge floodplain areas, streets and access roads shall be constructed so that surface elevations are no lower than the RFPE. *[Added 6/19/89 (R-89-62)]*

[Amended 3/23/87 to re-letter former (d) through (g) as (e) through (h) (R-87-30)]

[Amended 3/23/87 to move former Paragraph (2) to Subparagraph (3)(a) (R-87-30)]

- (2) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this Ordinance shall meet the requirements of "new construction" contained in this Ordinance. *[Added 3/23/87 (R-87-30)]*
- (3) In all areas of special flood hazard:
 - (a) New residential construction or major repairs of any residential structure shall have the lowest floor, including basement, elevated to or above the regulatory flood protection elevation (RFPE). *[Moved 3/23/87 from former Paragraph (2) (R-87-30)]*
 - (b) New nonresidential construction or major repairs of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated to or above the level of the regulatory flood protection elevation (RFPE). *[Amended 3/23/87 to move from Paragraph (3) to Subparagraph (3)(b), and to delete provision allowing floodproofing of structures below the RFPE as an alternative (R-87-30)]*
 - (c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. *[Added 3/23/87 (R-87-30)]*

(d) For all new construction, major repairs, and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. *[Added 3/23/87 (R-87-30)]*

(e) Any recreational vehicle placed on a site shall either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days;
2. Be fully licensed and ready for highway use - that is, is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions; or
3. Meet the permit requirements of 1-1-26(C) and the elevation and anchoring requirements for manufactured homes in Paragraph (4)(c) below.

[Added 3/16/92 (O-92-8)]

(4) In all areas of special flood hazard, the following provisions shall apply for manufactured homes:

- (a) No manufactured home shall be placed in a floodway except in a manufactured home park existing prior to the effective date of this Section 1-1-26 (January 17, 1983). *[Amended 3/23/87 to add reference to the effective date of the Section (R-87-30)]*
- (b) All manufactured homes and accessory structures shall be anchored to prevent floatation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Manufactured homes shall be anchored in accordance with the requirements in the "State of North Carolina Regulations for Manufactured/Mobile Homes," as adopted, and subsequently amended, by the North Carolina Commissioner of Insurance. Any additions to manufactured homes shall be similarly anchored. *[Amended 3/16/92 to substitute reference to State regulations for listed standards (O-92-8)]*
- (c) For any manufactured home to be placed or substantially improved on a site located within a new manufactured home park, within an expansion to an existing manufactured home park, within a manufactured home park that has incurred substantial damage as a result of a flood, or outside of a manufactured home park:
 1. The manufactured home shall be elevated on a permanent foundation so that its lowest floor is at or above the base flood elevation; *[Amended 3/16/92 to substitute for requirement that lots be elevated on compacted fill or on pilings so that a mobile home's lowest floor is at or above the base flood level (O-92-8)]*
 2. The manufactured home shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; *[Added 3/16/92 (O-92-8)]*

3. Adequate surface drainage and access for a hauler shall be provided; and
[Renumbered from 2. 3/16/92 (O-92-8)]
4. In the instance of elevation on pilings:
 - a. Lots shall be large enough to permit steps;
 - b. Piling foundations shall be placed in stable soil no more than ten (10) feet apart (Piling foundations shall be certified (sealed) by a Registered Professional Engineer); and
 - c. Lateral reinforcement shall be provided for pilings extending more than six (6) feet above the ground level (Reinforcements shall be certified by a registered professional engineer).

[Renumbered from 3. 3/16/92 (O-92-8)]

[Amended 3/16/92 to apply the requirements to a manufactured home within a manufactured home park instead of to a mobile home park, to apply the requirements to homes within an expansion to an existing manufactured home park, and to substitute the reference to parks with "substantially damage" for a description of the degree of damage (O-92-8)]

- (d) For a manufactured home to be placed or substantially improved on a site within an existing manufactured home park not subject to the provisions in (c) above:
 1. The manufactured home shall be elevated so that
 - a. Its lowest floor is at or above the base flood elevation, and
 - b. Its chassis is supported by reinforced piers or other foundation elements of at least equivalent strength; and
 2. The manufactured home shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

[Added 3/16/92 (O-92-8)]

[Amended 3/23/87 to substitute "manufactured home" for "mobile home" (R-87-30)]

- (5) In all Special Limited Use Areas, the following additional provisions shall apply:
 - (a) New residential construction or development and all public or joint-use access roads or streets shall be constructed to a level that is at or above the RFPE.
 - (b) Exception may be allowed to requirements in (a) above for access to facilities and/or equipment (pump stations, substations, etc.), as determined by the Wake County Environmental Services Department. *Amended 05/19/03 to change reference from County Engineer to Wake County Environmental Services Department (O-03-03).]*

[Added 6/19/89 (R-89-62)]

(H) FLOODWAYS

(1) **General Provisions**

The floodway is an extremely hazardous area because of the velocity of flood waters which carry debris, potential projectiles, and erosion potential, therefore, the following provisions shall apply:

- (a) All uses permitted in parts (a) through (f) of Subsection (H)(2) requiring encroachments, including fill, new construction, major repairs, or other developments shall be prohibited unless certification by a registered professional engineer shows that all encroachments are floodproofed and that no encroachments shall raise the elevation of the base flood above the elevation with floodway as established by the Floodway Data Tables. *[Amended 6/19/89 to change Subsection reference from (I) to (H) (R-89-62); amended 3/16/92 to substitute "registered professional engineer" for "registered engineer" (O-92-8)]*
- (b) All uses permitted in parts (g) and (h) of Subsection (H)(2) shall be allowed to increase the elevation of the base flood provided they are elevated or floodproofed and certified by a registered professional engineer and provided:
1. All changes in the base flood elevations as established on the Federal Emergency Management Agency's *Flood Insurance Study* map shall be submitted to and approved by the Federal Emergency Management Agency, or successor agency.
 2. All dams which fall under the purview of the North Carolina Dam Safety Act (N.C.G.S. 143.215) shall meet the standards of said Act. *[Amended 3/23/87 to add limitation to dams falling under the purview of G.S. 143.215, and to update G.S. reference (R-87-30)]*
 3. All areas inundated by the base flood as a result of such uses shall be owned by, or controlled through a recorded easement in favor of the party introducing the use(s). Additionally, the party introducing the use shall be responsible for floodproofing all utilities susceptible to the hazards of flooding.
 4. Full compliance with the standards and procedures listed in Subsection 1-1-26(J)(1)(c) and (d) shall be required. *[Amended 3/23/87 to correct cited reference, from (J)(3) and (4) to (K)(1)(c) and (d); amended 6/21/93 to correct cited reference, to reflect 6/19/89 renumbering of Section (K) to (J) (O-93-7)]*
 5. Full compliance with Sections 60.3, 65.6, 65.7, and 65.12 of the National Flood Insurance Program, 44 CFR Chapter I, 10-1-88 Edition, and any subsequent changes to these sections as contained in the most current edition. *[Added 6/21/93 (O-93-7)]*
- [Amended 3/16/92 to substitute "registered professional engineer" for "registered engineer" (O-92-8)]*
- (c) Any violation of this Section 1-1-26 shall constitute a misdemeanor under the authority of N.C.G.S. 143-215.58. *[Added 3/23/87 (R-87-30)]*
- (d) Failure to remove any artificial obstruction or enlargement in the floodway that violates this Section 1-1-26 (or the provision of any permit issued) under the authority of N.C.G.S. 143-215.58 shall constitute a separate violation for each ten (10) days that such failure continues after written notice from the County. *[Added 3/23/87 (R-87-30)]*

(2) Uses Permitted

The following uses, and the uses listed in Section 1-1-31(C)(4)Table 2 are permitted in floodway areas, provided that they are not prohibited by this or any other law; permanent facilities are floodproofed; they will not adversely affect the capacity of the channels or floodway of any river, creek, stream, tributary, or other drainage areas; and provided, still further, that no such use shall raise the elevation of the base flood except as provided in Subsection (H)(1)(b): *[Amended 05/19/03 to add "and the uses listed in Section 1-1-31(C)(4) Table 2" and to change "they" to "permanent facilities" (O-03-03).]*

- (a) Temporary facilities (for a specified number of days) such as displays, circuses, carnivals, or similar transient amusement enterprises upon filing an evacuation plan with Wake County Office of Emergency Management Services, or successor agency;
 - (b) Archaeological activities; *[Added 05/19/03 OA 03-03]*
 - (c) Boat docks, ramps, piers, or similar water dependent structures; *[Amended 05/19/03 to add "water dependent".]*
 - (d) Any use employing a structure provided that all portions of any structure, including foundation and supports, shall be located outside the floodway area and that any structure which overhangs the floodway is elevated above the depth of the 500-year flood; *(Amended 05/19/03 to add "that all".)*
 - (e) Quarrying provided spoilage is not stored in the floodway;
 - (f) Any other use not employing a structure and not subject to floating away during a flood;
 - (g) Reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places;
 - (h) Streets, bridges, overhead utility lines, hydroelectric plants, railway lines and rights-of-way, creek and storm drainage facilities, sewage or waste treatment plant outlets, water supply intake structures, manholes and sanitary sewer mains, and other similar public, community or utility uses;
 - (i) Dams (including fill) provided they are constructed perpendicular to the floodway flow; provided that the emergency spillway is designed to safely pass the maximum expected peak discharge of the 100-year storm event; and provided still further that the dam complies with all state and federal laws and regulations. The construction of dams within the jurisdictional waters of the United States may be prohibited by the federal and/or state government. *[Amended 3/16/92 to substitute "emergency spillway" for "principal spillway" (O-92-8). Amended 05/19/03 to delete "still further" and to add "The construction...state government" (O-03-03).]*
 - (j) Drainage ditches, roadside ditches, and stormwater outfalls, provided no alternative exists and any necessary stormwater management device(s) is/are installed to control nitrogen, to attenuate the velocity of the discharge, and to return the discharge to a diffuse flow (all to the maximum extent practicable), prior to the conveyance of the discharge through the buffer. *[Added 05/19/03 (O-03-03).]*
 - (k) Pedestrian, bikeway, equestrian, golf cart, and other recreation trails; and *[Added 05/19/03 OA 03-03]*
 - (l) Stream and wetland restoration and stream bank stabilization. *[Added 05/19/03 (O-03-03)].*
[Amended 6/19/89 to renumber from (I) to (H) (R-89-62). Amended 05/19/03 to renumber (b) through (h) as (c) through (i) (O-03-03).]
- (3) Uses Prohibited in the Floodway
- (a) No new structures shall be constructed or placed within the floodway except as otherwise provided by paragraph H(2) of this Section;

- (b) No fill shall be placed in the floodway except as otherwise provided by paragraph H92) of this Section;
- (c) No new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities or similar uses that may result in environmental contamination shall be permitted in the Special Flood Hazard Areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least one foot above the regulatory flood protection elevation and certified accordingly. *[Added paragraph (3) on 05/19/03 (O-03-03).]*

(I) **FLOODWAY FRINGE**

(1) **Uses Permitted**

The following uses shall be permitted within floodway fringe areas to the extent that they are not otherwise prohibited by this or any other law or ordinance:

- (a) Uses Permitted Below the Regulatory Flood Protection Elevation
 - 1. Uses permitted and regulated in floodways.
 - 2. Underground storage and structure foundations and supports that are watertight and substantially impermeable to the passage of water and are designed to withstand the flood depths, velocities, impact and uplift forces associated with the 100-year flood at the location of the structure. *[Amended 05/19/03 "nonresidential structures and residential accessory structures which comply with Section 1-1-22", to renumber subparagraph (3) as (2), and to delete paragraph (b) Uses Permitted Above the Regulatory Flood Protection Elevation (O-03-03).]*

(2) **Uses Prohibited in the Floodway Fringe**

- (a) No new structures shall be constructed or placed within the floodway fringe except as otherwise provided by paragraph (1) of this section;
- (b) No fill shall be placed in the floodway fringe except as otherwise provided by this ordinance unless cut and fill is balanced on the site and a registered professional engineer provides a no-rise certification accompanied by sufficient documentation to verify that there will be no increase in the base flood elevation. Subsequently, no portion of the property, which is located in the floodplain, shall be permitted to be included in a request for a letter of Map Amendment (LOMA)
- (c) No new solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities or similar uses that may result in environmental contamination shall be permitted in the Special Flood Hazard Areas. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plan or wastewater treatment facility may be located in a special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least one foot above the regulatory flood protection elevation and certified accordingly.

[Amended 6/19/89 to renumber from (J) to (I) (R-89-62). Amended 05/19/03 to add "and I of this Section or in Section 1-1-31(C)(4)".]

(J) **FLOOD HAZARD SOIL AREAS**

(1) **Uses Permitted**

All uses permitted in Subsection H and I of this Section, or in Section 1-1-31(C)(4) Table 2 are permitted in flood hazard soil areas, and such uses may raise the elevation of the base flood in excess of one (1) foot, provided that any use which raises the elevation of the base flood meets all of the following conditions:

- (a) The Wake County Environmental Services Department shall review and approve any hydrologic or other data prepared to show regulatory flood protection elevations; *[Amended 6/19/89 to delete "Planning Department and the" (R-89-62); amended 3/16/92 to add reference to Engineering Division (O-92-8). Amended 05/19/03 to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department (O-03-03).]*
- (b) All areas upstream of the use that become inundated by the 100-year flood as a result of that use shall be owned by or controlled through a recorded easement in favor of, the party introducing the use. Additionally, the party introducing the use shall be responsible for flood proofing all utilities that are susceptible to the hazards of flooding because of their location below the base flood elevation; and no floodwaters shall be in excess of the pre-development 100-year water surface elevation on properties not owned or controlled by the applicant; and *[Amended 6/19/89 to substitute "below the base flood elevation" for "above the Regulatory Flood Protection Elevation", and to add prohibition of floodwaters in excess of the pre-development 100-year elevation on land not owned or controlled by the applicant (R-89-62)]*
- (c) Such uses shall be subject to standards and procedures established by the Wake County Environmental Services Department, including:

Section 1, Subsection 104; Section 3, Table 300.1; and Section 3, Subsection 01.03 of the North Carolina State Highway Commission's *Handbook of Design for Highway Surface Drainage Structures*. *[Amended 3/16/92 to add reference to Engineering Division (O-92-8). Amended 05/19/03 to change reference from Engineering Division of Wake County Community Development Services to Wake County Environmental Services Department (O-03-03).]*
- (d) Such uses shall be subject to the standards set out in the *Wake County Standards and Specifications for Soil Erosion and Sediment Control*.

[Amended 6/19/89 to renumber from (K) to (J) (R-89-62). Amended 05/19/03 to add "and I of this Section, or in Section 1-1-31(C)4".]

(K) USES ALLOWED IN FLOODWAY, FLOODWAY FRINGE, AND FLOOD HAZARD SOILS AREAS WITHOUT A PERMIT

The following uses shall be allowable within a floodway, floodway fringe, or flood hazard soils area without a permit provided the existing topography and drainage is not altered by construction, the level of the base flood is not increased, and the use does not involve any man-made change to improved or unimproved real estate (including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials). *[Added 6/19/89 (R-89-62); amended 3/16/92 to add ", the level ... or materials)." (O-92-8)]*

- (1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.
- (2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses.
- (3) Lawns, gardens, play areas, and similar uses.

- (4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

[Amended 6/19/89 to renumber from (L) to (K) (R-89-62)]

[Section added 6/3/74]

SECTION 1-1-27 PERFORMANCE STANDARDS**(A) APPLICATION OF SECTION**

Whenever the uses in a zoning district are subject to the performance standards in this Section, all of the uses in that district except those which are allowed without a permit shall comply with all of the applicable standards established by this Section. At the time a permit is issued, it will not always be possible to determine whether a use will comply with all of these standards when construction is completed and operation is begun. Therefore, permittees are hereby put on notice that a use permit is issued on the condition that all applicable performance standards just like the other regulations in this Code, shall be complied with continually and that any violation of this condition is a violation of this Code.

(B) EFFECT OF TWO OR MORE USES

The sum total of the effects of two (2) or more uses whether location on the same lot or different lots shall not exceed the standards established by this Section. Compliance with the standards of this Section by single or mutual changes in operational levels, scheduling of operations, or other appropriate means is permitted.

(C) NOISE**(1) Definitions**

The following definitions apply to the noise standards established by this Subsection.

- (a) dba: A unit for describing sound levels using an A-weighting network. This network modifies the measured sound pressure level at the various frequencies to account for differences in the sensitivity of the human ear to sounds of different frequency.
- (b) Decibel (abbreviated db): A unit which describes the sound pressure level or intensity of sound. The sound pressure level in decibels is twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound to a reference pressure of 0.0002 microbar.
- (c) Impulsive noise: Noises of relatively short duration generally produced by striking two (2) or more objects so as to be heard as separate distinct noises.
- (d) Noise: A subjective description of an undesirable, unwanted, or un-warranted sound (see definition of "sound").
- (e) Sound: Rapid fluctuations of atmospheric pressure which are audible to the human ear.
- (f) Sound level meter: An instrument for measuring the overall sound pressure level which complies with the standards set forth in the "American Standard Specification for General Purpose Sound Level Meters," American National Standards Institute (ANSI S1. 4-1961).

(2) Measurement

Noise shall be measured with a sound level meter at the lines of the property from which the noise is being emitted. The instrument shall be set to the A-weighted response scale, and the meter to slow response. Measurements shall be conducted with the "American Standard Method for the Physical Measurements of Sound," American National Standard

Institute (ANSI S1. 2-1962). When more than one (1) sound level applies the more stringent one shall control.

(3) **Standards**

Except as provided in Subsection C.(4) immediately below, noise shall not exceed the following levels:

Maximum Permitted Sound Level	When the Lot Is Adjacent To:
55 dba*	Any Residential District or the Research Park District
60 dba	The Office and Institutional, Highway, General Business or Heavy Commercial Districts
65 dba	The Airport or Industrial Districts

* When adjacent to any Residential District, the weighted sound level shall not exceed 55 dba during the hours of 7:00 a.m. to 9:00 p.m. and 45 dba during the hours of 9:00 p.m. to 7:00 a.m.

(4) **Exceptions to Standards**

The maximum sound levels in Subsection C(3) may be exceeded if one (1) of the following correction factors is applicable:

Type of Operation or Character of Noise	Correction in Decibels
Noise source operates less than 20% of any one hour period	Plus 5*
Noise source operates less than 5% of any one hour period	Plus 10*
Noise source operates continuously but at frequencies below 500 cycles per second	Plus 10*
Noise source operates less than 1% of any one hour period	Plus 15*
Noise of impulsive character, such as hammering, pounding, etc.	Minus 5
Noise of periodic character, such as humming, screeching, etc.	Minus 5

* Apply only one of these correction factors

(5) **Exclusion from Standards**

Noises which are not under the direct control of an industrial use, such as from independent transportation facilities, are excluded from the standards established by this Subsection.

(D) **ODOR**

- (1) The applicable federal and State regulations over discharge (liquid), emissions (air), and disposal (solid waste) shall take precedence over the standards in this Subsection, and violation of those regulations shall be a violation of this Code.

- (2) In those instances where the above federal and State regulations are not applicable, the standards in this Subsection shall be complied with. No use shall emit any continuous, frequent, or repetitive odor or odor causing substance which is detectable at or beyond the lot lines of the property on which the use is located. An odor which is emitted no more than fifteen (15) minutes in any one (1) day nor more than two (2) days out of the calendar month shall not be deemed to be continuous, frequent, or repetitive under this Subsection. The existence of an odor shall be presumed when the concentration of the odor causing substance in the air at or beyond a lot line exceeds the lowest concentration listed as the odor threshold for such a substance in Table III, "Odor Thresholds," appearing in Chapter 5, "Physiological Effects," *The Air Pollution Abatement Manual*, Manufacturing Chemists' Association (1952), or any subsequent amendments or revisions thereto. Substances which are not listed in that table shall not be deemed odorous unless analysis by a competent chemist demonstrates that a discernible odor is being emitted.
- (3) In any district other than the Industrial, Industrial Park, or Airport District, no emission of an odor or odor causing substance shall be permitted.

(E) GLARE

No glare, whether direct or reflected, such as from sunlight, floodlights, or operational processes, shall be visible at or beyond the lot line of the property from which it is being emitted.

(F) HEAT

- (1) The applicable federal and State regulations over discharges (liquid) and emissions (air) shall take precedence over the standards in this Subsection, and a violation of those regulations shall be a violation of this Code.
- (2) Where the above federal and State regulations are not applicable, the standards in this subsection shall be complied with. No continuous, frequent, or repetitive discharge or emission of heat shall be allowed if it increases the general temperature by one (1) degree Celsius or more at or beyond the lot line of the property from which it is being emitted.

(G) EXTERIOR LIGHTING

All exterior lighting shall be shielded or directed away from any adjacent use or lot or any adjacent public street. No exterior lighting shall cause illumination in excess of one (1) foot candle at the lot line of any use.

(H) VIBRATION

(1) **Definitions**

The following definitions apply to the vibration standards established by this subsection:

- (a) Amplitude: The maximum displacement of the surface of the earth from its normal resting position. Amplitude is generally measured in inches or miles.
- (b) Discrete impulses: A ground transmitted vibration stemming from a source where specific impulses do not exceed sixty (60) per minute or one (1) per second.
- (c) Frequency: The number of times that a displacement completely repeats itself in one (1) second of time. Frequency shall be expressed in cycles per second (cps) or hertz (Hz).

- (d) **Impact:** An earthborne vibration generally produced by two (2) or more objects striking each other so as to cause separate and distinct pulses.

(2) **Measurement**

Ground transmitted vibration shall be measured at the lot line of the property from which the vibration is being emitted using a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity, or acceleration simultaneously in three (3) mutually perpendicular directions. When more than one (1) vibration level applies, the more stringent one shall control.

(3) **Standards**

Vibration shall not exceed the following levels:

Maximum Peak
Particle Velocity
in Inches Per Second

When the Lot Is Adjacent To:

0.02*	Any residential district or the Research Park District
0.05	The Office and Institutional, Highway, General Business, Heavy Commercial, or Planned Thoroughfare Commercial District
0.10	The Airport, Industrial, or Industrial Park District

* When adjacent to any Residential district, the peak particle velocity shall not exceed 0.02 inches per second during the hours of 7:00 a.m. to 9:00 p.m. and 0.01 inches per second during the hours of 9:00 p.m. to 7:00 a.m.

The maximum particle velocity shall be the maximum vector of three (3) mutually perpendicular components recorded simultaneously. Particle velocity may also be expressed as six and twenty-eight one-hundredths (6.28) times the displacement in inches multiplied by frequency in cycles per second. Steady state vibrations are ones which are continuous or in discrete impulses of more than sixty (60) per minute. Discrete impulses which do not exceed sixty (60) per minute shall be considered impact vibrations. Impact vibrations are limited to values which are not greater than twice those specified above.

(I) **AIRBORNE EMISSIONS**

(1) **Smoke**

- (a) The applicable federal and State regulations over emissions (air) shall take precedence over the standards in this Subsection, and a violation of those regulations shall be violation of this Code.
- (b) When the above federal and State regulations are not applicable, the standards in this Subsection shall be complied with. Smoke shall be measured at the point of emission using the Ringelmann Smoke Chart published by the U. S. Bureau of Mines. Smoke which is not darker or more opaque than No. 1 on the Ringelmann Chart may be emitted, except that smoke which is not darker or more opaque than No. 2 on such chart may be emitted for periods not longer than four (4) minutes out of any thirty (30) minutes. These standards are applicable to visible grey smoke but

shall also apply to visible gray smoke but shall also apply to visible smoke with a different color but an equivalent apparent opacity.

(2) **Particulate matter**

- (a) The applicable federal and State regulations over emissions (air) shall take precedence over the standards in this Subsection, and violation of those regulations shall be a violation of this Code.
- (b) When the above federal and State regulations are not applicable, solid particles shall not be emitted at any point in concentration exceeding one-tenth (0.10) grain of particulates per standard cubic foot being emitted.

(3) **Steam**

The emission of visible steam with an equivalent opacity of sixty (60) percent or higher is prohibited within five hundred (500) feet of a Residential use or District. In all other situations, no steam may be emitted which is perceptible to the senses at any lot line of the property.

(4) **Gases**

- (a) The applicable federal and State regulations over emissions (air) shall take precedence over the standards in this Subsection, and a violation of those regulations shall be a violation of this Code.
- (b) When the above federal and State regulations are not applicable, fumes or gases shall not be emitted at any point in concentrations or amounts which are noxious, toxic or corrosive. The values given in Table I, "Industrial Hygiene Standards - Maximum Allowance Concentration for Eight Hour Day, Five Days per Week," Table II, "Odor Thresholds," Table IV, "Concentrations of Substances Causing Pain in the Eyes," and Table V, "Exposures to Substances Causing Injury to Vegetation," in Chapter 5 of the *Air Pollution Abatement Manual*, Manufacturing Chemists' Association, Inc., Washington, D.C., and any amendments or revisions thereto, are hereby established as guides for determining the permissible concentrations or amounts of fumes or gases.

(J) **TOXIC MATTER**

The applicable federal and State regulations over discharges (liquid) or disposal (solid matter) shall be complied with, and a violation of those regulations shall be a violation of this Code.

(K) **FIRE AND EXPLOSION**

(1) **Fire Standards**

The manufacture, storage, or utilization of flammable liquids or gases shall only be allowed in accordance with the following regulations and the "National Fire Codes," National Fire Protection Association, and any amendment or revisions thereto:

Total Capacity of Flammable Materials Permitted in Gallons*

Flash Point, Closed Cup Tester	Above Ground	Below Ground
140°F. or higher	30,000	100,000
Less than 140°F. but higher than 73°F	10,000	100,000
74°F. or less	3,000	100,000
Total	43,000	300,000

* When flammable gases are measured in cubic feet, the quantity of cubic feet at the permitted standard temperature and pressure shall not exceed thirty (30) times the quantities established above.

The storage of finished products in excess of the quantities established above shall be permitted if the original sealed containers of fifty-five (55) gallons or less, in transit via an inter- or intra-state pipeline, or in above ground tanks for distribution to fuel oil or gasoline wholesalers or retail customers, but only if the minimum yards are doubled and all storage areas are designed to contain and hold spillage of the total volume of store products.

(2) **Explosion Standards**

The manufacture, storage, or utilization of explosives shall be enclosed within barricaded facilities designed and constructed in accordance with the "National Fire Codes," National Fire Protection Association, and any amendments or revisions thereto. Such barricaded facilities shall be set back from adjacent public streets, buildings, etc., as required in the "American Table of Distances for Storage of Explosives," Institute of Makers of Explosives (1955), and any amendments or revisions thereof. A portion of that table is as follows:

Quantity Distance Tables for the Storage of Explosives

Explosives, Pounds Not Over	Explosives, Pounds Not Over	Inhabited Buildings	Passenger Railways	Public Highways	Separation of Magazines
30	40	140	55	55	12
400	500	320	130	130	29
2,000	2,500	545	220	190	49
10,000	12,000	875	370	270	82
100,000	100,000	1,835	770	550	195

(L) RADIATION

No use shall cause any dangerous radiation at any lot line in violation of the regulations of the U. S. Nuclear Regulatory Commission.

(M) RADIOACTIVITY

No use shall cause any radioactivity at any lot line in violation of the "Standards for Protection Against Radiation," Title 10, Chapter 1, Part 20, Code of Federal Regulations (January 16,

1957), and any subsequent amendments or revisions thereto, and "The Use of Ionizing Radiation, Radiation Machines, and Radioactive Materials, and Atomic Energy," N.C.G.S. §104C-1-5, and any subsequent amendments or revisions thereto.

(N) ELECTRICAL RADIATION

No electrical radiation shall adversely affect any operations or equipment other than those of the creator of the radiation.

(O) WASTE

- (1) The applicable federal and State regulations over discharges (liquid industrial wastes or sewage) and disposal (solid industrial wastes) shall take precedence over the standards in this Subsection, and a violation of those regulations shall be a violation of this Code.
- (2) When the above regulations are not applicable, the disposal or discharge of all solid or liquid industrial wastes, including sewage, must be approved by the Wake County Health Department.

[Section added 4/2/79]

SECTION 1-1-28 OFF-STREET PARKING REGULATIONS**(A) PARKING SPACE REQUIREMENTS**

All general and special uses shall comply with all applicable parking regulations established by this Section, but, the Board of Adjustment or governing body may prescribe greater requirements in granting a special use permit. Where the required number of parking spaces for a special use is not stated numerically, the Board of Adjustment or the governing body shall prescribe the number of spaces to be provided if it grants a permit for the use. The number of spaces which are prescribed in a special use permit shall be a condition to the granting of the permit. In determining the number of spaces to be provided, the Board of Adjustment or governing body shall at least consider the maximum number of vehicles which are likely to be associated with the use, the availability of parking on adjoining streets or properties, and the possible adverse effects upon the adjoining streets and uses and the neighborhood.

(1) Residential Uses

Residential uses shall provide the following parking spaces:

- (a) All multi-family dwellings: One and one-half (1½) spaces per dwelling unit containing less than two (2) bedrooms, two (2) spaces per each dwelling unit containing two (2) or more bedrooms.
- (b) Rooming houses, boarding houses, fraternity houses, sorority houses, health care facilities, group care facilities: One and one-half (1½) spaces for every rental or sleeping room, but only one (1) space for every rental or sleeping room with an area of seventy (70) square feet or less.
- (c) Hotels, motels, motor hotels, motor courts, tourist homes, bed and breakfast residences: One (1) space per each rental room or unit. *[Amended 7/18/94 to add "bed and breakfast residences" (O-94-16)]*
- (d) Home occupations and limited home businesses: The same number of spaces as would be required if the occupation or business were not located within dwelling or as prescribed by the Board of Adjustment, whichever is greater.

(2) Office and Institutional Uses

Office and institutional uses shall provide the following parking spaces:

- (a) For all business and professional offices not listed: One (1) space per every three hundred (300) square feet of building floor area.
- (b) Medical and dental offices and clinics: Six (6) spaces per each doctor or dentist.
- (c) Elementary and secondary schools: One (1) space per every five (5) seats in the principal assembly room.
- (d) Hospitals, except for veterinary hospitals, nursing and personal care facilities, out-patient care facilities, sanitariums, group care facilities, and homes for the elderly: One (1) space per every two (2) beds.
- (e) Business and trade schools: One (1) space per each three (3) students at maximum daytime enrollment.

- (f) Places of worship: One (1) space per each eight (8) seats in the principal assembly room.
- (g) Clubs, halls, lodges, and similar places of assembly or headquarters for civic, social, fraternal, social service, trade, and similar organizations: One (1) space per each three (3) local members.
- (h) Child day care centers and large child day care homes: One (1) space for each full-time employee, plus an off-street drop-off/pick-up area sized to accommodate the demands of the projected enrollment and located so that children do not have to cross traffic areas and conflicts with traffic flow in adjacent streets are avoided.
[Added 2/17/92 (O-92-5)]

(3) **Retail Commercial and Service Uses**

Retail commercial and service uses shall provide the following parking spaces:

- (a) For all retail commercial and service uses not listed elsewhere: One (1) space per each two hundred (200) square feet of floor sales area; and one (1) space per each eight hundred (800) square feet of storage area.
- (b) Furniture, appliance, music, and hardware stores: One (1) space per every four hundred square (400) feet of building floor area.
- (c) Laundry and dry cleaning establishments not providing self-service: One (1) space per every three hundred (300) square feet of building floor area plus reservoir space for three (3) vehicles at each drive-in window.
- (d) Laundry and dry cleaning establishments providing self-service: One (1) space per each piece of rentable equipment.
- (e) Drive-in or walk-up food or drink establishments: Fifteen (15) spaces plus one (1) additional space per every fifty (50) square feet of building floor area.
- (f) Restaurants, cafeterias, nightclubs, taverns, dance halls, and lounges: One (1) space per every fifty (50) square feet of floor area for public use or one (1) space per every four (4) seats, whichever is the greater.
- (g) Supermarkets, food stores, department stores, superdrug stores, and variety stores: One (1) space per every one hundred fifty (150) square feet of building floor area.
- (h) Drive-in banks and other drive-in office uses: One (1) space per each three hundred (300) square feet of building floor area plus reservoir space for three (3) vehicles at each drive-in window.
- (i) Funeral homes and undertaking establishments: One (1) space per every five (5) spaces in the chapels plus sufficient additional space for all hearses, ambulances, and other commercial vehicles.
- (j) Vehicular service stations: One (1) space per every one thousand (1,000) square feet of land area.
- (k) Vehicular service garages, for repairs, tire recapping, muffler, brake, and similar services: Three (3) spaces per each service bay plus one (1) space per each mechanic.

- (l) Automatic vehicular washing and cleaning establishments: Reservoir spaces equal to five (5) times the number of vehicles which can be processed at one (1) time.
- (m) Self-service vehicular washing and cleaning establishments: Two (2) reservoir spaces per each bay.
- (n) Barber or beauty shops: One and one-half (1½) spaces per each barber or beauty operator.

(4) Industrial Uses, Wholesale Establishments, and Warehouses

Industrial uses and wholesale establishments, warehouses, and other businesses which do not cater to retail customers or trade: One (1) space for every two (2) employees during the shift of maximum employment plus one (1) space for every truck to be stored or stopped simultaneously.

(5) Recreational Uses and Places of Public Assembly

Recreational uses and places of public assembly shall provide the following parking spaces:

- (a) Golf courses, driving ranges, miniature golf, billiard or pool centers, and other similar recreational uses: Two (2) spaces per tee and/or green or other method of participation, however styled.
- (b) Bowling establishments: Five (5) spaces per lane.
- (c) Auditorium, theaters, stadiums, and other places of public assembly, with or without fixed seats: One (1) space for every five (5) seats or every five (5) persons under the designed capacity of the building or structure.

(6) Special Uses Not Listed

All other special uses: To be determined by the Board of Adjustment or the governing body in reviewing the petition for the use.

(B) REQUIRED PLAN AND STANDARDS

A plan showing all off-street parking areas shall be submitted along with the property description form in the case of a general use and the petition in the case of a special use. Such plan shall show the location and width of all points of ingress and egress, the number, location, and width of all parking spaces, and the location and width of the adjoining street right-of-way and the paved surface thereof. A general or special use may be disapproved for failure to comply with any applicable regulations in this Section.

- (1) The off-street parking spaces required by this section shall not be used for any purpose other than parking. Except as provided in part (2) of this Subsection, the parking spaces which are required by these regulations shall be located on the same lot as the use for which they are required. All parking spaces and lots and points of ingress and egress shall be designed to provide the safe and convenient vehicular movement and parking, pedestrian circulation, and emergency access on the lots as well as the adjoining street. No portion of any street right-of-way shall be utilized to wholly or partially fulfill the off-street parking requirements. No parking bays shall be allowed except for residential parking on residential streets. All off-street parking lots shall be designed so that ingress and egress is by forward motion. No land may be used or building or structure may be

occupied until all drives and off-street parking spaces are improved with an all-weather surface (such as gravel, asphalt, cement, brick or other suitable surface) and marked by some appropriate method.

- (2) If parking spaces cannot be provided on the same lot as the principal use, they may be provided on a lot located within four hundred (400) feet of an entrance to that use for customer parking or within one thousand (1,000) feet for employee parking. The applicant shall submit with his property description form a description of all remote lots used to provide the required off-street parking spaces together with a certificate of ownership of such lots or an attested copy of the leasing agreement. The applicant shall also agree in writing that he and his heirs, successors, and assigns shall provide the required off-street parking on such remote lots or other equivalents so long as the principal use shall continue and shall further agree that the principal use shall be discontinued if the required parking spaces are no longer provided on the lots or their equivalent. A violation of this provision shall constitute an unauthorized and illegal occupancy of the principal use.
- (3) When more than one (1) use is located on a lot or within a building or structure, the required number of parking spaces shall be the total number of spaces which would have been required if those uses had been developed individually. The required number of parking spaces for any number of individual uses may be located on one lot, but the required spaces assigned to one (1) use shall not be assigned to another use during the same hours.

(C) PERMIT REQUIRED FOR CHANGES

All future changes in the parking for a use shall only be allowed pursuant to a general use permit or a special use permit if a special use permit is necessary for some use, building, or structure which will accompany the change in the parking.

(D) ADDITIONAL PARKING REQUIRED

Whenever there is an increase in the number of dwelling units, the number of employees, the seating capacity, the floor area, or some other applicable unit of measurement for determining the number of parking spaces which a use, building, or structure should provide and the increase will result in a need for a additional parking, such additional spaces as are necessary shall be provided as a condition to obtaining any necessary permits. If a use, building, or structure having inadequate parking spaces is increased by fifty (50) percent or less, additional parking spaces shall only be required as if the addition were a new development. If it is increased by fifty-one (51) percent or more, sufficient additional parking space shall be required to bring the total development into conformance with these regulations. The Board of Adjustment may issue a special use permit allowing an increase in the applicable unit of measurement without providing the additional number of parking spaces upon finding that:

- (1) The proposed use will primarily cater to pedestrian traffic; and
- (2) The character of the area within a radius of four hundred (400) feet prohibits the acquisition of land for additional parking spaces.

(E) LOADING AREA REQUIREMENTS

In addition to the preceding off-street parking requirements, all commercial uses shall provide loading and unloading areas which are located and designed so that the normal flow of vehicles and pedestrians within the required off-street parking spaces shall not be interfered with and vehicles shall not be parked on or extend into any public right-of-way while being loaded or unloaded.

(F) SCREENING AND PLANTING REQUIREMENTS FOR OFF-STREET PARKING AREAS**(1) Screening**

Off-street areas containing either ten (10) or more spaces, or an area of three thousand (3,000) or more square feet shall be screened from adjacent properties and public rights-of-way by a solid evergreen hedge a minimum of three (3) feet in height.

(2) Planting**(a) Perimeter**

No less than one canopy tree shall be planted along the perimeter of parking areas, for each forty (40) feet of parking area perimeter.

(b) Islands

1. A planting island with an area of one hundred eighty (180) or more square feet shall be provided for every ten (10) parking spaces which are not located on the perimeter of the parking area.
2. One (1) additional square foot of planting island shall be provided for each one hundred (100) square feet of other vehicular use area. "Other vehicular use area" includes off-street loading areas and areas upon which vehicles traverse the lot as a function of the primary use.
3. Each planting island shall be landscaped, having no less than one (1) tree planted therein with appropriate groundcovers, and having no horizontal dimension of less than nine (9) feet.
4. Planting islands shall be evenly distributed throughout the parking area, and no parking space shall be located more than one hundred twenty (120) feet from a planting island.
5. All parking spaces shall be blocked or curbed to prevent vehicles from overhanging planting islands or landscaped yards by an average of more than one (1) foot, or damaging adjacent fences or screens.

(c) Access Visibility

At all points of ingress and egress from off-street parking areas, unobstructed visibility shall be maintained in accordance with the provisions of Section 1-1-29 of this Code.

(d) Plans

Whenever a parking area is required to be landscaped, the information included in the approved landscaping plan shall be submitted to the Zoning Administrator as part of the plan for a parking lot or site or development plan.

[Amended 11/18/85 to substitute for requirement that parking lots be landscaped in accordance with Section 1-1-29(G) (R-85-231)]

(G) EXEMPTION

The regulations established by this Section shall not apply where a lot to be used for the erection of a church was purchased by a church for that purpose and the purchase thereof is evidenced by a deed to the church or the trustee or other proper officers thereof in their representative capacity and filed for registration in the Office of the Register of Deeds of Wake County on or prior to August 15, 1950.

[Section added 7/21/80]

SECTION 1-1-29 TRANSITIONAL BUFFERYARDS AND SCREENS**(A) INTENT**

These regulations are intended to:

- (1) Preserve the value of buildings and protect their occupants' privacy by requiring spacing and screening between uses of different types or intensities. *[Amended 8/19/96 to move provision regarding application in reference to zoning to Subsection (B) (O-96-32)]*
- (2) Utilize spacing and screening together to buffer uses of one intensity from aspects of uses of a higher intensity and reduce the adverse effects of traffic, noise, dust, or odor.
- (3) Tailor transitional bufferyard requirements to suit the intensity of the use and adjacent uses. The greater the difference in intensities, the deeper the transitional bufferyard; the less the difference in intensities, the shallower the transitional bufferyard.
- (4) Require adequate screening of commercial and industrial uses along thoroughfares both to preserve building values and to promote scenic beauty along transportation corridors of the County. *[Amended 8/21/89 to substitute "thoroughfares" for "major thoroughfares" and "transportation corridors" for "major transportation corridors" (R-89-75)]*

[Amended 6/15/87 to list intent statements separately (R-87-64)]

(B) APPLICATION (Refer to Chapter One of the Wake County Design Manual)

Any new nonresidential use or high intensity residential use (see footnotes to Table I and II), or change in a nonresidential use to a more intensive class of use, or expansion of an existing nonresidential or high intensity residential use by at least twenty-five (25) percent of the floor area and/or impervious surface associated with the use as of August 15, 1996, that is proposed on a lot adjoining a lot containing a less intensive class of existing use or a vacant lot zoned for less intensive uses shall provide a transitional bufferyard and screening meeting the requirements of this Section. In the case of an expansion of an existing use, where the degree of expansion does not exceed fifty (50) percent, such expansion need only provide a transitional bufferyard and screening that meets the requirements of this Section to a degree proportional to the degree of expansion. For example, a thirty (30) percent expansion of an existing use shall provide a transitional bufferyard meeting thirty (30) percent of required bufferyard depth and plant density requirements. For purposes of this Section, existing uses shall include proposed uses for which a land use permit has been issued and remains valid, and the class of a use and zoning of vacant land shall be determined from Tables I and II. These transitional bufferyard regulations apply whether or not the adjoining lot is in the same zoning district. Additional applications of these standards are set forth in Subsection (G).

[Amended 6/15/87 to add reference to Design Manual (R-87-64); amended 8/19/96 to replace Subsection in its entirety (O-96-32)]

(C) LOCATION OF TRANSITIONAL BUFFERYARDS AND SCREENS

Transitional bufferyards and screens shall be located:

- (1) Along the perimeter of a lot or parcel, but not within any portion of an existing or planned road right-of-way; or
- (2) In instances where the area represented by a site plan is significantly less than the total area of the lot(s) of record, the Zoning Administrator may permit the screening required

between the proposed use and adjacent lot(s) to be located in a transitional bufferyard surrounding the smaller area provided that:

- (a) The depth of the transitional bufferyard and type of screening provided for the smaller area is equal to or greater than required by Tables I and II of this Section; and
- (b) The transitional bufferyards required in Table I of this Section are also provided around the perimeter of the lot(s) of record; and
- (c) The total area of the lot(s) of record, less the smaller area represented by the subject site plan, could meet the minimum requirements within the applicable zoning district, if considered as if it (they) were an independent lot(s) of record.

[Amended 6/15/87 to divide provision and add (2) (R-87-64)]

(D) DEPTH OF TRANSITIONAL BUFFERYARDS

(1) **Required Bufferyard Depth**

Transitional bufferyard depth requirements are set forth in Table I of this Section. To determine the required bufferyard depth, first identify the class of the proposed new, changed, or expanded use. Then identify the class of each adjoining existing use and the zoning of each adjoining vacant lot. Then use the matrix in Table I to identify the required bufferyard depth (shown at the intersection of the row associated with the proposed use and the column associated with the adjoining use or vacant lot zoning). *[Amended 8/19/96 to add heading and sentences describing how to determine the required bufferyard depth (O-96-32)]*

(2) **Overlap with Other Yards**

In the event that a transitional bufferyard depth requirement conflicts with yard requirements within an applicable zoning district, the more stringent requirement shall apply. *[Amended 8/19/96 to add heading (O-96-32)]*

[Amended 6/15/87 to substitute "Depth" for "Width" in heading (R-87-64); amended 8/16/96 to delete former Paragraph (2) regarding bufferyards required next to vacant land, and to renumber former Paragraph (3) as (2) (O-96-32)]

(E) SCREENING WITHIN TRANSITIONAL BUFFERYARDS

(1) **Required Screening**

Minimum screening requirements are set forth in Table II of this Section. To determine the required screening type, first identify the class of the proposed new, changed, or expanded use. Then identify the class of each adjoining existing use and the zoning of each adjoining vacant lot. Then use the matrix in Table II to identify the required screening type (shown at the intersection of the row associated with the proposed use and the column associated with the adjoining use or vacant lot zoning). Required screening may be composed of existing vegetation, planted vegetation, a fence, a wall, a landscaped earthen berm, or any combination of these screening measures. *[Amended 8/19/96 to add heading and sentences describing how to determine the required bufferyard depth, and to move provision encouraging use of existing vegetation to Subsection (J) (O-96-32)]*

(2) **Types of Screens**

- (a) **Type A Opaque Screen:** A screen that is opaque year round from the ground to a height of at least ten (10) feet, with intermittent visual obstructions from the opaque portion to a height of at least twenty (20) feet. The opaque screen is intended to

exclude all visual contact between uses and to create a strong impression of spatial separation.

(b) Type B Broken Screen: A screen composed of either:

1. One (1) canopy tree per forty (40) lineal feet of bufferyard;
2. One (1) understory tree per thirty (30) lineal feet of bufferyard;
3. One (1) shrub per six (6) lineal feet of bufferyard; or
4. Any combination of the above; or
5. Any other screening that meets or exceeds the degree of screening achieved by the above.

The broken screen is intended to create the impression of spatial separation between uses without necessarily eliminating visual contact between the spaces.

[Added 8/19/96 (O-96-32)]

(F) ALTERNATIVE TRANSITIONAL BUFFERYARDS AND SCREENING

Recognizing that a transitional bufferyard is defined by both its depth and the density of screening within it, the Zoning Administrator may allow a transitional bufferyard's depth to be reduced by up to fifty (50) percent from that specified in Table I if the density of screening within the bufferyard is increased to an equivalent degree - provided the bufferyard remains deep enough to accommodate the healthy growth and protection of the proposed screen plantings. Similarly, the Zoning Administrator may also allow a transitional bufferyard's screening density to be reduced by up to fifty (50) percent from that specified in Table II if the bufferyard's depth is increased to an equivalent degree. *[Amended 8/19/96 to substitute for provision allowing Zoning Administrator to reduce required bufferyard depth by up to 25% (O-96-32)]*

(G) ADDITIONAL TRANSITIONAL BUFFERYARDS AND SCREENING REQUIRED

- (1) Any outside storage of junk, refuse, salvage, or discarded materials shall be screened from adjacent rights-of-way by means of Type A screening. *[Amended 8/21/89 to add "salvage" (R-89-75)]*
- (2) Whenever a nonresidential use is proposed along a major thoroughfare, a ten-foot-deep transitional bufferyard and Type B screening shall be required adjacent to the major thoroughfare right-of-way. *[Amended 6/15/87 to increase required bufferyard depth from 5 to 10 feet, to substitute "nonresidential use" for "commercial or industrial use", and to add "right-of-way" (R-87-64)]*
- (3) Whenever a nonresidential use is proposed next to a residential use and is separated from the residential use by a public road, a ten-foot-deep transitional bufferyard and Type B screening shall be provided adjacent to the public road right-of-way. *[Amended 6/15/87 to increase required bufferyard depth from 5 to 10 feet, to substitute "nonresidential use" for "commercial or industrial use", and to add "right-of-way" (R-87-64)]*
- (4) Any outside storage existing on August 21, 1989, shall be screened from adjacent properties and rights-of-way on or before December 31, 1992, by means of Type A screening or its equivalent as determined by the Zoning Administrator. *[Added 8/21/89 (R-89-75)]*

[Amended 6/15/87 to substitute "Additional" for "Other" in heading (R-87-64)]

(H) USES AND STRUCTURES PERMITTED WITHIN TRANSITIONAL BUFFERYARDS

- (1) A transitional bufferyard may contain utility lines, driveways, or pedestrian or bicycle paths, provided that:
 - (a) The proposed locations of such uses are necessary for their proper functioning, and such uses cross the bufferyard where feasible, rather than lie along the length of the bufferyard; and
 - (b) The total width of the bufferyard is maintained; and
 - (c) No screen required by this Ordinance is reduced or eliminated.

[Amended 11/17/86 to substitute "utility lines" for "utilities", to add "driveways, or", to delete "or passive recreation uses", to renumber former provisions (a) and (b) as (b) and (c), and to add a new provision (a) (R-86-179); amended 6/15/87 to substitute "lie" for "run" in provision (a) (R-87-64)]

- (2) Signs shall be permitted within transitional bufferyards provided that:
 - (a) They are completely screened from view from any point on adjacent residential properties; and
 - (b) Placement of such signs will not violate other provision(s) of this Code.
- (3) Transitional bufferyards shall not be used for parking, loading, storage, or any activity that is either part of or accessory to the proposed use.

[Amended 11/17/86 to split Paragraph (1) into Paragraphs (1) and (2), and to renumber former Paragraph (2) as Paragraph (3) (R-86-179)]

(I) MAXIMUM TIME ALLOWED TO PROVIDE SCREENING

- (1) Fences or walls used for screening shall be completed prior to final inspection by the Wake County Zoning Inspector. *[Added 6/15/87 (R-87-64); amended 8/19/96 to substitute "Zoning Inspector" for "Building Inspector" (O-96-32)]*
- (2) All vegetative screening shall be planted or installed during the first planting season (for the particular species) after construction is completed. *[Amended 6/15/87 to substitute "vegetative screening" for "screening", and to substitute for a planting/installation deadline of 6 months after issuance of a certificate of occupancy (R-87-64); amended 8/19/96 to delete alternative planting/installation deadline of 6 months after the Building Inspector declares construction completed (O-96-32)]*

[Amended 6/15/87 to move former Subsection (J) to (L) (R-87-64)]

(J) REQUIREMENTS FOR PLANTS USED FOR SCREENING**(1) Use of Existing Vegetation Encouraged**

Existing vegetation that meets or exceeds applicable screening requirements may be used to satisfy the requirements of this Section, provided the transitional bufferyard contains sufficient area surrounding the vegetation to ensure its protection from encroachments that may threaten its continued healthy growth. *[Added 8/19/96 (O-96-32)]*

(2) Location and Spacing

Plants shall be staggered or clustered as necessary to maximize screening objectives and to meet the needs of the particular species of plants for root space, water, light, and

circulation. *[Amended 6/15/87 to delete explanatory statement that the screening requirements refer to the number of plants per lineal feet of bufferyard (R-87-64)]*

(2) Minimum Height at Planting

Plants shall be of the following minimum heights at the time of planting:

- (a) Canopy trees: Eight (8) feet. *[Amended 8/19/96 to substitute for 6 feet (O-96-32)]*
- (b) Understory trees: Six (6) feet. *[Amended 8/19/96 to substitute for 4 feet (O-96-32)]*
- (c) Hedge plants: Three (3) feet. *[Added 8/19/96 (O-96-32)]*
- (d) Shrubs: One and one-half (1½) foot. *[Amended 8/19/96 to renumber from (c) and substitute for 1 foot (O-96-32)]*

(3) Minimum Height at Maturity

- (a) Canopy trees, understory trees, and hedge plants shall be of a variety that has a minimum mature height which will meet the minimum screening requirements for which they were chosen. *[Added 6/15/87 (R-87-64); amended 8/19/96 to add reference to hedge plants (O-96-32)]*
- (b) Shrubs shall be of a variety that has an average mature height of at least three (3) feet. *[Amended 6/15/87 to move from Paragraph into Subparagraph (R-87-64)]*

(K) REQUIREMENTS FOR FENCES, WALLS AND BERMS USED FOR SCREENING

(1) Fences and Walls

Fences and walls shall be screened over at least fifty (50) percent of their exterior face area by plantings which provide year round screening to obstruct the view of the fence or wall from adjacent properties. This may be achieved with a tight evergreen hedge that is one-half (½) the height of the fence or wall; or by using plants other than the evergreen hedge meeting the above requirement, provided that figures on the average mature height and spread of each species to be planted are submitted with the site plan for approval by the Zoning Administrator. *[Amended 6/15/87 to refer to 50% of exterior face instead of 50% opacity, to separate (a) and (b) from Paragraph, and to reword (b) and add reference to site plan (R-87-64); amended 8/19/96 to combine (a) and (b) into Paragraph (O-96-32)]*

(2) Berms

Berms shall be planted with trees, shrubs, vines, grasses, or other groundcover. Part of a berm may be devoted to a nonliving screen such as a fence or wall. *[Amended 6/15/87 to delete "provided that" between the two sentences (R-87-64)]*

[Amended 6/15/87 to renumber from (L) to (K) (R-87-64)]

(L) MAINTENANCE OF SCREENINGS

All screening shall be maintained to continue its effectiveness. If it deteriorates or dies, it shall be repaired or replaced during the next planting season, or within six (6) months. *[Amended 6/15/87 to move from (J) and to add "during the next planting season, or" (R-87-64)]*

(M) CLEAR VIEW OF INTERSECTIONS

Transitional bufferyards and screens shall not impede sight lines at intersections. *[Amended 8/19/96 to substitute "bufferyards and screens" for "buffers, screens, and fences" (O-96-32)]*

(N) CONFLICT WITH OTHER REGULATIONS

In the event that a regulation of this Section 1-1-29 conflicts with one found elsewhere in this Ordinance, the more stringent regulation shall apply. *[Amended 6/15/87 to substitute "Section 1-1-29" for "Section" and to substitute "this Ordinance" for "the Code" (R-87-64)]*

(O) REDUCTION OF SCREENING REQUIREMENT

When a condition such as unusual topography, elevation in relation to adjacent properties, size or shape of the parcel involved, or any other condition exists which would make strict adherence to this Ordinance impractical or impossible, the Board of Adjustment may reduce the transitional bufferyard and screening requirements according to the variance procedures in Section 1-1-5. This does not negate the necessity for establishing screening and transitional bufferyards for uses adjacent to vacant property, regardless of the ownership. *[Added 6/15/87 (R-87-64); amended 8/19/96 to clarify reference to variance process (O-96-32)]*

SECTION 1-1-30 TRAFFIC IMPACT ANALYSIS**(A) INTENT**

This Section is intended to help ensure that new development does not adversely affect the capacity of streets and intersections to safely and efficiently accommodate vehicular traffic. It seeks to do so by providing a standard set of analytic tools and format that can be used to identify a development's expected traffic impacts on the road system, any traffic problems associated with access to and from the development site, and any improvements or site design modifications needed to solve potential adverse traffic impacts and access problems.

(B) TRAFFIC IMPACT ANALYSIS REQUIRED

- (1) A traffic impact analysis shall be required as part of any rezoning petition (see Section 1-1-7), Special Use Permit petition (see Section 1-1-11), application for a general use permit (as authorized under Section 1-1-23), or conditional use permit petition (see Section ?) or any Preliminary Subdivision Plat (see Section 3-3-2 of the Subdivision Ordinance) that would allow or proposes development expected to generate:
 - (a) one hundred (100) or more added vehicle trips to or from the site during the peak traffic hour (based on the proposed development or the adjacent roads and intersections), or
 - (b) one thousand (1,000) or more added vehicle trips to or from the site during a 24-hour period (based on the proposed development or the adjacent roads and intersections).
- (2) In calculating the number of added vehicle trips expected to be generated, trip generation rates shall be obtained from the most recent editions of *Trip Generation* and *Trip Generation Handbook*, published by the Institute of Transportation Engineers (ITE). Only new vehicle trips shall be counted; no pass-by or internal trip capture shall be used in calculating "added vehicle trips")
- (3) The Planning Director may waive this requirement where the petitioner or applicant shows that the proposed development's impact on adjacent roads and intersections will be minimal and insignificant, or will be no greater than those projected by a traffic impact analysis prepared and submitted within the past two (years) for the same site under the same or similar background traffic conditions. The Planning Director shall document the reasons for any waiver.

(C) TRAFFIC OPERATIONS STANDARDS

The traffic impact analysis must demonstrate that the proposed development would not cause peak hour levels of service on any arterial or collector road or intersection within the analysis area to fall below Level of Service (LOS) "D", as defined by the latest edition of the highway capacity manual, or, where the existing level of service is already LOS "E" that the proposed development would not cause the LOS to fall to the next lower letter grade. If the road segment or intersection is already LOS "F", the traffic impact analysis must demonstrate that the proposed development, with any proposed improvements, would not cause buildout year peak-hour operation to degrade more than 5% of the total delay on any intersection approach. To the extent that the petition or application proposes specific access points, the analysis must also demonstrate that the proposed development would avoid unsafe conditions on adjacent roads. Failure to meet these standards may serve as a basis for denying the petition or application, or (except with rezoning petitions) for conditioning approval of the petition or application on provision of improvements or other mitigation measures needed to correct deficiencies due to the proposed development's impacts.

(D) ANALYSIS AREA

The analysis shall address the proposed development's traffic impacts on at least:

- (1) roads and intersections within the development site, as designated by county planning staff or review consultant;
- (2) road segments and intersections abutting the development site as designated by county planning staff or review consultant;

- (3) off-site road segments where traffic from the proposed development is expected to account for at least ten (10) percent of the road's average daily traffic; and
- (4) off-site intersections where traffic from the proposed development is expected to account for at least ten (10) percent of the traffic volume on any approach leg of the intersection.

(E) TRAFFIC IMPACT ANALYSIS CONTENTS

The analysis shall include charts, graphics, and narrative presenting at least the following information:

- (1) Existing conditions: a description of existing land uses and development intensities in the analysis area, the location and characteristics (functional classification, number of lanes, speed limit, signalization, etc.) of roads and intersections in the analysis area, and the existing traffic volumes and conditions (including levels of service) of those roads and intersections.
- (2) Proposed development: a description of the location and traffic-related characteristics (land use(s), intensity, expected date of full build out and occupancy, vehicular access points and characteristics, etc.) of the proposed development and other developments in the analysis area that are under construction, approved, or pending approval by the Board of Adjustment, staff, Board of Commissioners, Planning Board, and other jurisdictions within the area of influence, as well as roadway and other transportation facilities and improvements in the analysis area that are under construction, programmed, or planned (adopted thoroughfare plan, collector street plan, etc.).
- (3) Projected traffic: projections of future background traffic (existing traffic volumes forecasted to buildout year levels based on agreed upon traffic growth rate plus traffic generated by other development in the analysis area that is under construction, approved, or pending approval), future site traffic (traffic generated by the proposed development, and total future traffic (the sum of future background traffic and future site traffic). (Future non-site and site traffic projections shall be made for the peak hour(s) (as identified by county planning staff or review consultant) of the adjacent road segments and intersections and for the development's expected full build-out and occupancy date, and shall include trip generation, trip distribution (using pre-approved distribution by county planning staff or review consultant), and traffic assignment estimates.) When a rezoning is requested, a trip generation comparison shall be prepared, comparing existing vs. proposed zoning.
- (4) Traffic impact analyses: analyses of the proposed development's incremental impacts on road capacity during peak hours at all site access points and at road segments and intersections in the analysis area (including determination of the level of service for the road segments and intersections, queuing vs. existing/proposed storage), or the need for signalization of intersections in the analysis area, and on existing or potential high accident areas (as referenced in the adopted transportation plan or determined by county planning staff). A qualitative analysis/review of sight distance at access points shall be included where appropriate.
- (5) Recommended impact mitigation measures: a description of the location, nature, and extent of site access and transportation improvements and other measures that are necessary to mitigate unacceptable conditions that result from the proposed development's traffic impacts, including the expected effectiveness of each mitigation measure in addressing deficiencies, the feasibility of implementing the measures, suggested allocation of responsibility for funding and implementing the measures, the measures' relationship to planned public transportation improvements, and a suggested time schedule for the implementation of the measures.
- (6) Qualifications: a resumé of the preparer(s) of the analysis, demonstrating specific education, training, and professional experience in traffic-related analyses and, if the analysis involves roadway or traffic signal design, traffic engineering.

Where the analysis accompanies a rezoning petition, its description of the proposed development shall indicate the full range of land uses and development intensities allowed by the proposed zoning and identification of the allowable land use/intensity that can be expected to have the greatest traffic

impact on peak hour traffic on adjacent roads and intersections. This highest impact land use/intensity shall constitute the "proposed development" for which traffic projections are made and traffic impacts are analyzed. The analysis shall identify all assumptions and data sources used in its projections, analyses, and recommendations.

Table I Required Depths of Transitional Bufferyards (in feet) (See Subsection 1-1-29(D))	Class of Proposed Use				
	Residential		Nonresidential		
	Lower Intensity ₁	Higher Intensity ₂	Low Intensity ₃	Medium Intensity ₄	High Intensity ₅
Class of Adjacent Existing Use					
Lower Intensity Residential ¹	n/a	25	50	75	100
Higher Intensity Residential ²	n/a	n/a	50	75	100
Low Intensity Nonresidential ³	n/a	n/a	n/a	25	50
Medium Intensity Nonresidential ⁴	n/a	n/a	n/a	n/a	25
High Intensity Nonresidential ⁵	n/a	n/a	n/a	n/a	n/a
Zoning of Adjacent Vacant Lot					
R-80W, R-80, R-40W, R-40, R-30, R-20, R-15, R-10, HD	n/a	25	50	75	100
R-5, MH	n/a	n/a	50	75	100
OI, SHD, GB	n/a	n/a	n/a	25	50
HC, RA	n/a	n/a	n/a	n/a	25
I-I, I-II, AD-I, AD-II, ED, PD	n/a	n/a	n/a	n/a	n/a

n/a - no bufferyard required

¹ A lower intensity residential use is a residential use with a density less than six (6) dwelling units per acre.

² A higher intensity residential use is a residential use with a density of at least six (6) dwelling units per acre.

³ A low intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) no greater than 0.15 and an impervious surface coverage no greater than thirty (30) percent.

⁴ A medium intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) greater than 0.15 but no greater than 0.30, or an impervious surface coverage greater than thirty (30) percent, but no greater than sixty (60) percent.

⁵ A high intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) greater than 0.30 or an impervious surface coverage greater than sixty (60) percent.

[Table I added 6/15/87 (R-87-64); Substantially amended 8/19/96 (O-96-32)]

Table II Type of Screening Required Within Transitional Bufferyards (see Subsection 1-1-29(E))	Class of Proposed Use				
	Residential		Nonresidential		
	Lower Intensity ₁	Higher Intensity ₂	Low Intensity ₃	Medium Intensity ₄	High Intensity ₅
Class of Adjacent Existing Use					
Lower Intensity Residential ¹	n/a	B	A	A	A
Higher Intensity Residential ²	n/a	n/a	A	A	A
Low Intensity Nonresidential ³	n/a	n/a	n/a	B	B
Medium Intensity Nonresidential ⁴	n/a	n/a	n/a	n/a	B
High Intensity Nonresidential ⁵	n/a	n/a	n/a	n/a	n/a
Zoning of Adjacent Vacant Lot					
R-80W, R-80, R-40W, R-40, R-30, R-20, R-15, R-10, HD	n/a	B	A	A	A
R-5, MH	n/a	n/a	A	A	A
OI, SHD, GB	n/a	n/a	n/a	B	B
HC, RA	n/a	n/a	n/a	n/a	B
I-I, I-II, AD-I, AD-II, ED, PD	n/a	n/a	n/a	n/a	n/a

n/a - no bufferyard required

¹ A lower intensity residential use is a residential use with a density less than six (6) dwelling units per acre.

² A higher intensity residential use is a residential use with a density of at least six (6) dwelling units per acre.

³ A low intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) no greater than 0.15 and an impervious surface coverage no greater than thirty (30) percent.

⁴ A medium intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) greater than 0.15 but no greater than 0.30, or an impervious surface coverage greater than thirty (30) percent, but no greater than sixty (60) percent.

⁵ A high intensity nonresidential use is a nonresidential use with a floor area ratio (floor area/site area) greater than 0.30 or an impervious surface coverage greater than sixty (60) percent.

[Table II added 6/15/87 (R-87-64); Substantially amended 8/19/96 (O-96-32)]

[Amended 6/15/87 to substitute "transitional bufferyards" for "bufferyards" throughout Section (R-87-64)]

[Section added 5/1/79; revised in its entirety 11/18/85 (R-85-230)]

SECTION 1-1-30 Tree and Vegetation Protection

All lands within Wake County's zoning jurisdiction are subject to the Tree and Vegetation Protection Standards of Section 3-4-15 of the Subdivision Ordinance. *[Added 1/18/05 (OA 04/10)]*

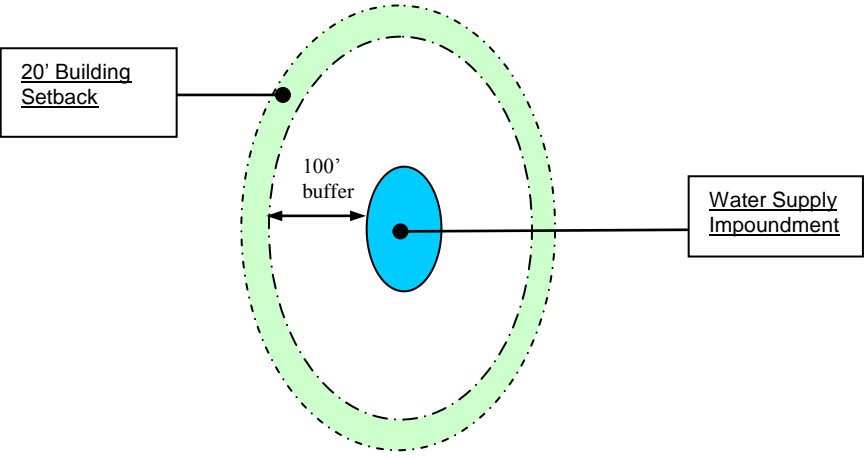
SECTION 1-1-31 WATER SUPPLY WATERSHED BUFFERS**(A) PURPOSE**

Water supply watershed buffers provide strips of natural vegetation that remove pollutants from stormwater runoff before they reach a water supply source or a watercourse that drains to a water supply source. They do so by allowing infiltration of runoff and filtration of pollutants through the ground and soil, slowing runoff flow to allow settling and deposition of pollutants, and providing vegetation that absorbs pollutants through root systems. The provision of vegetated, undisturbed buffers within water supply watersheds, therefore, is an important and effective means of maintaining the quality of public water supply sources and protecting those sources from potential polluting activities associated with development.

(B) LOCATION, WIDTH AND BUILDING SETBACK STANDARDS

Water supply watershed buffers and building setbacks from such buffers shall be provided in accordance with Table 1, below.

Table 1. Location and Width of Water Supply Watershed Buffers

Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
1. Around a water supply impoundment, inside the watershed draining into the water supply water impoundment	100 feet from the flood pool elevation of the water supply impoundment, measured perpendicular to the shoreline.	20 feet
 <p style="text-align: center;">100' Buffer, 20' Building Setback – Water Supply Impoundment</p>		

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers.

Table 1. Location and Width of Water Supply Watershed Buffers

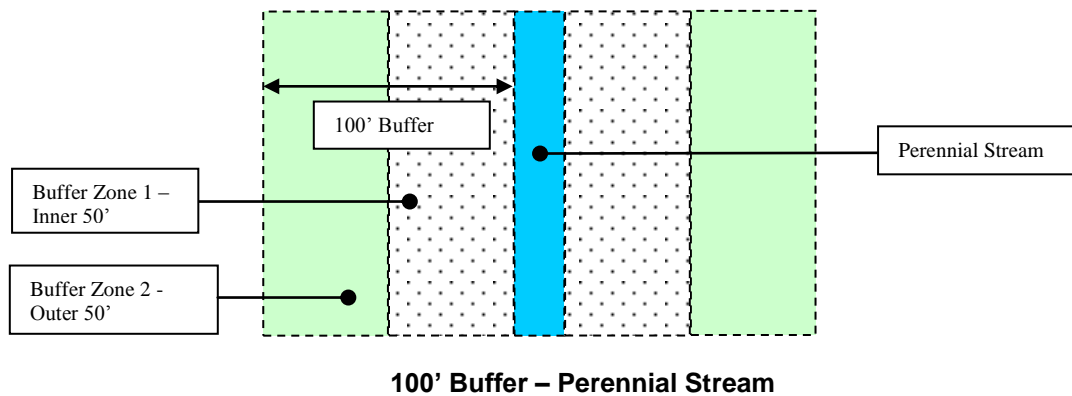
Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
2. Around a non-water supply impoundment with a drainage area of 25 acres or more, inside the watershed draining into the non-water supply impoundment	50 feet from the normal pool elevation of the non-water supply impoundment, measured perpendicular to the shoreline.	20 feet

50' Buffer, 20' Setback – Non-Water Supply Impoundment, Drainage Area \geq 25 acres

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers.

Table 1. Location and Width of Water Supply Watershed Buffers

Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
3. Along each side of a stream shown as a perennial stream on the most recent edition of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps. [1]	100 feet on each side from the stream bank, measured perpendicular to the river or stream bank. The area that begins at the stream bank and extends landward 50 feet shall be subject to the Zone 1 standards of Section 1-1-31(C) 1. The area that begins at the outer edge of Zone 1 and extends landward 50 feet shall be subject to the Zone 2 standards of Section 1-1-31(C) 2.	None



[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers.

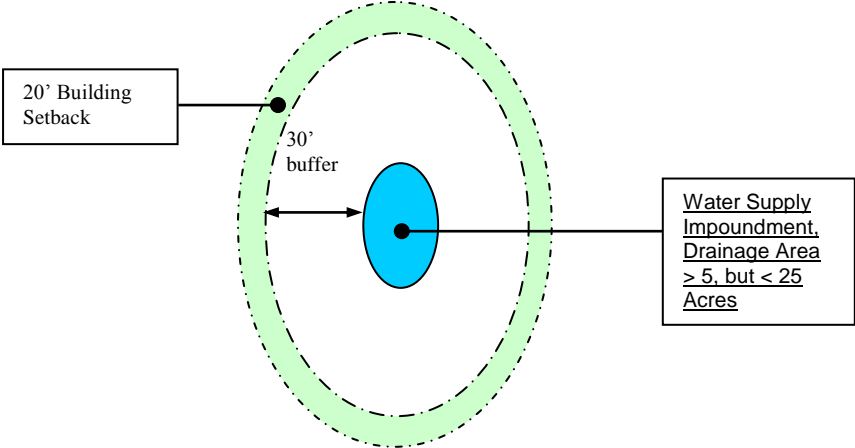
Table 1. Location and Width of Water Supply Watershed Buffers

Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
4. Along each side of a non-perennial watercourse, channel, ditch or similar physiographic feature with a drainage area of 25 acres or more, inside the watershed draining into the stream	50 feet on each side of the natural drainage flow line, measures perpendicular to the drainageway.	20 feet

50' Buffer, 20' Building Setback – Non-perennial Watercourse, Drainage Area \geq 25 acres

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers.

Table 1. Location and Width of Water Supply Watershed Buffers

Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
5. Around a water impoundment with a drainage area of at least 5 acres, but less than 25 acres, inside the watershed draining into the water impoundment [2]	30 feet from the normal pool elevation of the water impoundment, measured perpendicular to the shoreline.	20 feet
 <p style="text-align: center;">30' Buffer, 20' Building Setback - Water Supply Impoundment, Drainage Area ≥ 5 but < 25 Acres</p>		

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers. [2] Buffers described in Nos. 5 and 6 above, were previously identified and platted as "drainageway buffers." Because they serve the same function and are subject to the same limitations as water supply watershed buffers, they have been redesignated as "water supply watershed buffers."

Table 1. Location and Width of Water Supply Watershed Buffers

Required Location of Water Supply Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
6. Along each side of a watercourse, channel, ditch, or similar physiographic feature with a drainage area of at least 5 acres, but less than 25 acres, inside the drainage area of the drainageway [2]	30 feet on each side of the natural drainage flow line, measured perpendicular to the drainageway.	20 feet

**30' Buffer, 20' Building Setback – Watercourse Buffer,
Drainage Area \geq 5 acres but $<$ 25 acres**

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern. Note: Some streams may require both water supply watershed buffers and Neuse River riparian buffers. [2] Buffers described in Nos. 5 and 6 above, were previously identified and platted as “drainageway buffers.” Because they serve the same function and are subject to the same limitations as water supply watershed buffers, they have been redesignated as “water supply watershed buffers.”

(C) ACTIVITIES ALLOWED WITHIN WATER SUPPLY WATERSHED BUFFERS

1. The inner 50 feet (Zone 1) of the required 100 foot buffer along a perennial stream and all other water supply watershed buffers, shall consist of a vegetated area that is undisturbed except for the activities expressly allowed to occur within water supply watershed buffers pursuant to Table 2 of Paragraph 1-1-31 (C) 4.
2. The outer 50 feet (Zone 2) of the required 100 foot buffer along a perennial stream shall consist of a stable vegetated area that is undisturbed except as necessary to accommodate the activities expressly allowed to occur within water supply watershed buffers pursuant to Table 2 of Paragraph 1-1-31 (C) 4. Additionally, grading and re-vegetating, as well as lawns and landscaping are allowed within Zone 2 of the perennial stream buffer.
3. Any allowed disturbance that occurs as a result of the activities expressly permitted in Table 2 of Paragraph 1-1-31(C) 4 must be designed, constructed, and maintained so as to:

- a. minimize impervious or partially impervious surface coverage;
 - b. diffuse the flow of stormwater runoff, encourage sheet flow and avoid concentrated discharge of stormwater into surface waters;
 - c. maximize the use of Best Management Practices (BMPs) to minimize adverse water quality impacts; and
 - d. comply with all applicable standards and conditions of Table 2 Paragraph 1-1-31 (C) 4.
4. Activities Allowed within Required Water Supply Watershed Buffers

Only the activities listed in Table 2, below, are allowed within required water supply watershed buffer areas.

Table 2. Activities Allowed within Required Water Supply Watershed Buffers

a.	Archeological activities, provided any vegetation removed is restored with vegetation of a comparable assimilative capacity
b.	Bridges, provided no alternative to their location in the buffer exists
c.	Dam maintenance activities
d.	Drainage ditches, roadside ditches, and stormwater outfalls, provided: <ul style="list-style-type: none"> 1. no alternative to their location in the buffer exists; and 2. a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the buffer
e.	Drainage of a pond, provided a new vegetated water supply watershed buffer meeting the purpose and requirements of this Section is established along the new drainageway
f.	Driveway crossings that access single-family dwellings, provided: <ul style="list-style-type: none"> 1. no alternative to their location in the buffer (including opportunity for shared driveways) exists; 2. buffer disturbance is no more than <u>60</u> feet wide [1]; 3. buffer disturbance is no more than 6,000 square feet in area; 4. the driveway crosses the buffer at an angle as close to 90 degrees as possible (and not less than 60 degrees); 5. side slopes do not exceed a 2:1 (horizontal to vertical) ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and 6. all culverts are designed and constructed for the 25-year storm event or as otherwise required by Wake County Environmental Services <p>[Use of pervious surfacing materials and/or dual ribbon design is encouraged]</p>

Table 2. Activities Allowed within Required Water Supply Watershed Buffers

g.	<p>Utility lines, provided:</p> <ol style="list-style-type: none"> 1. no alternative to their location in the buffer exists; 2. a line crossing the buffer is combined with other permitted buffer crossings where practicable; 3. buffer disturbance is not more than 40 feet wide; 4. woody vegetation is removed by hand (no land grubbing or grading); 5. vegetative root systems and stumps from cut trees are retained; 6. no rip rap is used unless necessary to stabilize a pole or tower; 7. active measures are taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; 8. mats are used to minimize soil disturbance (in wetlands); 9. poles or towers are not installed within 10 feet of the lake, pond, river, stream, or drainageway; 10. the area within 10 feet of the lake, pond, river, stream, or drainageway is managed so that only vegetation posing a hazard or with a potential to grow tall enough to interfere with the line is removed; 11. construction activities minimize removal of woody vegetation, the extent of disturbed area, and the time during which areas remain in a disturbed state; 12. cables are installed by vibratory plow or trenching; and 13. trenches are backfilled with the excavated material immediately following line installation.
h.	<p>Pedestrian, bikeway, equestrian, golf cart, and other recreation trails (public or private), provided:</p> <ol style="list-style-type: none"> 1. no alternative to their location in the buffers exists 2. a trail crossing the buffer is combined with other permitted buffer crossings where practicable; 3. buffer disturbance is no more than 20 feet wide (unless otherwise approved by Wake County Environmental Services); 4. the trail is no more than 12 feet wide; 5. a trail crossing the buffer does so at an angle as close to 90 degrees as possible (and not less than 60 degrees); and 6. trail running linearly within the buffer shall be located, where possible, in the outer 20 feet of the buffer and in no instances shall such trail be closer than 10 feet to the edge of the lake, pond, river, stream or drainageway
i.	<p>Railroad crossings, provided:</p> <ol style="list-style-type: none"> 1. no alternative to their location in the buffer exists; 2. buffer disturbance is not more than 60 feet wide; and 3. buffer disturbance is no more than 6,000 square feet in area
j.	<p>Removal of previous fill or debris, provided:</p> <ol style="list-style-type: none"> 1. diffuse flow is maintained; and 2. any vegetation removed is restored with vegetation of comparable assimilative capacity

Table 2. Activities Allowed within Required Water Supply Watershed Buffers

k.	<p>Road crossings (public or private roads), provided:</p> <ol style="list-style-type: none"> 1. no alternative to their location in the buffer exists; 2. buffer disturbance does not extend beyond the required right-of-way or easement width, or in no case is more than 90 feet wide; 3. buffer disturbance is no more than 9,000 square feet in area; 4. the road crosses the buffer at an angle as close to 90 degrees as possible (and not less than 60 degrees); 5. side slopes do not exceed a 2:1 horizontal: vertical ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and 6. all culverts are designed and constructed for the 25-year storm event or as otherwise required by Wake County Environmental Services <p>[Use of pervious surfacing materials is encouraged]</p>
l.	Scientific studies and stream gauging
m.	<p>Sewage disposal system, on-site (including but not limited to septic tanks, pumps, and ground absorption areas), provided that on-site sewage disposal systems may be located only within areas of required water supply watershed buffer areas that are subject to Zone 2 standards, as specified in Table 1 of Sec. 1-1-31(B) [See Sec. 1-1-31(B)2 and Sec. 1-1-31(B)3].</p>
n.	<p>Stormwater management ponds, provided</p> <ol style="list-style-type: none"> 1. no alternative to their location in the buffer exists; and 2. a new vegetated water supply watershed buffer meeting the purpose and requirements of this Paragraph is established around the new pond
o.	Stream restoration
p.	Stream bank stabilization
q.	Temporary in-stream sediment and erosion control measures for work within a stream channel
s.	<p>Vegetation management, including:</p> <ol style="list-style-type: none"> 1. emergency fire control measures, provided topography is restored; 2. planting vegetation to enhance the buffer's function; 3. pruning forest vegetation, provided the health and function of the vegetation is not compromised; 4. removing individual trees that are in danger of causing damage to dwellings, other structures, or human life; 5. removing poison ivy; and other noxious growth; and 6. removing understory nuisance vegetation as defined in Exotic Plant Guidelines (Guidelines #30, NC DENR, Div. Of Parks and Recreation, 1998)
t.	Water dependent structures (see Section 1-1-1 (Definitions))
u.	Wetland restoration

(D) BUILDING SETBACKS FROM BUFFERS

Buildings must be set back from the outer edge of water supply watershed buffers in accordance with Table 1 of Paragraph 1-1-31(B). In the event of conflict between the setback provisions of Table 1 of Paragraph 1-1-31(B) and other applicable regulations, the more restrictive standard (the one requiring the greater setback) shall govern.

(E) OPTIONS FOR PLATTING OF LOTS WITHIN THE BUFFER ALONG A PERENNIAL STREAM

The inner 50 feet (Zone 1) of the 100 foot buffer required along each side of a perennial stream must either be: (1) platted as part of a development lot and included within a conservation easement or (2) set-aside as a reserved conservation parcel, in accordance with the standards of this paragraph.

Development Lots and Reserved Conservation Parcels - For purposes of this Section: "development lots," are lots that are used or intended to be used for principal uses allowed by the underlying zoning district, and "reserved conservation parcels" are parcels of land that are not used and are not intended to be used for principal uses allowed by the underlying zoning district, but are set-aside to conserve and protect natural areas in perpetuity.

1. Conservation Easement Option

Under the conservation easement option, the inner 50 feet (Zone 1) of the required 100 foot buffer along each side of a perennial stream must be covered by a perpetual conservation easement in accordance with the following standards.

- a. The inner 50 feet (Zone 1) of the 100 foot buffer required along each side of a perennial stream may be platted in development lots only if a perpetual conservation easement is dedicated covering the inner 50 feet to protect this area.
- b. Conservation easements shall run in favor of the Wake Soil and Water Conservation District or any other recognized land conservation agency approved by the Land Development Administrator.
- c. In addition, the easement grantee shall grant permission to authorized agents and employees of Wake County, to enter upon the property to inspect, maintain or repair the required buffer whenever Wake County deems necessary. This provision shall not be interpreted as an express or implicit obligation for Wake County to maintain or repair buffer areas.
- d. The grantee of a conservation easement shall be responsible for ensuring conservation and stewardship of the water supply watershed buffer and for carrying out conservation-related activities. Easement grantees shall be authorized to assign all, or a portion of, their conservation and stewardship duties and responsibilities to another appropriate entity approved by the Land Development Administrator.
- e. The conservation easement and any related access easement must be shown on the record plat, and it shall note the name of grantee(s) and grantor(s) and shall state the purpose of the easement.

2. Reserved Conservation Parcel Option

Under the reserved parcel option, the inner 50 feet (Zone 1) of the 100 foot buffer required along each side of a perennial stream must be set-aside as reserve conservation parcel in accordance with the following standards.

- a. The inner 50 feet (Zone 1) of the 100 foot buffer required along each side of a perennial stream that is not covered by a conservation easement must be labeled on the plat as a “reserved conservation parcel” and restricted from future use or conveyance as a development lot. Reserved conservation parcels must be dedicated to a property owners’ association or recognized land conservation agency.
- b. Reserved conservation parcels and remnants are exempt from the lot area and width standards of the underlying zoning district and from the requirement of frontage on a public or private road, given that a 10 foot wide pedestrian access easement to the parcel is provided.
- c. Development lots may not be platted within the Reserved Conservation parcels, but may platted within the outer 50 feet (Zone 2) of the required 100 foot buffer along each side of a perennial stream.

(F) WATER SUPPLY WATERSHED BUFFERS—DENSITY AND IMPERVIOUS SURFACE CALCULATIONS

1. The land area within conservation easements or reserve conservation parcels shall be included in the calculation of the allowable density for Cluster and Open Space Subdivisions.
2. The land area within conservation easements or reserved conservation parcels shall be included in the calculation of the allowed impervious surface coverage within a subdivision.

[Section added 5/19/03 (OA/02/02)]

SECTION 1-1-32 [RESERVED]

SECTION 1-1-33 RESOURCE CONSERVATION OVERLAY DISTRICT-2**(A) PURPOSE AND INTENT OF RESOURCE CONSERVATION OVERLAY DISTRICT-2**

The purpose of these regulations is to protect and preserve the water quality of special watersheds while allowing the orderly development of land in the watersheds of these sensitive areas. The purpose of these regulations is consistent with the Wake County Land Use Plan and otherwise advance the public health, safety, and general welfare.

Special watersheds provide significant wildlife, aquatic and other organisms, or plant life habitats; possess characteristics unique to Wake County. It is the intent of these regulations to protect the water quality in these watersheds by requiring vegetated buffer areas along perennial streams and stormwater runoff controls.

As is the case with any regulation or provision of this Ordinance, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the regulation, the Board of Adjustment may vary or modify said regulation after making findings of fact supporting its conclusions in accordance with Section 1-1-5 (E) [VARIANCES] of this Ordinance.

(B) DISTRICT BOUNDARY

Resource Conservation Overlay Districts-2 shall be appropriately located within special watersheds and such other significant physical and biological areas and habitats, as the Wake County Board of Commissioners deems appropriate.

(C) REGULATION OF USES

The uses permitted or prohibited in the Resource Conservation Overlay District-2 shall be those uses permitted or prohibited in the underlying zoning district.

(D) EXISTING DEVELOPMENT, REDEVELOPMENT, AND EXPANSIONS

Existing development is not subject to the requirements of this Section 1-1-33; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of May 31, 2005.

Redevelopment and expansions of any existing non-residential development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section.

(E) USES EXEMPTED

Bona fide farms, including land held for forestry practices, are exempt from the provisions of this Section, provided that farming constitutes the primary use of the property. Any use of farm property for non-farm purposes is subject to these regulations.

(F) DEVELOPMENT STANDARDS

The following standards shall apply in Resource Conservation Overlay District-2:

The standards of both the Resource Conservation Overlay District-2 and the underlying district shall apply. Where the standards of the Overlay District and the underlying district differ, the more restrictive standards shall control on lots created after May 31, 2005.

(1) Stormwater Runoff Control

Peak stormwater runoff leaving any site for the one-year storm shall be no greater for post development conditions than pre-development conditions. The same methodologies used to calculate stormwater runoff must be used for both pre-development and post-development conditions.

In addition to those activities exempted above, the stormwater runoff control requirements of this section shall not apply to one or more of the following:

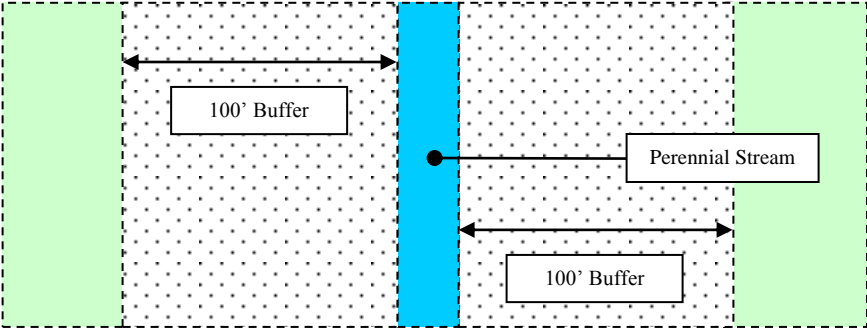
- (a) The increase in peak stormwater runoff between pre-development and post development conditions for the one-year storm is ten per cent (10%) or less.
- (b) The maximum impervious surface coverage of the lot is no more than fifteen per cent (15%) and the remaining pervious portions of the lot are utilized to convey and control the stormwater runoff of the lot to the maximum extent practical. In determining a subdivision lot's eligibility for this exemption, the amount of impervious surface coverage in a lot shall be increased by the lot's proportional share of impervious surface coverage devoted to roadways and improvements in the subdivision and shall be decreased by the lot's proportional share of subdivision parcels devoted to open space, had they been created as building lots. Any lot which is exempted from the runoff control requirements by this subsection, shall comply with all the requirements of this section whenever:
 - 1. The exempted lot is subdivided; or
 - 2. The exempted lot size is reduced by recombination; or
 - 3. Impervious surfaces on the exempted lot equal or exceed the maximum allowable as determined in (1) (b) above.
- (c) Compliance with the runoff limitations in section (1) above would result in greater adverse downstream impact, such as local flooding, as determined by County approved engineering studies.

The County reserves the right to require stormwater runoff control measures for projects without any measures, and the County reserves the right to require additional stormwater runoff control measures for projects which are complying with this section if stormwater runoff from the site will cause adverse effects on other properties including without limitation public streets, greenway, and utility easements.

(2) **Special Watershed Buffers**

The location and width of the special watershed buffer shall be maintained as shown in Table 1.

Table 1. Location and Width of Special Watershed Buffers

Required Location of Special Watershed Buffer	Minimum Buffer Width [1]	Minimum Building Setback from Buffer [1]
Along each side of a stream shown as a perennial stream from the 1999 Wake County Surface Water Survey Mapping Project - 1:1,200 scale map. [1]	100 feet on each side from the stream bank, measured perpendicular to the river or stream bank.	None
 <p style="text-align: center;">100' Buffer – Perennial Stream</p>		

[1] In the event of conflict with other applicable regulations, the more restrictive regulation shall govern.
Note: Some streams may require both special watershed buffers and Neuse River riparian buffers.

(G) **ACTIVITIES ALLOWED WITHIN SPECIAL WATERSHED BUFFERS**

(1) The required 100-foot buffer along a perennial stream shall consist of a vegetated area that is undisturbed except for the activities expressly allowed to occur within special watershed buffers pursuant to Table 2 of Paragraph 1-1-33 (G) (2).

(2) **Activities Allowed within Required Special Watershed Buffers**

Only the activities listed in Table 2, below, are allowed within required special watershed buffer areas.

Table 2. Activities Allowed within Required Special Watershed Buffers

a.	Archeological activities, provided any vegetation removed is restored with vegetation of a comparable assimilative capacity
b.	Bridges, provided no reasonable alternative to their location in the buffer exists
c.	Dam maintenance activities
d.	Vegetated swales, provided: <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffer exists; and 2. a stormwater management facility is installed to control nitrogen and attenuate flow before the conveyance discharges through the buffer
e.	Drainage of a pond, provided a new vegetated special watershed buffer meeting the purpose and requirements of this Section is established along the new drainageway
f.	Driveway crossings that access single-family dwellings, provided: <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffer (including opportunity for shared driveways) exists; 2. buffer disturbance is no more than 60 feet wide [1]; 3. buffer disturbance is no more than 6,000 square feet in area; 4. the driveway crosses the buffer at an angle as close to 90 degrees as possible (and not less than 60 degrees); 5. side slopes do not exceed a 2:1 (horizontal to vertical) ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and 6. all culverts are designed and constructed for the 25-year storm event or as otherwise required by Wake County Environmental Services <p>[Use of pervious surfacing materials and/or dual ribbon design is encouraged]</p>
g.	Utility lines, provided: <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffer exists; 2. a line crossing the buffer is combined with other permitted buffer crossings where practicable; 3. buffer disturbance is not more than 40 feet wide; 4. woody vegetation is removed by hand (no land grubbing or grading); 5. vegetative root systems and stumps from cut trees are retained; 6. no rip rap is used unless necessary to stabilize a pole or tower; 7. active measures are taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; 8. mats are used to minimize soil disturbance (in wetlands); 9. poles or towers are not installed within 10 feet of the lake, pond, river, stream, or drainageway; 10. the area within 10 feet of the lake, pond, river, stream, or drainageway is managed so that only vegetation posing a hazard or with a potential to

	<p>grow tall enough to interfere with the line is removed;</p> <p>11. construction activities minimize removal of woody vegetation, the extent of disturbed area, and the time during which areas remain in a disturbed state;</p> <p>12. cables are installed by vibratory plow or trenching; and</p> <p>13. trenches are backfilled with the excavated material immediately following line installation.</p>
h.	Wells, subject to applicable local, state, and federal regulations.
i.	Sewage disposal systems, on-site (including but not limited to septic tanks, pumps, and ground absorption areas), provided that this is a replacement of an existing sewage disposal system, approved by the Director of Environmental Services.
j.	<p>Recreation trails (public or private), provided:</p> <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffers exists 2. a trail crossing the buffer is combined with other permitted buffer crossings where practicable; 3. buffer disturbance is no more than 20 feet wide (unless otherwise approved by Wake County Environmental Services); 4. the trail is no more than 12 feet wide; 5. a trail crossing the buffer does so at an angle as close to 90 degrees as possible (and not less than 60 degrees); and 6. trail running linearly within the buffer shall be located in the outer 20 feet of the buffer <p>[Use of pervious surfacing materials is encouraged]</p>
k.	<p>Railroad crossings, provided:</p> <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffer exists; 2. buffer disturbance is not more than 60 feet wide; and 3. buffer disturbance is no more than 6,000 square feet in area
l.	<p>Removal of fill deemed harmful to the stream's water quality, provided:</p> <ol style="list-style-type: none"> 1. no excavation below the prior natural elevation; 2. diffuse flow is maintained; and 3. any vegetation removed is restored with woody native species of equivalent or better quality
m.	<p>Road crossings (public or private roads), provided:</p> <ol style="list-style-type: none"> 1. no reasonable alternative to their location in the buffer exists; 2. buffer disturbance does not extend beyond the required right-of-way or easement width, or in no case is more than 90 feet wide; 3. buffer disturbance is no more than 9,000 square feet in area; 4. the road crosses the buffer at an angle as close to 90 degrees as possible (and not less than 60 degrees); 5. side slopes do not exceed a 2:1 horizontal: vertical ratio (bridging and/or retaining walls may be used to meet this and the disturbance width standard); and

	6. all culverts are designed and constructed for the 25-year storm event or as otherwise required by Wake County Environmental Services [Use of pervious surfacing materials is encouraged]
n.	Scientific studies and stream gauging
o.	Stormwater management ponds, provided 1 no reasonable alternative to their location in the buffer exists; and 2. a new vegetated buffer is established around the new pond
p.	Stream restoration and bank stabilization for mitigation purposes only
q.	Temporary in-stream sediment and erosion control measures for work within a stream channel
r.	Manual vegetation management is permitted but no grubbing or excavation; manual vegetation management may include: 1. emergency fire control measures, provided topography is restored; 2. planting vegetation to enhance the buffer's function; 3. pruning forest vegetation, provided the health and function of the vegetation is not compromised; 4. removing individual trees that are in danger of causing damage to dwellings, other structures, or human life; and 5. removing poison ivy; and other noxious growth
s.	Water dependent structures (see Section 1-1-1 (Definitions))
t.	Wetland restoration

(H) DESIGN, CONSTRUCTION, AND MAINTENANCE OF DISTURBANCES WITHIN SPECIAL WATERSHED BUFFERS

(1) Any allowed disturbance that occurs as a result of the activities expressly permitted in Table 2 (G) (2) must be designed, constructed, and maintained so as to:

- (a) minimize impervious or partially impervious surface coverage;
- (b) diffuse the flow of stormwater runoff, encourage sheet flow and avoid concentrated discharge of stormwater into surface waters;
- (c) maximize the use of Best Management Practices (BMPs) to minimize adverse water quality impacts; and
- (d) comply with all applicable standards & conditions of Table 2 Para 1-1-33 (G) (2).

[Section added 5/31/05 (OA 05/02)]

SECTION 1-1-34 through SECTION 1-1-35 [RESERVED]

ARTICLE III

REGULATIONS FOR SPECIFIC DISTRICTS

SECTION 1-1-36 RESEARCH APPLICATIONS DISTRICT**(A) INTENT**

This district is intended to accommodate research and research application activities - as well as related manufacturing, business, and science activities - that could benefit from location in or adjacent to, and a strong association with, the Research Triangle Park or other major center of research activity. The District is specifically intended to accommodate research facilities, pilot plants, prototype production facilities, and other manufacturing operations that require the continual or recurrent application of research knowledge and activity as an integral part of the manufacturing process.

These district regulations are intended to ensure that such facilities are developed so as to help provide the district a campus or parklike character that emphasizes natural characteristics and landscaping. They are also intended to encourage originality and flexibility in development, and to ensure that development is properly related to its site and to surrounding developments.

(B) USES PERMITTED**(1) Central Uses**

The following uses are permitted as uses central to the intent of the district:

- (a) Laboratories, offices, and other facilities for research (both basic and applied) and development, conducted by or for any individual, organization, or concern, whether public or private.
- (b) Prototype production facilities - that is, facilities for product manufacture limited in scale to that necessary to fully investigate the merits of the product.
- (c) Pilot plants - that is, facilities used to test manufacturing processes planned for use in production elsewhere.
- (d) Production facilities and operations with a high degree of scientific input - that is, manufacturing facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.
- (e) Facilities of an organization or association whose activities primarily promote basic or applied research activities, such as the facilities of academic, scientific, trade, industrial, or humanistic organizations and foundations.
- (f) Facilities for the development or training of personnel for organizations significantly engaged in research activities.

(2) Auxiliary Uses

The following uses are permitted as auxiliary uses - that is, a principal use of a lot that primarily serves the needs of the businesses, institutions, and employees involved in either a) the central uses within the district or b) other principal uses located within the same major research center with which the district is associated and subject to similar research and research application zoning regulations applied by adjacent local governments (as in the case of the Research Triangle Park, a major research center with which this district is associated and within which both Wake County and Durham County apply similar zoning regulations).

- (a) Corporate headquarters, regional headquarters, and other administrative offices for research or research application uses that are either a) located within the district or b) located within the same major research center with which the district is associated and subject to similar research and research application zoning regulations applied by adjacent local governments (as in the case of the Research Triangle Park).
- (b) Audio, video, telecommunication, and other types of broadcasting facilities for the production and transmission of all types of communication, including studios, offices, and transmission towers - provided that any telecommunication tower shall meet the standards set forth in Section 1-1-38(B)(12). *[Amended 12/16/96 to add proviso about standards for telecommunication towers (O-96-51)]*
- (c) Electric substations and other service utility facilities.
- (d) Child day care centers, large child day care homes, and small child day care homes, and day-care facilities for the elderly.
- (e) Outdoor recreational facilities.

(3) **Accessory Uses**

The following uses are permitted as accessory uses - that is, a use on the same lot or in the same building with the principal use of the lot or building, the nature and extent of which is clearly incidental and subordinate to that of the principal use:

- (a) Retail and service uses conducted primarily for the convenience of the employees of a permitted central or auxiliary use, such as cafeterias, snack bars, automated bank teller machines, medical clinics, personal services, recreational facilities, parking facilities, and shops providing daily convenience goods.
- (b) Facilities and operations required to maintain or support a permitted central or auxiliary use, such as offices, conference centers, communication centers, training facilities, supply and storage facilities, maintenance shops, power plants, keeping of animals (if enclosed within a soundproof building), antenna farms, and machine shops.
- (c) Service utility facilities.
- (d) Other uses that are accessory to a permitted central or auxiliary use.

If designated as being considered part of an abutting lot for purposes of applying certain provisions of this ordinance (see Section (C)), a natural area preserve shall also be considered part of the abutting lot for purposes of permitting the following uses as accessory to the lot's principal use: driveways; walkways; service utility facilities; outdoor recreation facilities; signs and lighting devices; landscaping; and gates or security stations.

(C) **NATURAL AREA PRESERVES**

The district may include natural area preserves - that is, a parcel of land primarily intended to function as permanent open space providing environmental, scenic, or recreational benefits to adjacent development, and which has been designated as such on a recorded plat. If the recorded plat designates any portion of the natural area preserve as providing permanent open space to the benefit of an abutting lot, that portion of the natural area preserve shall be considered as part of the abutting lot for purposes of applying the maximum lot coverage

provisions in Subsection (F), the setback provisions in Subsection (G), and the sign regulations in Paragraph 1-1-21(F)(1) to development of the abutting lot.

(D) **BUILDING HEIGHT LIMIT**

- (1) Except as provided in Paragraph (2), no limit on building height shall apply.
- (2) If a building is located within a Special Transportation Corridor, as designated in the Wake County Land Use Plan, and the North Carolina Department of Transportation has reserved the right-of-way for the designated special highway and determined the elevations for its roadway centerlines, then the height of the building shall be limited to sixty (60) feet above the centerline elevation of the special highway's travel lanes nearest the building; provided, however, that this height limit may be increased by one (1) foot for each two (2) feet the building's setback from the special highway right-of-way exceeds one hundred (100) feet; and provided further that this height limit shall not apply where it would limit a building's height to less than sixty (60) feet above the highest finished grade at the building's foundation. *[Amended 7/21/97 to refer to Land Use Plan's Special Transportation Corridor instead of General Development Plan's Special Highway Planning Area (O-97-32)]*

(E) **MINIMUM LOT AREA AND WIDTH**

Each lot devoted to a central use shall have an area of not less than eight (8) acres and a width of not less than four hundred (400) feet. Each lot devoted to an auxiliary use shall have sufficient area, depth and regularity of shape to accommodate the type and size of land uses and structures intended to be located on it, as well as any required setback areas.

(F) **PERCENTAGE OF LOT COVERED**

Not more than thirty (30) percent of the total area of a lot shall be covered by buildings, driveways, parking areas, and loading areas. If so designated, an abutting natural area preserve shall be considered part of the lot for purposes of applying this maximum lot coverage requirement (see Subsection (C)).

(G) **SETBACKS**

(1) **Minimum Setbacks**

Except as otherwise provided in Paragraph (2) or in Subsection (D), all structures, including parking and loading areas, shall be set back at least:

- (a) One hundred seventy-five (175) feet from any public street right-of-way with a width of three hundred (300) feet or greater;
- (b) One hundred fifty (150) feet from any public street right-of-way with a width greater than one hundred fifty (150) feet and less than three hundred (300) feet;
- (c) One hundred (100) feet from any public street right-of-way with a width of one hundred fifty (150) feet or less, where buildings, driveways, parking areas, and loading areas cover more than eight (8) acres of the lot;
- (d) Seventy-five (75) feet from any public street right-of-way with a width of one hundred fifty (150) feet or less, where buildings, driveways, parking areas, and loading areas cover eight (8) acres or less of the lot; and

- (e) One hundred fifty (150) feet from any lot line other than one abutting a public street right-of-way or separated from a public street right-of-way by only a natural area preserve.

If so designated, an abutting natural area preserve shall be considered part of the lot for purposes of applying these minimum setback requirement (see Subsection (C)), provided that all structures are set back at least thirty (30) feet from the natural area preserve.

(2) **Exceptions to Setback Requirements**

(a) No Setback from Railroads

Notwithstanding the provisions in Paragraph (1), no setback is required from a lot line that abuts the right-of-way of a railroad track or siding.

(b) Structures Excluded from Setback Requirements

The minimum setbacks in Paragraph (1) shall not apply to the following structures:

1. Structures below and covered by the ground;
2. Steps and walkways;
3. Driveways, provided that, to the extent practicable, they extend across rather than along the setback area;
4. Signs and lighting devices;
5. Planters, retaining walls, fences, fountains, park tables and seating, hedges, and other landscaping structures;
6. Gate or security stations;
7. Roof overhangs; and
8. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures).

If a natural area preserve is considered part of the lot for purposes of applying the minimum setback requirements in Paragraph (1), these exclusions shall also apply to that portion of the setback located within the required setback area.

(3) **Use of Setback Area**

Except for structures excluded from setback requirements in Subparagraph (2)(b), the area between a lot's property lines and the minimum setback lines shall be either retained and maintained in a natural state or landscaped and maintained as attractive natural areas that include lawns, wooded areas, decorative planting, outdoor recreation areas, and/or water surfaces.

(H) LOCATION OF ACCESSORY USES

Notwithstanding the provisions of section 1-1-22, subsection (A)(1) of this ordinance, maintenance and support uses permitted in subsection (B)(3) above shall be permitted on any

portion of a lot except within any required setback areas, and those structures excluded from setback requirements in Subparagraph (G)(2)(b) shall be permitted on any portion of the lot.

[Amended 7/16/84 to delete former Subsection (I), containing sign regulations (R-84-156) - see Section 1-1-21]

(I) **PARKING AND LOADING**

- (1) Notwithstanding any other provisions or standards contained in this ordinance, parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided on the premises of each use. Parking areas shall be paved with all-weather surface, and shall provide for stormwater drainage. Surface parking lots designed primarily for use by employees shall be located, constructed, or landscaped so as to be not visible from any other lot or public street right-of way.
- (2) Loading areas for supplies and services shall be sufficient to meet the requirements of each use. Loading areas, except railroad loading areas, shall be located, constructed, or landscaped so as to be not visible from any other lot or public street right-of-way.

(J) **STORAGE**

Outside storage of any materials, supplies or products shall not be permitted within any required setback area, and further, outside storage areas shall be located, constructed, or landscaped so as to be not visible from any other lot or public street right-a-way.

(K) **ENVIRONMENTAL STANDARDS**

All development shall comply with applicable federal and State requirements and regulations with regard to dust, smoke, odors, noise, air and water pollutant emissions, hazardous waste, solid wastes, radioactive wastes, ionizing radiation, radioactivity, and sewage and industrial wastes. In addition, development shall also comply with the following standards:

(1) **Glare**

Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.

(2) **Exterior Lighting**

Any lights used for exterior illumination shall direct light away from adjoining properties, and shall be designed or sited so that the lighting source is not visible from adjoining properties.

(3) **Radio Frequencies**

Any radio frequency shall not adversely affect any operations or any equipment other than those of the emitter of the frequency. Avoidance of adverse effects from radio frequency generation by appropriate single or mutual scheduling of operations is permitted.

(4) **Waste**

All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the wastewater ordinances and requirements of the Town of Cary and the State of North Carolina.

[Section originally adopted as Research-Farming District 1/4/60; substantially revised (as Research Applications District) 3/16/92 (O-92-10)]

SECTION 1-1-37 RESIDENCE DISTRICTS**(A) APPLICATION OF SECTION**

The following regulations shall apply in all Residence Districts.

- (B) **[RESERVED]** *[Amended 7/20/92 to substitute for provisions exempting all agricultural and forestry development from Section regulations (O-92-17) - but see Section 1-1-23(C)(1)]*

(C) PERMITTED GENERAL USES**(1) Dwellings:**

- (a) Single-family detached dwellings are permitted in all Residence Districts. *[Added 10/21/85 (R-85-205); amended 4/15/96 to delete "and duplex" after "detached" (O-96-7)]*
- (b) Duplex dwellings are permitted in all Residence Districts, provided the lot on which a duplex is located contains land area at least twice that required under the applicable minimum lot size standard in Section 3-4-2 of the Subdivision Ordinance. *[Added 4/15/96 (O-96-7)]*
- (c) Multifamily dwellings and single-family attached dwellings are permitted only in Residential-5 Districts. *[Added 10/21/85 (R-85-205); amended 4/15/96 to delete reference to Consolidated Open Space Developments (O-96-7)]*

- (2) The offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, artists, architects, where such professions are carried on in their respective residences.

- (3) Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, and beauty parlors, provided that such occupations shall be engaged in only by residents on the premises, that no more than fifty (50) percent of the floor area of a dwelling shall be used for such occupations, that no display of products nor any advertising of any nature shall be visible from the street except for a single non-illuminated wall or ground sign identifying the home occupation and limited to a maximum sign area of four (4) square feet per side, a maximum wall sign height of eight (8) feet, a maximum ground sign height of four (4) feet, and a maximum sign width of ten (10) feet, and that no accessory buildings shall be used for such home occupations. *[Amended 2/18/91 to substitute the 50% of floor area limitation for a limitation to "the equivalent of one floor", and to add the provisions allowing, and setting standards for, an identification sign (R-91-14)]*

- (4) Churches and other places of worship, including parish houses and Sunday schools, except in Residential-80 Watershed Districts and Residential-40 Watershed Districts, where these uses are special uses regulated under Subsection (E.3), below. *[Amended 5/18/87 to add prohibition in R-80W Districts (R-87-52); amended 9/21/87 to add designation as special uses in R-40W Districts (R-87-88); amended 6/16/97 to delete prohibition of churches in R-80W districts (O-97-27); Note: reference should be to Subsection E.6]*

(5) Institutions:

- (a) Schools, provided that they are prohibited in Residential-80 Watershed Districts and that they are a special use in Residential-40 Watershed Districts.
- (b) Public libraries, provided that they are prohibited in Residential-80 Watershed Districts and that they shall not exceed five thousand (5,000) square feet in floor area in Residential-40 Watershed Districts. *[Amended 6/20/88 to delete designation as special uses in R-40W Districts and to add floor area limits (R-88-61)]*

- (c) Colleges, public museums, and art galleries, except in Residential-80 Watershed and Residential-40 Watershed Districts, where these uses shall be prohibited.
[Amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]

[Added 7/21/80; amended 5/18/87 to prohibit in R-80W Districts (R-87-52); amended 9/21/87 to designate as special use in R-40W Districts (R-87-88); amended 6/20/88 to add heading and divisions (R-88-61)]

- (6) Family burial grounds*, provided the locations of all grave sites are recorded with the Zoning Administrator and all grave sites are located at least fifty (50) feet from any lake. The Zoning Administrator shall record all permits issued for family burial grounds with the Register of Deeds.

*The North Carolina Cemetery Commission regulates all perpetual care cemeteries. In addition, the Wake County Environmental Services Department regulates the location of all grave sites relative to water supply.

[Amended 12/4/00 to delete requirement for 100-foot separation from water supplies (O-00-41)]

- (7) Roadside stands offering for sale only agricultural products produced on the premises, as an accessory use to a bona fide farm. *[Amended 7/20/92 to substitute for "Truck gardens, nurseries, and greenhouses, but not including any salesrooms or other buildings used for the sale of products thereof." (O-92-17)]*
- (8) Accessory buildings and accessory uses, including private garages, servants' quarters, and non-commercial guest houses.
- (9) [Reserved] *[Amended 4/15/96 to delete Consolidated Open Space Development regulations, with the proviso that development pursuant to an application for COSD site plan approval that was approved before 5/15/96, or was accepted as complete before 5/15/96 and subsequently approved, shall be in accord with regulations in effect at the time the application was accepted as complete (O-96-7)]*
- (10) Water towers and tanks located on a parcel labeled as the site of such use on a record subdivision plat. *[Added 1/21/85 (R-85-1); amended 4/15/96 to add reference to label and to delete reference to COSD (Consolidated Open Space Development) (O-96-7)]*
- (11) Family care homes as defined in Section 1-1-1, provided no proposed family care home will be located within a one-half (½) mile radius of an existing family care home. *[Added 6/16/86 (R-86-100); amended 1/19/88 to add reference to Section 1-1-1 and to delete requirements that homes be located on a lot meeting the zoning district's minimum lot area standard and front on a road meeting the minimum design standards of the Subdivision Ordinance (R-88-4)]*
- (12) Health and personal care facilities for six (6) or fewer residents. *[Added 9/21/87 (R-87-88)]*
- (13) Small child day care homes, as an accessory use to a residential dwelling unit. *[Added 2/17/92 (O-92-5)]*
- (14) Large child day care homes, as an accessory use to a residential dwelling unit. *[Added 2/17/92 (O-92-5)]*
- (15) A modular sales office, as a temporary use in a subdivision, or an approved phase thereof, for two (2) years beginning at the time of occupancy, and may be renewed for additional one-year periods, not to exceed four (4) years total, provided that:
- (a) Underskirting shall be installed around the entire modular sales office;
 - (b) The modular sales office shall be located on an approved lot, as shown on both preliminary and record plats, serving that subdivision only, and shall conform to applicable yard requirements;

- (c) Off-street parking spaces shall comply with the requirements for retail commercial and service uses of Section 1-1-28(A)(3)(a), and all parking areas shall be paved with an all-weather surface and kept free of trash and litter and maintained in good appearance and condition;
- (d) Signs shall meet the requirements of Section 1-1-21; and
- (e) Landscaping shall be provided, meeting or exceeding the following requirements:
 - 1. Existing vegetation will be retained whenever possible;
 - 2. A minimum of two (2) canopy trees and twelve (12) shrubs, in accordance with the requirements of Section 1-1-29(J), shall be planted;
 - 3. Existing vegetation that remains on the lot shall be included in the count of minimum lot landscaping; and
 - 4. No less than fifty (50) percent of the minimum landscaping shall be visible from the front of the lot.

[Added 8/16/93 (O-93-11)]

- (16) Telecommunication towers that are located on a structure constructed for purposes other than supporting telecommunication equipment, that are no taller than thirty (30) feet or thirty (30) percent of the structure's height, and that meet all relevant standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2). *[Added 12/16/96 (O-96-51)]*
- (17) Telecommunication towers that are no more than two hundred fifty (250) feet high, that are located at least seven hundred fifty (750) feet from any other parcel of land that is residentially developed or is vacant and zoned Residential, Mobile Homes, or Highway, or from any adjoining road, and that meet the standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2). *[Added 12/16/96 (O-96-51)]*
- (18) Golf courses located on an open space parcel reserved or dedicated for active recreation on a record plat for a Cluster or Open Space Subdivision, except in water supply watersheds (See Section 1-1-37(E.6)(1)). No direct glare from lights shall be visible at any adjoining property lines. *[Added 11/6/00 O-00-32]*
- (19) Swimming and tennis clubs and facilities located on an open space parcel reserved or dedicated for active recreation on a record plat for a Cluster or Open Space subdivision. No direct glare from lights shall be visible at any adjoining property lines. *[Added 11/6/00 O-00-32]*

[Amended 7/13/98 to change Subsection title from "Uses Permitted" (O-98-24)]

(D) PERMITTED SPECIAL USES - INSTITUTIONAL

- (1) Publicly operated recreation buildings, playgrounds, parks, and athletic fields.
- (2) Community buildings.
- (3) Hospitals or sanatoria, philanthropic or eleemosynary institutions, and animal hospitals, except in Residential-80 Watershed and Residential-40 Watershed Districts, where these uses shall be prohibited. Any building shall be set back not less than one hundred (100) feet from any lot line or street line. The exterior appearance of any such building shall be in

harmony with the character of the area. *[Added 7/21/80; amended 5/18/87 to add prohibition in R-80W Districts (R-87-52); amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*

- (4) Except in Residential-80 Watershed Districts, buildings which are used exclusively by federal, state, county, or city government for public purposes. Penal and correctional institutions are not permitted. *[Amended 5/18/87 to add prohibition in R-80W Districts (R-87-52)]*

[Amended 6/16/86 to delete former Paragraph (5), allowing family care homes subject to standards (R-86-100) - but see Subsection (C)(11) above]

- (5) Group homes provided the following standards are satisfied:

- (a) Each home is located on a lot which has as minimum land area equal to or greater than that required under the applicable zoning district.
- (b) The home fronts upon a road, street, or highway that meets or exceeds minimum standards for roads established by the Wake County Subdivision Ordinance.
- (c) The proposed home is no less than one-half (½) mile radius from an existing family care home or group home.
- (d) No group home shall be located in a Residential-80 Watershed or a Residential-40 Watershed District. *[Added 5/18/87 (R-87-52); amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*

[Added 6/16/86 (R-86-100)]

- (6) Commercial or private kennels, as defined in Section 1-1-1, are permitted as special uses in Residential-30, -40, and -80 Districts, provided that such kennels comply with all standards contained in this Subsection.

Private kennels, as defined in Section 1-1-1, are permitted as special uses in Residential-80 Watershed and Residential-40 Watershed Districts, provided that such kennels comply with all standards contained in this Subsection. Commercial kennels, as defined in Section 1-1-1, are prohibited in Residential-80 Watershed and Residential-40 Watershed Districts. *[Added 3/5/84 (R-84-37)]*

The intent of these provisions is to recognize that although commercial kennels provide a service for owners of animals, the noise, odor, insects, and traffic associated with kennels are not in keeping with what is ordinarily desirable in residentially developed areas. However, within the zoning jurisdiction of the County, Residential Districts are mostly rural in character, and kennels might be appropriate and conveniently located therein provided that sites are carefully selected and establishments are built and operated in compliance with prescribed construction and performance standards. This Subsection includes standards. It is further intended that the Board of Adjustment shall consider each proposed site with reference to the character of the immediate neighborhood, topography, natural vegetation (and other purposes of zoning as set forth in Section 153A-341 of the General Statutes), and determine whether a kennel would be a suitable land use thereon.

- (a) All building and structures related to the care of animals shall be located at least one hundred (100) feet from any property line, except where:
 - 1. Adjacent property is owned or occupied by the kennel owner or operator; or
 - 2. All kennel areas are surrounded by an effective noise screen, in which case the yard requirement may be reduced to fifty (50) feet. Such reduction in yard requirement is only permitted for kennels having a total holding capacity of

twenty-five (25) or fewer animals. Where a noise screen is provided, it shall comply with provisions of Section 1-1-29 of this Code, and shall consist of one of the following combinations:

- a. An earth berm covered by a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, but the earth berm itself shall be no more than five (5) feet. The minimum width of the entire noise screen shall be twenty-five (25) feet.
 - b. A masonry, stone, or block wall, augmented on one (1) side by a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, and the minimum width of the vegetation shall be twenty-five (25) feet.
- (b) The lot on which the animals are located shall be surrounded by a six (6) foot high security fence. Such fence may consist of a masonry wall, metal fence of solid appearance, or a chain link fence. The wall or fence shall be screened on its exterior side with a trimmed hedge, informal screen planting, or screen of natural vegetative cover; or an earth berm may be used in combination with such fencing. The height of the berm should not be greater than two-thirds (2/3) of the required height of the fence unless scale dictates otherwise. *[Amended 11/18/85 to substitute standards for the fence type, screening, and berm height for a reference to compliance with the provisions of Section 1-1-29 (R-85-230)]*

All fences shall have a height of seven (7) or more feet, and all screens shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 to substitute for standards in Section 1-1-29 (R-85-230)]*

- (c) Adequate parking facilities with safe and efficient pedestrian and vehicular access and egress shall be provided; such parking facilities shall be landscaped in accordance with provisions of Section 1-1-28 of this Code. *[Amended 11/18/85 to refer to Section 1-1-28 instead of Section 1-1-29 (R-85-230)]*
- (d) A living, dense, visual screen consisting of an evergreen shrub hedge with a minimum opacity of eighty (80) percent shall be provided between animal uses and property lines except where:
 - 1. Animals are entirely enclosed in adequately ventilated, soundproof enclosures;
 - 2. Existing vegetative cover is sufficient to meet the eighty (80) percent opacity requirement.

[Amended 11/18/85 to delete reference to conformance with Section 1-1-29(D)(2) (R-85-230)]

The hedge shall consist of evergreen shrubs. Such hedge may be supplemented with other vegetation to increase its attractiveness or opacity, but the eighty (80) percent opacity shall be met primarily through the shrubs which are provided. *[Added 11/18/85 (R-85-230)]*

The hedge shall have a thickness of not less than forty (40) percent of its intended or required height, whichever is greater, within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

The hedge shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

- (e) The number of animals kept on a lot shall be in accordance with the following (in addition to the standards listed above):
1. In Residential-30 Districts, six (6) or more animals may be kept on lots of five (5) acres or greater; and in Residential-40, -80, -40 Watershed, and -80 Watershed Districts, six (6) or more animals may be kept on lots of forty thousand (40,000) square feet or greater. The following standards shall apply to kennels with capacities for six (6) to twenty-five (25) animals, where such kennels locate in Residential-30, -40, -80, -40 Watershed, or -80 Watershed Districts. *[Amended 3/5/84 to add references to R-40W and R-80W Districts (R-84-37)]*
 - a. In Residential-40, -80, -40 Watershed, and -80 Watershed Districts, the yard area shall be increased (beyond forty thousand (40,000) square feet) by two thousand (2,000) square feet for each animal (above six (6) animals). *[Amended 3/5/84 to add references to R-40W and R-80W Districts (R-84-37)]*
 - b. The lot area shall be in compliance with the lot area requirements of this Code pertaining to the specific district within which the kennel is located.
 2. In Residential-40, -80, -40 Watershed, and -80 Watershed Districts, twenty-six (26) or more animals may be kept on lots of eighty thousand (80,000) square feet or greater. The following standards shall apply to kennels with capacities for twenty-six (26) or more animals, where such kennels locate in Residential-30, -40, -80, -40 Watershed, or -80 Watershed Districts. *[Amended 3/5/84 to add references to R-40W and R-80W Districts (R-84-37)]*
 - a. All buildings and structures related to the care of animals shall be located at least one hundred (100) feet from any property line, except where adjacent property is owned or occupied by the kennel owner or operator.
 - b. In Residential-40, -80, -40 Watershed, and -80 Watershed Districts, the yard area shall be increased (beyond eighty thousand (80,000) square feet) by five hundred (500) square feet for each additional animal (above twenty-six (26) animals). *[Amended 3/5/84 to add references to R-40W and R-80W Districts (R-84-37)]*
 - c. All kennel areas shall be surrounded by an effective noise screen, in compliance with provisions of Section 1-1-29 of this Code, and consisting of one of the following combinations:
 - i. An earth berm covered with a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, but the earth berm itself shall be no more than five (5) feet. The minimum width the entire noise screen shall be twenty-five (25) feet.
 - ii. A masonry, stone, or block wall, augmented on one side by a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, and the minimum width of the vegetation shall be twenty-five (25) feet.
- (7) Health and personal care facilities for seven (7) or more residents, except in Residential-80 Watershed and Residential-40 Watershed Districts where these uses shall be prohibited. *[Amended 5/18/87 to add prohibition in R-80W Districts (R-87-52); amended 9/21/87 to add "for seven (7) or more residents" (R-87-88); amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*

(8) Group care facilities, provided the following standards are satisfied:

- (a) Each facility shall have a minimum uncovered land area of five thousand (5,000) or more square feet for the first twelve (12) residents, and seven hundred (700) square feet for each additional resident.
- (b) Each facility shall have a minimum heated floor area of two thousand (2,000) square feet for the first twelve (12) residents, and one hundred ten (110) square feet for each additional resident.
- (c) Off-street parking shall be provided as required in Section 1-1-28 (A)(1)(e).
- (d) No group care facility shall be located closer to another such facility than one (1) mile measured by a straight line, and not street distances, in order to prevent the creation of a de facto social service district and to avoid affecting the surround neighborhood. "Affecting" means the point at which the number of group care facilities or residents therein might become so large as to alter the character of a neighborhood. This Subsection is also intended to protect existing group care facilities from the possibility that an over-concentration of such facilities might inadvertently create an institutional setting and hinder or negate the purposes of such facilities.
- (e) No group care facility shall be located in a Residential-80 Watershed or a Residential-40 Watershed District. *[Added 5/18/87 (R-87-52); amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*

(9) Day care facilities for the elderly, subject to the following regulations:

- (a) The site plan shall be an engineering drawing or a sketch plan drawn to scale, and shall include the location, dimensions, and a rendering of the general appearance for each of the following:
 - 1. The entire day care facility in relation to abutting properties and public thoroughfares;
 - 2. Off-street parking areas and points of ingress and egress, in relation to abutting properties and connecting or adjoining streets;
 - 3. The general landscape plan, including (but not limited to) the location of any proposed buildings, structures, recreation areas, parking facilities, fences, and vegetative screens;
 - 4. Proposed utility designs, including (where applicable) water and sewer lines and connectors, nitrification fields, water storage structures, etc.;
 - 5. Projected day-time occupancy figures (including both staff and clientele); and
 - 6. Vehicular movement and parking capacity projections for nearby streets.
- (b) No permit shall be issued for development of any day care facility for the elderly unless:
 - 1. There is a minimum of one thousand three hundred (1,300) square feet of total land area per each enrolled elderly person in R-40, R-80, R-40 Watershed, and R-80 Watershed districts, eight hundred (800) square feet of total land area per each enrolled elderly person in R-30 residential districts, and three

hundred (300) square feet of total land area per enrolled elderly person in any other Residential Districts; *[Amended 3/5/84 to add references to R-40W and R-80W Districts (R-84-37)]*

2. The building housing the facility is similar in appearance to nearby dwellings and buildings and compatible with the character of the neighborhood; and
3. Adequate off-street parking spaces and means of ingress to and egress from the facility are provided based upon projected enrollment and the vehicular movement and parking capacity of the nearby streets.

[Amended 5/18/87 to add prohibition of day care facilities for children in R-80W Districts and minimum land area per pupil requirement in R-40W Districts; amended 2/17/92 to delete provisions applicable to day care facilities for children and refer to day care facilities for the elderly only (O-92-5) - see Paragraph (10) below]

- (10) Child day care centers, and large and small child day care homes other than those permitted as an accessory use to a residential dwelling unit under Subsection (C). These child day care centers and homes are allowed either as an independent use, or in conjunction with a permitted general use (such as a residence or a church) or another permitted special use (such as a community center or hospital). *[Added 2/17/92 (O-92-5)]*
- (11) Cemeteries, subject to the following regulations:
 - (a) Location of existing and designated grave sites shall be recorded with the Zoning Administrator at the time that an application for a special use permit is filed. The Zoning Administrator shall record all permits issued for cemeteries with the County Register of Deeds. *[Amended 12/4/00 to delete requirement for 100-foot separation from water supplies (O-00-41)]*
 - (b) Grave spaces (existing and designated) shall be located a minimum of fifty (50) feet from adjacent property lines. This provision shall not apply when adjacent property is commonly owned and used for cemetery purposes.
 - (c) Grave spaces (existing and designated) shall be located a minimum of twenty (20) feet from any road right-of-way. This provision shall not apply when property on the other side of the road right-of-way is commonly owned for cemetery purposes.
 - (d) Every cemetery shall be established in accordance with the provisions of Section 1-1-11 of this Code; however, any applicant for a permit to establish a cemetery shall be exempted from the requirements of Section 1-1-11 (D)(1)(a)(bb), Provision of Services and Utilities, where such applicant can show that no services or utilities are needed to protect the public's health or safety.

* The North Carolina Cemetery Commission regulates all perpetual care cemeteries. In addition, the Wake County Health Department regulates the location of all grave sites relative to water supply.

- (12) Bed and breakfast residences, subject to the following standards:
 - (a) The dwelling originally was constructed as a single-family detached dwelling, and contains at least thirty-five hundred (3500) square feet of heated floor area.
 - (b) The dwelling is listed, or eligible for listing, in the National Register of Historic Places, or is listed as a contributing structure within a local or National Register historic district, or is a locally designated historic landmark, or is listed on a State or local inventory of historic structures.

- (c) No substantial changes may be made to the exterior appearance of the structure or to the site that would alter the property's residential character.
- (d) No interior changes may be made that would prevent the structure's conversion back to an exclusively single-family residential use.
- (e) [Reserved]
- (f) Guest stays shall be limited to fourteen (14) consecutive days.
- (g) The operator of the bed and breakfast residence may be the owner of the dwelling or a resident manager, but must occupy the dwelling as a principal residence.
- (h) Meals may be provided to overnight guests only, and no cooking facilities may be provided in guest rooms.
- (i) Accessory facilities for meetings or recreation may be provided, but only for use by overnight guests (not open to the general public).

[Added 7/18/94 (O-94-16); amended 7/13/98 to substitute Subsection title for "Uses Requiring Approval of a Special Use Permit and a Site Plan by the Board of Adjustment" (O-98-24)]

(E) PERMITTED SPECIAL USES - MISCELLANEOUS

- (1) **Reserved.** *[Amended 11/6/00 to delete "clubs and grounds for games or sports" use (O-00-32) - but see Section 1-1-37(C)(18) and (19)]*
- (2) Telecommunication towers that are no more than five hundred ten (510) feet high and that meet the following standards:
 - (a) If the tower is more than seventy-five (75) feet high, it shall be located at least one thousand five hundred (1,500) feet from any other telecommunications tower greater than seventy-five (75) feet high; provided, however, that this separation requirement shall not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower has been made, or that co-location on the tower will not technically satisfy the applicant's specific needs.
 - (b) Buildings associated with the tower may not be used as an employment center for any worker (This provision does not prohibit the periodic maintenance or monitoring of equipment and instruments.)
 - (c) The minimum distance between the tower and an adjoining parcel of land that is residentially developed or is vacant and zoned Residential, Mobile Homes, or Highway, or from an adjoining local road separating the tower site from such a parcel, shall be equal to the tower's height if it is a monopole tower, or twice the tower's height if it is not a monopole tower - but not less than fifty (50) feet, nor less than the minimum yard depth applicable in the zoning district. This provision shall not apply in relationship to any nonconforming residential use or the residence of a caretaker or watchman accessory to a permitted nonresidential use.

For towers exceeding a height of two hundred and fifty (250) feet, the Board of Adjustment may reduce the minimum distance required above on finding that a lesser distance will not be injurious to properties or improvements in the affected area, but in no case may the minimum distance be reduced to less than that equal to fifty (50) percent of the tower's height.

The minimum distance between the tower and any other adjoining parcel of land or road shall be equal to the minimum yard depth applicable in the zoning district, plus any additional distance necessary to ensure that the tower, as designed, will fall within the tower site.

The distances referred to above shall be measured from the outside dimensions of the tower, not from the guy anchors.

- (d) If the tower is more than one hundred (100) feet high, but less than one hundred eighty (180) feet high, it shall be engineered and constructed to accommodate at least one (1) additional telecommunication user. If the tower is at least one hundred eighty (180) feet high, it shall be engineered and constructed to accommodate at least two (2) additional telecommunication users. Provision of co-location sites on other towers is encouraged wherever feasible.
- (e) The base of the tower and each guy anchor shall be surrounded by a fence or wall at least eight (8) feet high, unless the tower and all guy anchors are mounted entirely on a structure over eight (8) feet high. Except for its entrances, the fence or wall shall be screened with plant material so that no more than two-thirds (2/3) of its surface is visible, within three (3) years after its installation, from a public street or from any adjoining parcel of land that is residentially developed or is vacant and zoned Residential, Mobile Homes, or Highway.
- (f) A transitional bufferyard shall be provided in accord with the requirements in Section 1-1-29 applicable to a proposed low intensity nonresidential class of use.
- (g) Radio, television, or other electromagnetic transmission or reception on other properties shall not be disturbed or diminished.
- (h) The tower shall meet the standards of the Federal Aviation Administration (FAA) for avoiding obstruction of navigable airspace and approaches to public airports (see Federal Aviation Regulations Part 77, as amended), and for marking and lighting structures to promote aviation safety (see FAA Advisory Circular 70/7460, as amended). Specifically, tower lighting shall meet applicable FAA standards for either red obstruction lighting systems or dual lighting systems (red lighting for nighttime and medium intensity flashing white lighting for daytime). If a tower is proposed to be located within one thousand (1,000) feet of a private use airport, the application shall so indicate.
- (i) Output from the tower and/or associated antennas shall meet the minimum standards of the Federal Communications Commission (FCC) relating to the environmental effects of radio frequency emissions.

[Added 12/16/96 (O-96-51)]

- (3) Static transformer stations, transmission lines and supporting towers, telephone exchanges, and radio and television towers and transmitting or relay stations (other than telecommunication towers permitted under Paragraph (2), above), not including service and storage yards; provided that the exterior appearance of any building or structure permitted under this Paragraph shall be in keeping with the character of the neighborhood in which it is located. *[Amended 12/16/96 to renumber from (2) to (3), to add "supporting," and to exclude telecommunication towers permitted under new Paragraph (2) (O-96-51)]*
- (4) Water towers and tanks not located on a parcel labeled as the site of such use on a record subdivision plat. *[Added 1/21/85 (R-85-1); amended 4/15/96 to add reference to label, to delete reference to COSD (Consolidated Open Space Development), and to delete unnecessary references to Sections of the*

Subdivision Ordinance and to compliance with provisions in Section 1-1-37(C)(10) (O-96-7); renumbered from (3) to (4) 12/16/96 (O-96-51)]

- (5) Bed and breakfast homestays, as an accessory use to a residential dwelling, and subject to the following standards:
 - (a) No substantial changes may be made to the exterior appearance of the structure or to the site that would alter the property's residential character.
 - (b) Guest stays shall be limited to seven (7) consecutive days.
 - (c) The operator of the bed and breakfast homestay must occupy the dwelling as a principal residence.
 - (d) Meals may be provided to overnight guests only, and no cooking facilities may be provided in guest rooms.

[Added 7/18/94 (O-94-16); amended 7/13/98 to substitute Subsection title for "Uses Permitted After Approval by the Board of Adjustment" (O-98-24)]

(E.1) PERMITTED SPECIAL USES - COMMERCIAL OUTDOOR RECREATIONAL

(1) Intent

It is the intent of this Subsection to permit within Residence Districts certain types of outdoor recreation activities conducted primarily or incidentally for commercial gain, provided such land uses and activities are compatible with, complementary to, and good neighbors to permitted uses within existing or potential residential areas.

It is further intended that the Board of Adjustment shall review plans for the project submitted by the developer and, in exercising authority granted under Section 1-1-5 to impose conditions upon such uses other than those stated in the chapter, shall seek to preserve a natural area or countryside environment where these special uses are permitted.

(2) Uses Permitted

- (a) Botanical gardens and arboretums.
- (b) Farms and ranches with associated recreation or resort activities as either the principal or partial uses (dude ranches).
- (c) Group camps, day or period, provided intensive activity areas are located at least three hundred (300) feet from adjoining property lines. Rifle ranges or other shooting facilities shall not be permitted.
- (d) Camp grounds and trailer parks for vacation or tourist use only. Trailers or campers may not be used for permanent occupancy.
- (e) Golf courses with or without country club, other than those permitted under Section (C), except in water supply watersheds, where golf courses require approval of a special use permit by the Board of Adjustment (See Section 1-1-37 (E.6)(1)). Driving ranges and miniature golf courses shall not be permitted, except that country clubs may include driving ranges for daytime use of club members. *[Amended 4/4/94 to add exception for water supply watersheds (O-94-5); amended 11/6/00 to add reference to Section (C) [O-00-32] - see Section 1-1-37(C)(18) and (19)]*

- (f) Fishing clubs and activities.
- (g) Marinas and boat clubs.
- (h) Riding clubs, grounds, and stables.
- (i) Ranges or clubs involving the use of firearms provided that:
 - 1. Ranges or clubs involving the use of firearms shall not be interpreted to include the activity known as "turkey shoots."
 - 2. All shooting stations shall be at least one thousand (1,000) feet distance from any adjacent property in different ownership, now or in the future. A three hundred (300) or more foot wooded buffer, consisting primarily of evergreens shall exist or be planned and propagated between the firing area and all adjacent property and adequate fencing, warning signs, or other safety measures shall be provided and maintained around any danger area.
 - 3. The minimum required distance of one thousand (1,000) feet between any shooting station and all lot lines may be reduced if actual firing tests conducted by the applicant demonstrates that a lesser distance will be adequate to protect the public safety and reduce noise at the property lines. The results of such tests and the request to lessen the required distance shall be submitted in writing along with the application for a permit. Firearm ranges shall be designed and constructed under the supervision of a registered engineer or certified by the National Rifle Association following construction and before the range is used.
- (j) Tennis courts and clubs other than those permitted under Section (C), provided no direct glare from lights shall be visible at any adjoining property lines. *[Amended 11/6/00 to add reference to Section (C) [O-00-32] - see Section 1-1-37(C)(18) and (19)]*
- (k) Wildlife and game preserves, provided no hunting shall be permitted within any required yard and that fencing, warning signs, or other safety devices be adequately provided and maintained. Hunting with rifles shall be prohibited.
- (l) Swimming pools other than those permitted under Section (C), provided no direct glare from any light source shall be visible at any adjacent property line. *[Amended 11/6/00 to add reference to Section (C) [O-00-32] - see Section 1-1-37(C)(18) and (19)]*
- (m) Accessory buildings and uses, including club houses and residences of proprietors, managers, or caretakers.
- (n) Incidental commercial activities customarily associated with a principal recreation use, such as golf "pro" shops, equipment sales, and food and refreshment facilities, provided that any such activities are conducted for the patrons of the principal use and that no outdoor advertising of products or equipment shall be permitted. Exception: Incidental commercial activities of golf courses in water supply watersheds require approval of a special use permit by the Board of Adjustment (See Section 1-1-37 (E.6)(1)). *[Amended 4/4/94 to add exception (O-94-5)]*

(3) Yard and Space Requirements**(a) Minimum Tract Size**

Each tract of land shall have an area of not less than ten (10) acres, except as otherwise stated under (2)(l) above.

(b) Building Height Limit

None, except where height limits are in effect relative to airways or airports.

(c) Reserved *[Amended 11/6/00 to delete requirement for 150-foot-deep vegetated yard adjacent to each lot line and road frontage (O-00-32) - but see Section 1-1-29]***(4) Parking**

Paved or graveled parking areas of sufficient size to provide parking spaces on the premises for all persons using the premises shall be provided. There shall be no parking in any required yard. Parking areas shall be designated and marked as such by curbs, borders, walls, or fences, and shall be well drained and maintained.

(5) [Reserved] *[Amended 7/16/84 to delete Paragraph (5), containing sign regulations (R-84-156) - see Section 1-1-21]***(6) Storage**

Outside storage shall not be permitted within any required yard. Storage areas shall be screened or located where they will not be seen from any adjoining property.

(7) Utility Requirements

Approval of water supply and sewage disposal plans by the County or State agencies having jurisdiction of such facilities over the land to be developed will be required before the issuance of use or building permits.

[Amended 7/13/98 to add Subsection title O-98-24]

(E.2) PERMITTED SPECIAL USES - NEIGHBORHOOD BUSINESS AND FARM-SERVING**(1) Neighborhood Business Uses****(a) Intent**

It is the intent of this Subsection to permit within Residence Districts, other than Residential-80 Watershed Districts, certain low-intensity retail trade, finance, and service establishments that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhoods, and are of such a nature as to minimize conflicts with existing or potential residential uses. The uses listed in this Subsection shall be prohibited in Residential-80 Watershed Districts. *[Amended 3/5/84 to add prohibition in R-80W Districts (R-84-37); amended 7/13/98 to delete authority to impose conditions on approvals (already in Section 1-1-11) (O-98-24)]*

(b) Uses Permitted

1. Retail convenience stores selling beverages, groceries, patent drugs, and gasoline, including automatic bank teller machines - provided, however, that such stores that sell gasoline shall not be allowed in Residential-40 Watershed Districts. *[Amended 6/20/88 to add ", including automatic bank teller machines" (R-88-61); amended 5/1/00 to add prohibition of gasoline sales in R-40W districts (O-00-22)]*
2. Auto service and vehicular repair stations, except that they shall not be allowed in Residential-40 Watershed Districts. *[Amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*
3. Neighborhood indoor retail and service trade establishments including: banks, drug stores, cafes, book stores, antique shops, dry goods, hardware, and other similar indoor retail and service trade establishments, except that they shall not be allowed in Residential-40 Watershed Districts. *[Amended 2/18/85 to delete "barber and beauty shops" (R-85-27) - see 4. below; amended 6/20/88 to add prohibition in R-40W Districts (R-88-61)]*
4. Personal service establishments. *[Added 2/18/85 (R-85-27); amended 9/21/87 to substitute "Personal service establishments" for "Personal services" (R-87-88)]*
5. Farm serving uses - Class I. *[Added 3/23/87 (R-87-32)]*

(c) [Standards]

All uses permitted within Subsection (E.2) shall meet the following standards:

1. The gross floor area of buildings shall not exceed five thousand (5,000) square feet per building lot.
2. Road access standards:
 - a. All permitted uses listed in (E.2)(1)(b)(1),(2), and (3), above, shall be located on a lot that abuts and has direct access to segments of roads which are included in one or more of the following classifications:
 - i. NC-numbered highways classified as "Major Collectors" on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation;
 - ii. US-numbered highways classified as "Major Collectors," "Minor Arterials," or "Principal Arterials" (except "Freeways") on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation; or *[Added 9/17/84 (R-84-177)]*
 - iii. State-maintained secondary roads (S.R.) that have a daily traffic volume of one thousand (1,000) vehicle trips per day according to the most recent traffic counts by North Carolina Department of Transportation, or are classified as "Major Collectors" on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation. *[Amended 9/17/84 to expand the formerly included list of State-maintained secondary roads (R-84-177); amended 2/18/85 to substitute for list of State-maintained secondary roads (R-85-27)]*

- b. All personal service uses (see (b)(4) above) shall be located on a lot that abuts and has direct access to any public or private road, except that such uses shall not be located on roads classified as "Local Access Roads," as defined in Section 3-5-3 of the Wake County Subdivision Regulations. *[Added 2/18/85 (R-85-27)]*
- 3. The hours of operation, including the sale of gasoline, are limited from 7:00 a.m. to 9:00 p.m. The Board of Adjustment may permit an extension of operating hours after making a finding that such extension would not be injurious to the public health and safety of the surrounding area by reason of noise, congestion, lighting, or other aspects of the operation.
- 4. All parking associated with the proposed use shall be on the premises, and all parking areas shall be paved with an all-weather surface. The number of parking spaces required shall comply with the off-street parking standards in Section 1-1-28 of this Code. All vehicles parked at any use permitted within Subsection (E.2)(1) shall be officially registered and licensed for operation at all times.

[Amended 7/16/84 to delete sign standards (in former Subparagraph (E.2)(3)(e)) (R-84-156) - see Section 1-1-21]

- 5. The lot shall have a minimum area equal to or greater than the largest minimum lot area required for a residence in any adjacent residential zone.
- 6. No required yard area shall be used for any use or parking except as provided in Section 1-1-21 of this Code. Refuse containers may be stored outside of the building, but they shall be screened from view from any adjacent lot and maintained in a sanitary and litter-free condition. Any other outdoor display or storage is prohibited. *[Amended 7/16/84 to add reference to Section 1-1-21 (R-84-156)]*
- 7. Minimum required yards:

Front	50 feet
Side	25 feet
Rear	30 feet
Corner side	30 feet

If the district within which the use is located requires larger yards, the use shall conform to the larger lot requirements.

- 8. In addition to the primary facility, outside storage may be permitted on a lot when it is determined by the Board of Adjustment to be necessary to the use permitted, provided that:
 - a. Type A screening, as defined in Section 1-1-29(E)(2) of the Zoning Ordinance, is established and maintained along the perimeter of the outside storage facility; and
 - b. Adequate transitional bufferyards and landscaping are provided, meeting or exceeding the requirements of Section 1-1-29.

[Amended 3/23/87 to substitute for a prohibition of accessory buildings in any development of a (E.2) special use (R-87-32); Note: Definition of type A screening was moved 8/19/96 to Section 1-1-29(E)(2) (O-96-32)]

9. All exterior lighting shall be shielded or directed away from any adjacent use or lot or any adjacent public street. No exterior lighting shall cause illumination in excess of one (1) foot candle at any lot line. After closing hours, all lighting, including signs, shall be turned off except as necessary to illuminate the interior of the building for security purposes.
10. Access to the site shall be designed and constructed according to sound engineering principles and applicable standards of the North Carolina Department of Transportation.
11. All yards are required to be landscaped in accordance with Section 1-1-29.
12. A fence, screen, or landscape screen to buffer all lots adjacent to the side and rear, except those already developed for uses permitted within Subsection (E.2)(1), may be required according to the specifications in Section 1-1-29. The fence, screen, or landscape screen shall run along either the side and rear lot lines or some interior line of the lot. The Board of Adjustment shall recommend the appropriate design solution after an examination of the site, the surrounding uses, and the proposed site plan.
13. The use shall comply with all performance standards in Section 1-1-27.
14. The parking area and yards shall be kept free of trash and litter and maintained in good appearance and condition.
15. [Reserved] *[Amended 7/20/92 to substitute for time limits on permit validity (O-92-17) - see Section 1-1-11(B)'s provision for establishment of vested rights]*
16. No building may be occupied until a certificate of occupancy has been issued bearing the name of the chief building inspector certifying that all buildings and site improvements are in conformance with the approved site plan. The certificate shall be reviewed and an inspection of the site shall be made no less frequently than once every two (2) years to assure continued compliance with the terms of the special use permit.

[Amended 3/5/84 to add requirement for on-site control of first ½ inch of rainfall in R-40W Districts (as former Section 1-1-37(E.2)(3)(r)) (R-84-37); amended 10/21/85 to apply requirement only when impervious surface coverage exceeds 12%, to add a prohibition of impervious surface coverage exceeding 30%, and to add a statement that the landowner is responsible for maintenance of control measures and facilities (R-85-207); deleted 5/18/87 (R-87-52)]

[Amended 9/21/87 to move from Subsection (E.2) to (E.2)(1) and renumber divisions (R-87-88)]

(2) **Farm Serving Uses - Class II**

(a) **Intent**

It is the intent of these regulations to ensure that Class II Farm Serving Uses are located in a manner consistent with the public health, safety, and welfare, and that surface waters, population centers, adjacent land uses, and Wake County in general will be protected from the potential injurious effects of a Class II use.

It is further intended to ensure that decisions pertaining to location of Class II uses are made according to objective criteria.

[Amended 9/21/87 to reorganize divisions as paragraphs (R-87-88)]

(b) Special Uses

1. Class II uses may be permitted as special uses within Residence Districts, subject to the terms and conditions of this Section 1-1-37(E.2)(2) and Section 1-1-11 of this Ordinance. *[Amended 9/21/87 to update Section reference (R-87-88)]*
2. The following uses shall be prohibited in Residential-80 Watershed Districts:
 - a. Underground intermediary fuel storage facilities.
 - b. Storage, in quantities of greater than two hundred fifty (250) gallons, of any fuel which is a liquid at atmospheric pressure and forty (40) degrees Fahrenheit temperature.

(c) Standards

1. Ingress to and egress from Class II uses shall not be permitted by roads that principally provide access to residential properties within subdivisions.
2. A 100-foot bufferyard shall be required around all sides of a Class II use in accordance with Section 1-1-29 of the Zoning Ordinance, in order to conserve the value of buildings on adjacent properties, reduce or eliminate the effects of noise, odor, dust, and vibrations, and protect adjacent land uses from any adverse or detrimental effects due to the presence of a Class II use.
3. Storage tanks shall not exceed a maximum of eighteen thousand (18,000) gallons water capacity each. The minimum land area per eighteen thousand (18,000) gallons shall be one (1) acre.
4. A security fence at least seven (7) feet in height, designed to discourage unauthorized entry, shall be installed around all portions of Class II uses directly involved in the storage and handling of non-radioactive fuel.
5. The Board of Adjustment may impose monitoring requirements as a condition to special use authorization.
6. Special use approval will not become effective until all applicable permits for a Class II use have been issued by the appropriate State and federal agencies, and will expire automatically if, at any time after the issuance, required State or federal permits are revoked or lapse.

(d) Petition Submittal Requirements

Special Use Permit petitions shall include four (4) copies of all documents required by any State or federal agency for a permit to operate a non-radioactive intermediary fuel storage facility, as defined by this Ordinance. *[Amended 7/13/98 to delete requirements that petition be reviewed by Planning Department and Community Development Services Agency (O-98-24)]*

[Added 3/23/87 (as Subsection (E.3)) (R-87-32); amended 9/21/87 to move to (E.2)(2) and renumber divisions (R-87-88); amended 7/13/98 to substitute Subsection title for "Uses Requiring Approval of a Special Use Permit and a Site Plan by the Board of Adjustment" (O-98-24)]

(E.3) Reserved *[Provisions listing churches as a special use in R-40W and R-80W Districts moved to Subsection E.6 7/13/98 (O-98-24)]*

(E.4) PERMITTED SPECIAL USES - APPLICATION OF THROUGHFARE DENSITY CREDITS**(1) Intent**

It is the intent of this Subsection to encourage applicants for development approval to reserve or dedicate those undeveloped areas needed for proposed major thoroughfares by providing them density credits on those portions of their land or other properties which will not be needed for major thoroughfare construction.

(2) Standards for Provision of Density Credits**(a) Scope**

This Subsection may apply to any parcel of land abutting or intersected by a proposed major thoroughfare which has been resolved by the Wake County Board of Commissioners as having County- or region-wide impact because of its traffic-carrying capacity and effect on the major thoroughfare system.

Density credits may be provided for any residential use in any Residential District.

(b) Calculation of Density Credits

To the extent that an applicant for a density credit dedicates or reserves undeveloped land for a proposed major thoroughfare as designated by the Wake County Board of Commissioners, an applicant may apply for density credits. Density credits shall be determined by calculating twice the maximum number of residential units that could have been constructed in the reserved or dedicated area under the zoning regulations then in effect.

In cases where the specific alignment of the major thoroughfare has not been determined, County staff shall request such a determination from North Carolina Department of Transportation (NCDOT). Should NCDOT fail to make said determination in a timely manner, the Wake County Administration shall determine the alignment.

(c) [Reservation or Dedication]

As a condition to applying for density credits, the owner of land shall:

1. Reserve land for the corridor which abuts or intersects his property and record in the office of the Wake County Register of Deeds sufficient legal documentation in the chain of title of the reserved land to evidence permanent alienation of development rights in that land; or
2. Dedicate land for the corridor which abuts or intersects his property to Wake County or the State of North Carolina, without any restrictions on its use.

(3) Application of Density Credits

This density credit may be applied to increase the allowed density of any other land as provided herein.

- (a) Density credits may be applied to any tract of land located within the County's zoning jurisdiction, regardless of ownership, except land located within a water supply watershed.

- (b) In order to apply density credits to the same or different tracts, the application must be approved as a special use in accordance with the procedures of Section 1-1-11. *[Amended 7/13/98 to delete reference to approval by Board of Commissioners (O-98-24)]*
- (c) By applying a density credit to a particular parcel, the owner or developer may increase the allowable density of uses by decreasing the size of the lot below that required in the district; however, in no case may density for the entire tract exceed ten thousand (10,000) square feet per dwelling unit in all planning areas to which this Subsection applies. *[Amended 10/21/85 to decrease maximum density from 12,000 to 10,000 square feet per dwelling unit (R-85-205)]*
- (d) The owner of the density credits must apply for a special exception within five (5) years of the date he reserves or dedicates the land. After this period, his density credits become null and void.

(4) Required Yards

The depth and width of all required yards and minimum lot widths may be reduced to correspond with those requirements for the zoning district with which the reduced lot size most closely complies. Should the development have lots sized between the minimum lot sizes of two (2) districts, the requirements of the higher density district shall apply.

(5) Maximum Lot Coverage Allowed

The maximum amount of a lot which may be covered with impervious surfaces after application of density credits shall not exceed fifty (50) percent.

[Added 12/17/84 (as Subsection (E.3)) (R-84-254); amended 3/23/87 to renumber as (E.4) (R-87-32); amended 7/13/98 to substitute Subsection title for "Uses Requiring Special Exceptions and Site Plan Review by the Wake County Commissioners; Thoroughfare Density Credits" (O-98-24)]

(E.5) PERMITTED SPECIAL USES - APPLICATION OF SCHOOL DENSITY CREDITS

(1) Intent

It is the intent of this Subsection to encourage applicants for development approval to dedicate those undeveloped areas needed for proposed public school sites by providing them density credits on those portions of their land or other properties which will not be needed for major public school site construction.

(2) Standards for Provision of Density Credits

(a) Scope

This Subsection may apply to any parcel of land which is the proposed site of a school within the Wake County Public School System, as resolved by the Wake County Board of Education with the concurrence of the Wake County Board of Commissioners.

Density credits may be provided for any residential use in any Residential District.

(b) **Calculation of Density Credits**

To the extent that an applicant for a density credit dedicates undeveloped land for a proposed public school site as designated by the Wake County Board of Education, with the concurrence of the Wake County Board of Commissioners, an applicant may apply for density credits. Density credits shall be determined by calculating twice the maximum number of residential units that could have been constructed in the dedicated area under the zoning regulations then in effect.

(c) **[Reservation or Dedication]**

As a condition to applying for density credits, the owner of land shall dedicate land for the school site to the Wake County Board of Education, without any restriction on its use.

(3) **Application of Density Credits**

This density credit may be applied to increase the allowed density of any other land as provided herein.

- (a) Density credits may be applied to any tract of land located within the County's zoning jurisdiction regardless of ownership, except land located within a water supply watershed.
- (b) In order to apply density credits to the same or different tracts, the application must be approved as a special use in accordance with the procedures of Section 1-1-11.
[Amended 7/13/98 to delete reference to approval by Board of Commissioners (O-98-24)]
- (c) By applying density credits to a particular parcel, the owner or developer may increase the allowable density of uses by decreasing the size of the lot below that required in the district; however, in no case may density for the entire tract exceed twelve thousand (12,000) square feet per dwelling unit in all planning areas to which this Subsection applies.
- (d) The owner of the density credits must apply for a special exception within five (5) years of the date he dedicates the land. After this period, his density credits become null and void.

(4) **Required Yards**

The depth and width of all required yards and minimum lot widths may be reduced to correspond with those requirements for the zoning district with which the reduced lot size most closely complies. Should the development have lots sized between the minimum lot sizes of two (2) districts, the requirements of the higher density district shall apply.

(5) **Maximum Lot Coverage Allowed**

The maximum amount of a lot which may be covered with impervious surfaces after application of density credits shall not exceed fifty (50) percent.

[Added 6/16/86 (as Subsection (E.4)) (R-86-99); amended 3/23/87 to renumber as (E.5) (R-87-32); amended 7/13/98 to substitute Subsection title for "Uses Requiring Special Exceptions and Site Plan Review by the Wake County Commissioners; School Density Credits" (O-98-24)]

(E.6) PERMITTED SPECIAL USES - WATER SUPPLY WATERSHEDS

To maintain or enhance the quality of public water supplies, the following uses are permitted in the Residential-80 Watershed and Residential-40 Watershed districts only as special uses:

- (1) Churches and other places of worship, including parish houses and Sunday schools.
- (2) Golf course development and accessory activities, subject to the following standards:
 - (a) Golf course construction and operations shall not be located in, and shall avoid disturbance of, environmentally-sensitive natural areas including:
 - (1) Wetlands as designated by the U.S. Army Corps of Engineers.
 - (2) Slopes greater than twenty-five (25) percent or soils with K values (erosion potential) of 0.3 or greater. K values for specific soils are located in Section 2 of the *Soil Conservation Service Field Office Technical Guide*.
 - (3) Ecologically significant natural areas as identified by the North Carolina Natural Heritage Program.
 - (4) Floodways as designated by Federal Emergency Management Agency (FEMA) (See Section 1-1-26(F)).
 - (b) Golf course construction and operations shall use and maintain watershed Best Management Practices (BMPs) including:
 - (1) Undisturbed watershed and drainageway buffers along lakes, streams, and drainageways (See Section 1-1-37(N)(1) through (5)).
 - (2) Paired wet detention ponds designed to collect runoff from all golf course surfaces (fairways, tees, greens, roughs, and parking lots), eliminate direct discharge of pollutants into surface water, and serve as a source of irrigation water if desired. Detention ponds must be of adequate size to ensure that the peak discharge of stormwater runoff from the 2- and 10-year storm entering surface water does not exceed discharge at predevelopment conditions for the 2-year storm and does not exceed discharge at buildout conditions, based on the zoning of the contributing watershed, for the 10-year storm. All detention ponds will provide spillways to adequately pass the 100-year storm peak.
 - (c) Golf course operations shall use integrated pest and turfgrass management in order to minimize herbicide, fertilizer, and pesticide usage and the adverse impacts of their use on water quality and environmentally sensitive areas. Integrated management means that instead of using highly toxic chemicals and maintenance-intensive plants and practices, the operator uses a combination of less toxic and less environmentally degrading alternatives to achieve acceptable playing surfaces. The application for a special use permit shall include (a) an Integrated Pest Management (IPM) Plan specifying pest control strategies which will be employed, and (b) an Integrated Turfgrass Management (ITM) Plan specifying strategies that will be used during golf course construction and operations to establish and maintain the course's playing surfaces. Both of these plans shall be designed to minimize herbicide, fertilizer, and pesticide usage and the adverse impacts of their use on water quality and environmentally sensitive areas. The plans shall identify chemicals which will be used, specify effective frequency and concentrations at which they will be applied, and identify any potential environmental hazards that may arise from their proposed

use. Approval of these plans by NCDEHNR's Epidemiology Division, or successor agency, is required before a special use permit may be issued. In considering approval of these plans, NCDEHNR's Epidemiology Division shall determine if the plans minimize herbicide, fertilizer, and pesticide usage and the adverse impacts of their use on water quality and environmentally sensitive areas. Any changes to the approved plans must also be approved by NCDEHNR's Environmental Epidemiology Division before the changes are implemented. Golf course construction and operation activities shall conform to the approved ITM and IPM Plans, or to any subsequently revised plans that have been approved by NCDEHNR's Environmental Epidemiology Division, or successor agency.

- (d) Golf course operations are required to include water quality monitoring necessary to ensure that downstream water quality is not degraded by golf course construction and operations, and that detention ponds continue to be effective in preventing the direct discharge of pollutants into downstream waters. Before any site preparation or construction, the golf course developer shall: (a) arrange for an independent qualified testing establishment to sample downstream waters and determine baseline data for those parameters indicative of the water quality impacts of golf course construction and operations (including the management of turfgrass and pests as proposed in the ITM and IPM Plans); (b) prepare a water quality monitoring program that specifies appropriate procedures and standards for quarterly sampling and analyses, by an independent qualified testing establishment, of detention pond waters and downstream waters in relation to the baseline data; and (c) obtain approval of the baseline data and the monitoring program by the Wake County Health Department and NCDEHNR's Environmental Epidemiology Division, or successor agency. The results of the quarterly analyses shall be submitted to the Wake County Department of Health and the NCDEHNR's Environmental Epidemiology Division, or successor agency, who shall compare the quarterly results to the baseline data and determine whether the requirements of the water quality monitoring provisions are met.

[Added 4/4/94 (O-94-5)]

(F) YARD STANDARDS FOR SINGLE-FAMILY DETACHED AND DUPLEX DWELLINGS

Single-family detached and duplex dwellings, except those located in a Cluster or Open Space Subdivision approved in accord with the Subdivision Ordinance, shall comply with the yard depth standards shown in Table 2 for the zoning district in which the dwelling is located, provided that the minimum depth of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan). For single-family dwellings located on lots created as part of a cluster subdivision, these minimum yard depth standards - other than those applicable to yards abutting a major thoroughfare - shall be reduced fifty (50) percent, provided that no dwelling in a Cluster or Open Space subdivision shall be located within thirty (30) feet of the perimeter of the Cluster or Open Space subdivision site. *[Added Open Space and changed Table 1 to Table 2, 1/18/05 (OA 04/11)]*

Open Space Subdivisions adjacent to an existing major thoroughfare (as recommended in the Wake County Thoroughfare Plan) shall provide a 75 foot undisturbed perimeter setback and a 150 foot building setback and shall only include those structures (e.g. street entrances, drainage facilities, subdivision sign, septic systems) necessary for the development of the subdivision. All buffers may be included in this setback. *[Added paragraph 1/18/05 (OA 04/11)]*

The required perimeter setback depth may be decreased up to 30% if a solid masonry wall with a minimum height of five (5) feet is installed along the outer boundary of the required perimeter setback. *[Added paragraph 1/18/05 (OA 04/11)]*

Table 2: Yard Depth Standards for Cluster and Open Space Developments

	R-80W R-80	R-40W R-40	R-30	R-20	R-15	R-10	R-5	GB	HD	O&I
Minimum Lot Frontage (feet)	30	30	30	30	30	30	30	30	30	30

[Added Table 2 1/18/05 (OA 04/11)]

Table 1. Yard Standards for Single-Family and Duplex Dwellings

Zoning District	Minimum Front and Corner Side Yard Depth (ft.)	Minimum Side Yard Depth (ft.)	Minimum Rear Yard Depth (ft.)
Residential-80W	40	20	30
Residential-80	40	20	30
Residential-40W	30	15	30
Residential-40	30	15	30
Residential-30	30	10	30
Residential-20	30	10	30
Residential-15	20	10	30
Residential-10	20	10	30
Residential- 5	20	10	30

[Former Subsection (F) amended 3/5/84 to add minimum lot area standards of 80,000 sq. ft. for R-80W Districts and 40,000 for R-40W Districts (R-84-37); amended 10/21/85 to add Table 2 as substitute for standards for minimum lot area per dwelling unit, minimum lot area per additional dwelling unit, minimum lot width, minimum lot width per additional dwelling unit, minimum side yard width, minimum rear yard depth, minimum front or corner side yard depth, and maximum lot coverage listed in this Subsection (F) and former Subsections (G), (H), (I), (J), (L), (M), and (N), to delete standards for R-12 Districts, to add standards for R-10 and R-5 Districts, and to substitute density-specific utility requirements for district-specific utility requirements in former Subsection (T) (R-85-205); amended 4/6/87 to move utility requirements from Table 2 footnote to Subsection (M) (R-87-31); amended 9/21/87 to add lot frontage standards, and to add lot width standards for flag lots (R-87-89); amended 6/19/95 to reduce minimum lot widths in R-30, R-20, R-15, R-10, and R-5 districts from 100,90,75, and 75 feet, respectively (O-95-9)]

[Former Subsection (G), containing standards for minimum lot area per dwelling unit in excess on one, amended 3/5/84 to add standards of 80,000 sq. ft. for R-80W Districts and 40,000 sq. ft. for R-40W Districts (R-84-37); Former Subsection (H), containing standards for minimum lot width, amended 3/5/84 to add standards of 150 ft. for R-80W Districts and 110 ft. for R-40W Districts (R-84-37); Former Subsection (I), containing standards for minimum additional lot width per dwelling unit in excess on one, amended 3/5/84 to add standards of "none" for R-80W and R-40W Districts (R-84-37); Former Subsection (J), containing standards for minimum side yard width, amended 3/5/84 to add references to former Subsection (R) (since re-lettered as Subsection (N)) and Subparagraph (V)(1)(c) (since deleted), and to add standards of 20 ft. for R-80W Districts and 15 ft. for R-40W Districts (R-84-37); Former Subsection (L), containing standards for minimum side yard depth, amended 3/5/84 to add reference to Subparagraph (V)(1)(c) (since deleted), and to add standards of 30 ft. for R-80W and R-40W Districts (R-84-37); and Former Subsection (M), containing standards for minimum front and corner side yards, amended 3/5/84 to add reference to Subparagraph (V)(1)(c) (since deleted), and to add standards of 60 ft. (front) and 40 ft. (corner side) for R-80W Districts and 50 ft. (front) and 30 ft. (corner side) for R-40W Districts (R-84-37) moved to Table in Subsection (F) 10/21/85 (R-85-205)]

Former Subsection (K), containing standards for minimum aggregate width of side yards, amended 3/5/84 to add reference to Subsection (V)(1)(c), and to add standards of 50 ft. for R-80W Districts (with a proviso that no side yard be less than 20 ft. wide) and 40 ft. for R-40W Districts (with a proviso that no side yard be less than 15 ft. wide) (R-84-37); deleted 10/21/85 (R-85-205)]

(G) MULTIFAMILY USE AREA AND YARD REQUIREMENTS

Multifamily dwellings shall be permitted only in Residential-5 Districts, and shall meet the following requirements:

(1) Area and Yard Requirements

Overall tract area and yard requirements shall be as listed in Table 2, below, provided that the minimum depth of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan):

Table 2. Multifamily Use Area and Yard Requirements

Zoning District	Minimum Gross Tract Area (sq. ft.)	Minimum Gross Land Area per Dwelling Unit (sq. ft.)	Minimum Tract Width (ft.)	Minimum Depth, Front Yard and Corner Side Yard (ft.)	Minimum Width, Side Yard (ft.)	Minimum Depth, Rear Yard (ft.)
R-5	25,000	5,000	100	40	20	40

[Amended 4/6/87 to move footnoted utility requirement to Subsection (M) (R-87-31); amended 7/22/96 to add proviso concerning measurement of yard depth (O-97-22)]

(2) [Maximum Floor Area to Lot Area Ratio]

Maximum floor area to lot area ratio: 0.30

(3) Building Separation

Within a multifamily tract, detached buildings shall be located at least twenty (20) feet apart.

(4) Accessory Uses

All accessory uses shall be located at least twenty-five (25) feet from the exterior boundary line of a multifamily tract. Signs as permitted in Section 1-1-21; driveways and utilities shall be exempt from this requirement.

(5) Impervious Surface

(See definition, Section 1-1-1, above.) The maximum lot coverage by total impervious surfaces shall be determined as follows:

Impervious surface area shall not exceed thirty (30) percent of the site, except where stormwater is detained or retained on the site. In no case shall impervious surface area exceed fifty (50) percent of the site.

Any additional runoff resulting from lot coverage in excess of thirty (30) percent must be detained in on-site detention or retention facilities. The minimum capacity of these facilities shall be such that the stormwater discharge shall not exceed that expected before development from the impervious portion in excess of thirty (30) percent for the following frequency storms:

Percent Impervious Surface Coverage	Minimum Frequency Storm
30 to less than 34	10-year
34 to less than 38	20-year
38 to less than 42	30-year
42 to less than 46	40-year
46 to 50	50-year

Runoff estimates shall be calculated by the method described in USDA Soil Conservation Technical Release Number 55, *Urban Hydrology for Small Watersheds*, or by methods utilized and recommended by the Department of Community Development Services.

(6) Building Height Limit

Maximum building height shall be no greater than the imaginary ceiling drawn by extending an angle thirty (30) degrees above the horizontal at ground level from the boundary of the tract on which the multifamily building is located. However, no building shall be required to be less than thirty (30) feet in height above ground level.

(7) Site Plan Requirements

No use permit or building permit shall be issued until a detailed site plan, written and illustrated, has been submitted to and approved by the Zoning Administrator and the Planning Board. The site plan and associated documentation shall clearly describe or illustrate means of compliance with all applicable standards of this Ordinance.

[Added 10/21/85 (R-85-205); amended 4/15/96 to delete reference to COSD (Consolidated Open Space Development) (O-96-7)]

(H) ONE DWELLING BUILDING PER LOT

Only one (1) dwelling building, whether house or mobile home, shall be permitted on each lot, except in the case of multifamily buildings located in Residential-5 Zoning Districts, and except in the case of accessory buildings as listed in Paragraph (C)(8) above. No building or mobile home to be used as a dwelling or tenement house shall be constructed, placed, or altered in the rear of, or moved to the rear of, a building situated on the same lot. No building or mobile home shall be constructed or placed in the front of, or moved to the front of, a dwelling or tenement house situated on the same lot. These provisions shall not be construed, however, as to prevent the erection, alteration, and maintenance of dwelling quarters in connection with an accessory building upon the rear of the lot, when the persons occupying such quarters are employed in domestic service upon the premises. *[Amended 10/21/85 to add exception for multifamily buildings in COSD's and R-5 Districts, to substitute "accessory uses listed in Paragraph (C)(8) above" for "quarters for domestic servants as herein described", to substitute the term "mobile home" for "trailer," and to renumber Subsection from (O) to (H) (R-85-205); amended 4/15/96 to delete reference to COSDs (Consolidated Open Space Developments) (O-96-7)]*

(I) OFF-STREET PARKING

Off-street parking spaces of sufficient number to provide for each vehicle customarily parked in conjunction with each lot shall be provided on each lot. *[Amended 10/21/85 to renumber Subsection from (P) to (I) (R-85-205)]*

(J) [RESERVED] *[Lot standards for ingress and egress renumbered from Subsection (P) to Subsection (I) 10/21/85 (R-85-205); Relocated to Subsection 3-4-8(A) of the Subdivision Ordinance 5/20/96 (O-96-9)]*

(K) LOTS RECORDED PRIOR TO PASSAGE OF ORDINANCE**(1) Dwelling May Be Erected on a Nonconforming Lot**

A single-family detached dwelling may be erected on a lot not meeting applicable lot design standards, provided the lot lawfully existed before the date the lot design standard became effective. *[Amended 4/15/96 to clarify provision (O/96/7)]*

(2) Side Yard

Any lot having an average width of less than one hundred (100) feet, which lot was recorded in a plat or deed under one (1) ownership at the time of adoption of this Ordinance, the width of each side yard may be reduced to ten (10) percent of the width of such lot, but no such side yard shall have a width of less than eight (8) feet, and the aggregate width of both side yards on any lot shall be not less than thirty (30) percent of the width of such lot. Each lot fifty-five (55) feet in width, or less, subdivided prior to the passage of this Ordinance, shall have a side yard of not less than six (6) feet.

[Amended 10/21/85 to renumber Subsection from (R) to (K) (R-85-205)]

(L) BUILDING LINES

- (1) In any Residence District, no building shall be erected, reconstructed, altered, or moved nearer the street line on which it faces than the average setback observed by the residential buildings on the same side of the street and fronting thereon within the same block, or within six hundred (600) feet of each side thereof. No building shall be required to set back from the street a greater distance than the setback line observed by one (1) or two (2) existing buildings on the immediately adjoining lots on each side which is further removed from the street line. In no case shall such building setback line be nearer than fifty (50) feet from the centerline of the street on which such building faces. Neither will the required setback need be more than sixty (60) feet from the street right-of-way line.
- (2) When there are buildings on only one (1) side of a street or highway within the block, or within six hundred (600) feet on either side, the setback line for the unoccupied side shall be the same as the established on the occupied side as herein provided.
- (3) Corner lots that are resubdivided to front a street other than that which they originally faced shall conform to the setback line of the street which they originally faced in addition to the setback line of the street upon which they front after resubdivision. On corner lots where buildings or structures are designed to front on the side street of said corner lots, such structures shall be required to observe the setback line established for the street which such building or structures faces as well as that established for the street on which such lot fronts.
- (4) The corner side yard may be reduced by ten (10) feet for R-20 and five (5) feet for R-15 and R-12 where it is adjacent to another corner side yard or where the rear of a required front yard is at least ten (10) feet from any principal structure on an adjacent lot facing the side street.

[Amended 10/21/85 to renumber Subsection from (S) to (L) (R-85-205)]

(M) UTILITY REQUIREMENTS**(1) [Plan Approval Required]**

Approval of water supply and sewage disposal plans by appropriate state or local agency shall be obtained before issuance of any building permit.

(2) Required Connection to Approved Public or Community Water and Wastewater Systems

- (a) Any residential use with an overall gross density of 1.45 dwelling units or more per acre shall have available to each proposed dwelling unit a connection with a County- and/or State-approved public water system (as defined in G.S. 130A-313). *[Amended 1/20/98 to substitute "public water system (as defined in G.S. 130A-313)" for "municipal or community water supply system," and to substitute the 1.45 du/ac density threshold for a density range of between 30,000 and 20,000 sq. ft. per du density (O-98-3)]*
- (b) Any residential use with an overall gross density of 2.17 dwelling units or more per acre shall have available to each proposed dwelling unit a connection with a County- or State-approved public or community wastewater system (as defined in G.S. 130A-334). *[Amended 1/20/98 to substitute "County- or State-approved public or community wastewater system (as defined in G.S. 130A-334)" for "State-approved municipal or community water supply system, and a State-approved municipal or community sewage disposal system," and to substitute the 1.45 du/ac density threshold for a density range of between 30,000 and 20,000 sq. ft. per du density (O-98-3)]*

[Subparagraph (c), requiring residential uses with an overall gross density of 15,000sq. ft. or less per du to have connections with State-approved municipal water supply and sewage disposal systems, deleted 1/20/98 (O-98-3)]

[Amended 3/5/84 to apply requirement for Health Department approval of water and sewage disposal plans to R-80W and R-40W Districts (R-84-37); amended 10/21/85 to renumber Subsection from (T) to (M) (R-85-205); amended 4/6/87 to move density-specific utility requirements from footnotes to Table 2 in Subsection (F) and Table 3 in Subsection (G) (R-87-31)]

(N) RESIDENTIAL WATERSHED DISTRICTS

The following construction and operation standards shall apply in Residential-80 Watershed and Residential-40 Watershed Districts:

(1) General Requirements

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances. *[Added 5/19/97 (O-97-21)]*

(2) Watershed Supply Watershed Buffers

Vegetative buffers along surface water bodies and drainageways within Residential Water Supply Watershed Districts shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(3) Impervious Surface Coverage Limitations and Stormwater Management Requirements for Nonresidential Uses

- (a) In Residential-80 Watershed Districts, impervious surface coverage shall not exceed six (6) percent of the total area of the site, as designated on the site plan. *[Amended 12/20/93 to add "of the total area...plan" (O-93-22)]*

- (b) In Residential-40 Watershed Districts, on-site control of the first one-half (½) inch of rainfall runoff from all impervious surfaces shall be required whenever impervious surface coverage exceeds twelve (12) percent of the total area of the site, as designated on the site plan. Impervious surface coverage shall be limited to twenty-four (24) percent of the total area of the site, as designated in the site plan, except in the Little River Water Supply Watershed, where impervious surface coverage shall not exceed twelve (12) percent of the total area of the site in accordance with the rules of the North Carolina Environmental Management Commission. Means of control shall include, in order of preference, on-site infiltration, retention, or detention. Detailed written plans shall be included in the project plans. *[Amended 12/20/93 to substitute a 24% general impervious surface coverage limitation for a 30% limitation, to add the 12% limitation in the Little River Water Supply Watershed, and to move a provision requiring the use owner to be responsible for maintaining all stormwater control devices after development to Subparagraph (c) (O-93-22); amended 5/19/97 to substitute "impervious surface coverage" for "impervious surfaces" (O-97-21)]*
- (c) Engineered stormwater control structures shall meet design guidelines of the State Division of Water Quality, or its successor agency. Responsibility for maintenance of all permanent infiltration, retention, and detention control measures and facilities, after site development is completed, shall lie with the owner of the use. When designed in accord with the guidelines of the State Division of Water Quality, or its successor agency, lakes and ponds used singularly or in a system for stormwater runoff control may be included as a pervious surface for the purpose of calculating the impervious surface coverage of a site. *[Added 12/20/93 (O-93-22); amended 5/19/97 to update State agency references (O-97-21)]*

[Added 5/18/87 (R-87-52); amended 12/20/93 to add heading (O-93-22); amended 5/19/97 to expand heading, to delete unnecessary applicability references, and to renumber from (6) (O-97-21)]

(4) Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments

- (a) In R-80W Districts, the use and storage of hazardous materials shall be prohibited.
- (b) In R-40W Districts, the use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval. *[Amended 5/19/97 to update County agency reference (O-97-21)]*
- (c) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (d) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double-walled or have other secondary containment devices.
- (e) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike sized to handle the maximum amount of hazardous materials to be stored or used.

- (f) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

[Added 12/20/93 (O-93-22); amended 5/19/97 to delete unnecessary applicability references and to renumber from (7) (O-97-21)]

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources, or its successor agency. *[Added 12/20/93 (O-93-22); amended 5/19/97 to add "or its successor agency" and to renumber from (8) (O-97-21)]*

(6) Prohibited Land Applications

Land application of residuals or petroleum-contaminated soils is prohibited. *[Added 12/20/93 (O-93-22); amended to substitute "residuals" for "sludge residuals" and to renumber from (9) (O-97-21)]*

[Added (as Subsection 1-1-37(V)) (R-84-37); amended 10/21/85 to renumber as (N) (R-85-205); reformatted 5/19/97 (O-97-21)]

(O) IMPERVIOUS SURFACE COVERAGE

Total impervious surface coverage of any lot or parcel in a Residential District shall not exceed thirty (30) percent of the area of that lot or parcel, except where greater impervious surface coverage is otherwise permitted or where more stringent standards in this Section apply, or for lots within Cluster or Open Space Subdivisions, where this impervious surface coverage limit shall be increased by a percentage equal to the percentage of the subdivision site dedicated or reserved as permanent open space. *[Amended 4/15/96 to add "greater" and clause regarding cluster subdivisions (O/96/7)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(P) TRANSITIONAL BUFFERYARDS AND SCREENING

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-37, the Section 1-1-29 requirements shall control.

[Section added 3/7/60]

SECTION 1-1-38 BUSINESS DISTRICTS**(A) APPLICATION OF SECTION**

The following regulations shall apply in all Business Districts.

(B) GENERAL USES PERMITTED IN GENERAL BUSINESS DISTRICTS

- (1) Offices, clinics, medical or dental laboratories, tourist homes, rooming and boardinghouses.
- (2) Retail stores and service establishments, the principal activity of which is the selling of merchandise and services at retail, the merchandise or activity of which is principally and customarily stored within a building.
- (3) Hotels, motels.
- (4) Commercial recreational establishments, the principal activity of which is the furnishing of recreation for a profit and the activity of which is conducted within a building.
- (5) Automobile salesrooms, service stations.
- (6) Business providing service to customers in their vehicles (drive-ins).
- (7) [Reserved] *[Sign regulations deleted 7/16/84 (R-84-156) - see Section 1-1-21]*
- (8) Group homes.
- (9) Churches and other places of worship. *[Added 2/18/85 (R-85-26)]*
- (10) Child day care centers, large child day care homes, and small child day care homes. *[Added 2/17/92 (O-92-5)]*
- (11) Telecommunication towers that are located on a structure constructed for purposes other than supporting telecommunication equipment, that are no taller than thirty feet or thirty (30) percent of the structure's height, and that meet all relevant standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2). *[Added 12/16/96 (O-96-51)]*
- (12) Telecommunication towers that are no more than two hundred fifty (250) feet high and that meet the following standards:
 - (a) If the tower is more than one hundred (100) feet high, it shall be located at least one thousand (1,000) feet from any other telecommunications tower greater than one hundred (100) feet high; provided, however, that this separation requirement shall not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower was made, or that co-location on the tower will not technically satisfy the applicant's specific needs.
 - (b) The tower shall meet the standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2).

[Added 12/16/96 (O-96-51)]

[Amended 7/13/98 to add "General" to Subsection title (O-98-24)]

(C) GENERAL USES PERMITTED IN HEAVY COMMERCIAL DISTRICTS

- (1) General Business Districts uses, except that residences shall be prohibited.
- (2) Retail stores, service establishments, and repair shops, the merchandise and operations of which are stored or conducted outside a building as customarily as within, but excluding junk and used material storage and salvage operations.
- (3) Wholesale establishments, the principal activity of which is the sale of merchandise for resale to the public.
- (4) Commercial recreational establishments, the principal activity of which is the furnishing or recreation for a profit.
- (5) Automobile repair garages, used car sales establishments, trailer sales, and other automotive uses.
- (6) Kennels, as defined in Section 1-1-1, provided that, where animals are not entirely enclosed, they are surrounded by a six (6) foot security fence (in compliance with provisions of Section 1-1-29 of this Code). Adequate parking facilities shall be provided.

It is the intent of this Subsection to provide the least amount of restrictions on kennels locating in Heavy Commercial Districts. This district permits intense business uses, and while it is not appropriate to protect such uses from the potential noise or odors of kennels, securing fencing and parking standards are required in order to protect the public's health, safety, and convenience.

[Added 5/18/81]

- (7) Churches and other places of worship. *[Added 2/18/85 (R-85-26)]*

[Amended 7/13/98 to add "General" to Subsection title (O-98-24)]

(D) SPECIAL USES PERMITTED IN GENERAL BUSINESS DISTRICTS

- (1) Residences shall be permitted only on approval by the Board of Adjustment. It is the intent of this Ordinance that dwelling units in business structures in General Business Districts shall be provided with yard space as necessary to satisfy the living and health requirements of the families in the dwelling units. Separate residence structures shall conform to yard and space requirements as follows:
 - (a) Where connections to public or community water and/or wastewater disposal systems are not available, the minimum lot area shall be determined by the Board of Adjustment upon the recommendation of the Health Department. Other yard and space requirements shall then be determined by the Board of Adjustment by reference to appropriate Residential District requirements as set forth in Section 1-1-37 of this Ordinance.
 - (b) Where connections to public or community water and wastewater systems are available, yard and space requirements shall conform to provisions of R-12 Districts.
[Note: The R-12 District was deleted 11/18/85 (R-85-233)]
- (2) Outdoor commercial recreational establishments such as carpet golf upon a finding by the Board of Adjustment that each establishment will be carried on in conformity with Section 1-1-38(H).

- (3) Private or commercial kennels, as defined in Section 1-1-1, are permitted as special uses in the General Business District, provided that such kennels comply with all of the standards contained in this Subsection.

It is the intent of this Subsection to allow kennels to locate in the General Business District, and to require fencing and adequate parking in order to protect the public's health, safety, and convenience. It is also the intent of this Subsection to protect the preferred General Business District uses by requiring bufferyards. It is not the intent of this Subsection to provide the strict site and structural controls required of kennels locating in those districts where residential uses are preferred uses.

- (a) All building and structures related to the care of animals shall be located a minimum of fifty (50) feet from any property line, except where adjacent property is owned or occupied by the kennel owner or operator.
- (b) The lot on which the animals are located shall be surrounded by a 6-foot-high security fence. Such fence may consist of a masonry wall, metal fence of solid appearance, or a chain link fence. The wall or fence shall be screened on its exterior side with a trimmed hedge, informal screen planting, or screen of natural vegetative cover; or an earth berm may be used in combination with such fencing. The height of the berm should not be greater than two-thirds (2/3) of the required height of the fence unless scale dictates other wise. *[Amended 11/18/85 to add standards for fence type, screening, and berm height, and to delete reference to compliance to the provisions of Section 1-1-29 (R-85-230)]*

All fences shall have a height of seven (7) or more feet, and all screens shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

- (c) Adequate parking facilities with safe and efficient pedestrian and vehicular access and egress shall be provided; such parking facilities shall be landscaped in accordance with provisions of Section 1-1-28 of this Code. *[Amended 11/18/85 to refer to Section 1-1-28 instead of Section 1-1-29 (R-85-230)]*
- (d) A living, dense, visual screen consisting of an evergreen shrub hedge with a minimum opacity of eighty (80) percent shall be provided between animal uses and property lines except where:

1. Animals are entirely enclosed in adequately ventilated, soundproof enclosures;
2. Existing vegetative cover is sufficient to meet the eighty (80) percent opacity requirement.

[Amended 11/18/85 to delete reference to conformance with Section 1-1-29(D)(2) (R-85-230)]

The hedge shall consist of evergreen shrubs. Such hedge may be supplemented with other vegetation to increase its attractiveness or opacity, but the eighty (80) percent opacity shall be met primarily through the shrubs which are provided.

[Added 11/18/85 (R-85-230)]

The hedge shall have a thickness of not less than forty (40) percent of its intended or required height, whichever is greater, within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

The hedge shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

- (4) [Reserved] *[Amended 4/15/96 to delete Consolidated Open Space Development regulations (O-96-7)]*

- (5) Day care facilities for the elderly are permitted, pursuant to a site plan approved by the Zoning Administrator, and subject to the following regulations:
- (a) The site plan shall be an engineering drawing or a sketch plan drawn to scale, and shall include the location, dimensions, and a rendering of the general appearance for each of the following:
1. The entire day care facility in relation to abutting properties and public thoroughfares;
 2. Off-street parking areas and points of ingress and egress, in relation to abutting properties and connecting or adjoining streets;
 3. The general landscape plan, including (but not limited to) the location of any proposed buildings, structures, recreation areas, parking facilities, fences, and vegetative screens;
 4. Proposed utility designs, including (where applicable) water and sewer lines and connectors, nitrification fields, water storage structures, etc.;
 5. Projected day-time occupancy figures (including both staff and clientele); and
 6. Vehicular movement and parking capacity projections for nearby streets.
- (b) No permit shall be issued for development of any day care facility for the elderly unless:
1. There is a minimum of three hundred (300) square feet of total land area per each enrolled elderly person;
 2. The building housing the facility is similar in appearance to any nearby dwellings and buildings and compatible with the character of the neighborhood; and
 3. Adequate off-street parking spaces and means of ingress to and egress from the facility are provided, based upon projected enrollment and the vehicular movement and parking capacity of the nearby streets.
- [Added 4/21/86 as day care facilities (for children and the elderly) (R-86-65); amended 2/17/92 to delete provisions applicable to day care facilities for children and refer to day care facilities for the elderly only (O-92-5) - but see Paragraph (B)(10)]*
- (6) Telecommunication towers that are more than two hundred fifty (250) feet high, but no more than five hundred ten (510) feet high, and that meet the standards set forth in Subparagraphs (a) and (b) of Section 1-1-38(B)(12). *[Added 12/16/96 (O-96-51)]*
- (7) Sexually oriented businesses that meet the following standards:
- (a) The site of the establishment shall be located at least two thousand (2,000) feet - as measured in a straight line from property line to property line - from the site of any other sexually oriented business that exists or has been permitted at the time notice of the hearing on the Special Use Permit petition is provided.
- (b) The site of the establishment shall be located at least two thousand (2,000) feet - as measured in a straight line from property line to property line - from the site of any

church or other place of worship, elementary or secondary school, child day center, small child care home, large child care home, residence, other establishment with an on-premise North Carolina ABC license, or public park that exists or has been permitted at the time notice of the hearing on the Special Use Permit petition is provided.

- (c) The site of the establishment shall be located at least one thousand (1,000) feet - as measured in a straight line from property line to district boundary - from any Residence District, Mobile Homes District, or Highway District that exists or has been approved at the time notice of the hearing on the Special Use Permit petition is provided.
- (d) No principal use other than the sexually oriented business may occupy the same building, structure, or property.
- (e) Except for on-premise identification signs allowed under Section 1-1-21, no advertisements, displays or signs, or other promotional materials shall be visible to the public from pedestrian sidewalks, walkways, driveways, or parking areas.

[Added 7/13/98 (O-98-25)]

[Amended 7/13/98 to substitute Subsection title for "Uses Permitted in General Business Districts with Special Conditions" (O-98-24)]

(E) SPECIAL USES PERMITTED IN HEAVY COMMERCIAL DISTRICTS

- (1) Businesses providing service to customers in their vehicles (drive-ins).
- (2) Establishments processing for direct consumption, the principal products from which are customarily delivered to individuals or retail outlets, as, for example, baking plants, cleaning and dyeing plants, soft drink plants, printers, provided such establishments comply with Industrial-1 District construction and operation standards and limitations.
- (3) Telecommunication towers that are more than two hundred fifty (250) feet high, but no more than five hundred ten (510) feet high, and that meet the standards set forth in Subparagraphs (a) and (b) of Section 1-1-38(B)(12). *[Added 12/16/96 (O-96-51)]*
- (4) Sexually oriented business, subject to the standards in Paragraph (7) of Section 1-1-138(D). *[Added 7/13/98 (O-98-25)]*

[Amended 4/15/96 to delete former Paragraph (3), permitting Consolidated Open Space Developments (O-96-7); amended 7/13/98 to substitute Subsection title for "Uses Permitted in Heavy Commercial Districts with Special Conditions" (O-98-24)]

(F) ACCESSORY BUILDINGS AND USES IN GENERAL BUSINESS DISTRICTS

- (1) Buildings and uses customarily accessory to an authorized use, when located on the same lot, are permitted.
- (2) Manufacturing for sale at retail and repair facilities incidental to principal use, when conducted entirely within a building.

(G) ACCESSORY BUILDINGS AND USES IN HEAVY COMMERCIAL DISTRICTS

- (1) Buildings and uses customarily accessory to an authorized use, when located on the same lot, are permitted.

- (2) Manufacturing for sale at retail and repair facilities incidental to a principal use.

(H) CONSTRUCTION AND OPERATION STANDARDS AND LIMITATIONS

All business uses shall be carried on in such a manner as to produce no offensive noise, dirt, odor, glare, heat, or vibration perceptible or measurable outside the appropriate property lines.

(I) YARD AND SPACE REQUIREMENTS

- (1) Building Height Limit

None.

- (2) [Reserved] *[Lot area standards relocated to Subdivision Ordinance 4/15/96 (O-96-7)]*

- (3) Minimum Depth of Front Yards and Corner Side Yards

Fifty (50) feet, except that shelters such as canopies, awnings, covered walkways, without sidewalks, may be permitted in required yards up to half the width of the required yard, provided such structures in no way obstruct the line of sight along a thoroughfare.

- (4) Minimum Width of Side Yards

When a side yard adjoins a lot in a Residence District, the required side yard shall be of the same width as the required side yard in the adjoining district.

- (5) Minimum Depth of Rear Yards

When a rear yard adjoins a lot in a Residence District, the required rear yard shall be of the same depth as the required adjoining yard, side or rear; fifty (50) feet if adjacent to a public right-of-way.

- (6) Measurement of Yards Along Major Thoroughfares

The minimum depth or width of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan). *[Added 7/22/96 (O-96-22)]*

- (7) Reduced Yard Standards in Cluster and Open Space Subdivisions

On lots created as part of a cluster subdivision in the General Business District, the above minimum yard depth standards - other than those applicable to yards abutting a major thoroughfare - shall be reduced fifty (50) percent, provided that no building in a Cluster and Open Space subdivision shall be located within thirty (30) feet of the perimeter of the Cluster or Open Space subdivision site. *[Added 4/15/96 (O-96-7)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(J) OFF-STREET PARKING AND LOADING

Off-street parking and loading spaces of sufficient number to provide for each vehicle customarily parked or used in conjunction with each building or use shall be provided on each lot. All parking areas shall be so located and designed that ingress is by forward motion of the vehicle.

(K) UTILITY REQUIREMENTS

Approval of water supply and sewage disposal plans by the Health Department will be required before the issuance of any building permit.

(L) TRANSITIONAL BUFFERYARDS AND SCREENING

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-38, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

[Section added 3/7/60]

SECTION 1-1-39 INDUSTRIAL DISTRICTS**(A) USES PROHIBITED**

Residence and Business District uses, except as provided for in Subsection (C) below, are prohibited, and no building may hereafter be constructed, and no land may hereafter be used in whole or in part for any such use except in accordance with that Subsection.

(B) PERMITTED GENERAL USES

- (1) Industrial uses are declared to be the uses of land and buildings for administration, research, manufacturing, processing, fabrication, assembly, freight handling, storage, distribution, and similar operations. Any land may hereafter be used in an Industrial District for any industrial use, provided the construction and operation of any industrial use comply with all the provisions of this Section.
- (2) The storage and/or salvaging of junk and other used material not pertinent to a manufacturing or fabrication use on the premises are permitted only in I-2 Districts. Any storage or salvaging of such junk and other used material shall be conducted entirely within a building, or shall be enclosed by a wall or fence of solid appearance and not less than seven (7) feet high or tight evergreen hedge not less than six (6) feet high, and shall be subject to the provisions of Subsection (D) and (I) of this Section.
- (3) Mining, as defined in Article 7, Section 74-49 of the General Statutes of North Carolina, as amended (North Carolina Mining Act of 1971), shall be permitted as a special use. Special permits for mining shall not be granted until a mining permit is issued by the North Carolina Department of Natural Resources and Community Development, Division of Land Resources, Land Quality Section, or successor agency.
- (4) Kennels, as defined in Section 1-1-1, provided that where animals are not entirely enclosed, they are surrounded by a six (6) foot security fence (in compliance with provisions of Section 1-1-29 of this Code). Adequate parking facilities shall be provided.

It is the intent of this Subsection to provide minimal restrictions on kennels locating in the Industrial District. This district permits industrial uses, and while it is not appropriate to protect such uses from the potential noise or odors of kennels, security fencing and parking standards are required in order to protect the public's health, safety, and convenience.

- (5) Child day care centers, large child day care homes, and small child day care homes.
[Added 2/17/92 (O-92-5)]
- (6) Telecommunication towers that are located on a structure constructed for purposes other than supporting telecommunication equipment, that are no taller than thirty (30) feet or thirty (30) percent of the structure's height, and that meet all relevant standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2). *[Added 12/16/96 (O-96-51)]*
- (7) Telecommunication towers that are no more than two hundred fifty (250) feet high and that meet the following standards:
 - (a) If the tower is more than one hundred (100) feet high, it shall be located at least one thousand (1,000) feet from any other telecommunications tower greater than one hundred (100) feet high; provided, however, that this separation requirement shall not apply from a tower if the applicant submits sufficient evidence to demonstrate

that a reasonable effort to co-locate on that tower was made, or that co-location on the tower will not technically satisfy the applicant's specific needs.

- (b) The tower shall meet the standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2).

[Added 12/16/96 (O-96-51)]

[Amended 7/13/98 to substitute Subsection title for "Permitted Uses" (O-98-24)]

(C) PERMITTED SPECIAL USES

- (1) Banks, restaurants, and other business district uses consistent with the requirements of an Industrial District.
- (2) A one-family dwelling, as a residence for security personnel, may be permitted as a special exception by the Board of Adjustment, after approval of plans subject to the same requirements as for residences permitted in General Business District, as set forth in Section 1-1-38(D)(1) of this Code, provided:
 - (a) That only such use shall be permitted in association with any one (1) establishment; and
 - (b) That any structural alterations of, or any change in the location, characteristics, use, or time and type of occupancy of, the unit shall cause the permit to be voidable and shall require review and reapproval of the alterations or changes by the Board of Adjustment.
- (3) Telecommunication towers that are more than two hundred fifty (250) feet high, but no more than five hundred ten (510) feet high, and that meet the standards set forth in Subparagraphs (a) and (b) of Section 1-1-39(B)(7). *[Added 12/16/96 (O-96-51)]*
- (4) Sexually oriented businesses that meet the following standards:
 - (a) The site of the establishment shall be located at least two thousand (2,000) feet - as measured in a straight line from property line to property line - from the site of any other sexually oriented business that exists or has been permitted at the time notice of the hearing on the Special Use Permit petition is provided.
 - (b) The site of the establishment shall be located at least two thousand (2,000) feet - as measured in a straight line from property line to property line - from the site of any church or other place of worship, elementary or secondary school, child day center, small child care home, large child care home, residence, other establishment with an on-premise North Carolina ABC license, or public park that exists or has been permitted at the time notice of the hearing on the Special Use Permit petition is provided.
 - (c) The site of the establishment shall be located at least one thousand (1,000) feet - as measured in a straight line from property line to district boundary - from any Residence District, Mobile Homes District, or Highway District that exists or has been approved at the time notice of the hearing on the Special Use Permit petition is provided.
 - (d) No principal use other than the sexually oriented business may occupy the same building, structure, or property.

- (e) Except for on-premise identification signs allowed under Section 1-1-21, no advertisements, displays or signs, or other promotional materials shall be visible to the public from pedestrian sidewalks, walkways, driveways, or parking areas.

[Added 7/13/98 (O-98-25)]

[Amended 7/13/98 to substitute Subsection title for "Uses Permitted after Approval by Board of Adjustment" (O-98-24)]

(D) **CONSTRUCTION AND OPERATION STANDARDS**

All uses developed within Industrial Districts shall conform to the performance standards established by Section 1-1-27 of this Code.

(E) **YARDS AND SPACE REQUIREMENTS**

(1) **Building Height Limit**

None.

(2) [Reserved] *[Lot area standard relocated to Subdivision Ordinance 4/15/96 (O-96-7)]*

(3) **Minimum Depth of Front Yards and Corner Side Yards**

Fifty (50) feet.

(4) **Minimum Width of Side Yards**

Twenty-five (25) feet, except along boundaries abutting railroad trackage.

(5) **Minimum Depth of Rear Yards**

(a) Twenty-five (25) feet, except along boundaries abutting railroad trackage.

(b) Fifty (50) feet from public right-of-way.

(6) **Measurement of Yards Along Major Thoroughfares**

The minimum depth or width of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan). *[Added 7/22/96 (O-96-22)]*

(F) **ACCESSORY BUILDINGS AND USES**

Within any industrial district, buildings and uses of land customarily accessory to the principal land use are permitted. Accessory buildings and structures shall not be located in any required front, side, or rear yard.

(G) **OFF-STREET PARKING AND LOADING**

Off-street parking and loading spaces of sufficient number to provide for each vehicle customarily parked or used in conjunction with each building or use shall be provided on each lot. All parking areas shall be so located and designed that egress is by forward motion of the vehicle.

(H) [RESERVED] *[Sign regulations deleted 7/16/84 (R-84-156) - see Section 1-1-21]*

[Former Subsection (I), containing a requirement for the landscaping of yards on lots abutting a Residential District or major thoroughfare, deleted 11/18/85 (R-85-230)]

(I) TRANSITIONAL BUFFERYARDS AND SCREENING

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-39, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

[Section added 2/8/60]

SECTION 1-1-40 MOBILE HOMES DISTRICT

Adequate housing is fundamental to the welfare of County residents; however, conventional housing is not consistently affordable to, nor appropriate for, all members of the general public. Where properly regulated and located, mobile home parks address the public need for alternative housing. The purpose of the Mobile Homes District is to provide the public with an opportunity to utilize mobile home housing in a prescribed environment conducive to public health, safety, welfare, and convenience. The District should be located in such a manner as to be compatible with the character of existing development of surrounding properties, thus ensuring the continued conservation of building values and encouraging the most appropriate use of land in the County.

(A) APPLICATION OF SECTION

The following regulations shall apply to the Mobile Homes District.

(B) USES PERMITTED

- (1) Mobile homes, as defined in Section 1-1-1 hereof.
- (2) Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines, and other similar services provided by the facility operator for the use and convenience of mobile home tenants.
- (3) Recreation buildings and areas serving only the mobile home park in which they are located.
- (4) Customary accessory buildings and facilities necessary for operation of the mobile home park in which they are located.
- (5) Storage buildings (no larger than twelve (12) feet by twelve (12) feet in base, and ten (10) feet in height) for individual mobile home spaces.
- (6) Fenced communal storage areas provided by the park operator for boats, campers, and other accessory vehicles belonging to park residents.
- (7) Child day care centers, large child day care homes, and small child day care homes, as an accessory use to a mobile home park and intended to principally serve the child care needs of mobile home park residents. *[Added 2/17/92 (O-92-5)]*

(C) PROCEDURE FOR SECURING ZONING, APPROVAL OF PLANS, AND BUILDING PERMITS**(1) [Rezoning]**

Mobile home parks shall only be developed within a Mobile Homes District. Anyone may petition to have a tract of land zoned Mobile Homes District by submitting a zoning petition to the Planning Department. The petition should be accompanied by a map showing the location of the tract in relation to the surrounding areas and public thoroughfares. All zoning petitions shall be processed in accordance with provisions of Section 1-1-7 of this Code.

(2) [Preliminary Site Plan Review]

Any party intending to locate a mobile home park within a Mobile Homes District shall submit an application for a land use permit, accompanied by a preliminary site plan

(pursuant to Section 1-1-40(D)) to the Zoning Administration Division of the Community Development Services for review and preliminary approval.

The purpose of the preliminary review is to provide counsel to the applicant with respect to the procedures and requirements of this Code, and to advise him/her of any changes or additions that may be necessary to bring the proposed park into compliance with this Code or with regulations of other County or State agencies having jurisdiction over the site.

Upon preliminary approval by the Zoning Administration Division, a letter indicating preliminary approval shall be sent to the applicant, indicating suggested modifications of the proposed park.

(3) **[Final Site Development Plan Submittal]**

The applicant for a mobile home park shall then submit a final site development plan (as described in Section 1-1-40(D)) to the Zoning Administration and Engineering Divisions of the Community Development Services, the Planning Department, and the Health Department or State agency having jurisdiction over the site.

The purpose of the site development plan is to provide to the Planning Board all information necessary to determine whether the proposed park is in compliance with the provisions of this Code.

(4) **[Final Site Development Plan Review]**

The Zoning Administration and Engineering Divisions of the Community Development Services and the Planning Department shall make written recommendations to the Planning Board; and where connections to existing public water or sewer systems are not available, the applicant shall submit a statement from the County Health Department, the State Department of Human Resources, or the State Department of Natural Resources and Community Development (or any successor agencies). Such statement shall indicate that conditions on the proposed site (such as land area, soil, and groundwater conditions) will accommodate the proposed systems of water supply and sewage disposal. (Suitability of soils shall include determination of permeability, shrink-swell ratio, wetness, slope, depth, and the extent to which any of these soil characteristics place limitation upon the effectiveness of septic tank filter fields.)

(5) **[Issuance of Land Use Permit]**

If the Planning Board finds the site development plan in compliance with all of the requirements of the Code, and if statements from the appropriate State and County agencies (listed in (4) above) are in order, the Planning Board shall authorize the Zoning Administrator to issue a land use permit.

(6) **[Construction to Conform to Approved Plan]**

Construction must conform to the approved plan.

(7) **[Certificate of Occupancy Required]**

A certificate of occupancy must be authorized and issued by the Zoning Administration Division prior to occupancy of a mobile home park.

(8) [Staged Development]

When the Planning Board approves a plan which specifies development of a mobile home park in increments or stages, the initial land use permit will apply only to the first development stage. Additional permits and certification of occupancy for subsequent stages shall be authorized by the Planning Board, provided that such stages meet all requirements of the approved plan. Where additional utilities and sanitary facilities are required for subsequent stages, land use permits for subsequent stages may not be issued until the County Health Department or State agency with jurisdiction (or successor agencies) certifies approval of the additional facilities.

(9) [Additions]

Land use permits are required for any additional buildings not shown in the plan and for additions to homes or other buildings within the park where additions constitute a "building" as defined in Section 1-1-1 of this Code. Such buildings and additions must comply with yard and space requirements of this Subsection, and with the existing building, plumbing, or electrical codes of the County or State.

(10) [Vested Rights with Final Site Development Plan]

A final site development plan for a mobile home park shall constitute a "site specific development plan," the approval of which establishes a vested right pursuant to Section 153A-344.1 of the North Carolina General Statutes if:

- (a) The submitted final site development plan shows at least the information specified by the definition of "site specific development plan" in Section 153A-344.1(b)(5) of the North Carolina General Statutes; and
- (b) The application includes the petitioner's written request that the Planning Board hold a public hearing as part of its review of the application.

On receiving a final site development plan qualifying as a site specific development plan, the Planning Board shall hold a public hearing on the petition in accord with the provisions in Subsection 1-1-5(I) applicable to hearings before the Board of Adjustment, and shall provide notice of the hearing in accord with the provisions of Paragraph 1-1-11(C)(3) applicable to notice of hearings on special use permit petitions.

If the Planning Board approves a final site development plan qualifying as a site specific development plan, the Board shall identify the approved plan as a site specific development plan that triggers a vested right pursuant to Section 153A-344.1 of the North Carolina General Statutes.

[Added 10/21/91 (R-91-78)]

(D) PRELIMINARY AND FINAL SITE DEVELOPMENT PLAN REQUIREMENTS FOR MOBILE HOME PARKS**(1) [Preliminary Site Plan Requirements]**

The preliminary plan shall be an engineering drawing or a sketch plan, drawn at a scale appropriate to indicate the location and dimensions of the following:

- (a) The relationship of the parcel to abutting properties and public thoroughfares.

- (b) Proposed location of mobile home spaces.
- (c) Recreation areas and facilities, accessory buildings and associated land uses, garbage disposal facilities, and storage areas.
- (d) The approximate location, width, and length of existing and proposed public or private streets, utilities, or other major improvements, and the point at which any such street, utility, or improvement of an adjoining parcel intersects the proposed park. Proposed streets shall be identified by street names approved by the Subdivision Administrator, Community Development Services Agency.
- (e) The location of any natural or man-made features that may affect the suitability of the land for mobile home park development (such as watercourses and drainageways, flood hazard areas, rock outcrops, railroads, electrical transmission lines, oil and gas pipelines, and drainage ditches).
- (f) Location of open space, grassed areas, natural areas, and any proposed buffers, screens, or fences.
- (g) Existing topographic contours with vertical intervals of ten (10) feet or less.

(2) **[Final Site Development Plan Requirements]**

The final site development plan shall be an engineering drawing or a sketch plan, drawn at a scale appropriate to indicate the location and dimensions of the following:

- (a) All of the requirements of the preliminary plan.
- (b) Existing and proposed topographic contours, with vertical intervals of ten (10) feet or less and elevations of existing streets, roads, drives, walls, and curbs. (The Zoning Administration Division may require intervals of less than ten (10) feet where topography of the site so requires.)
- (c) Plans for proposed utility layouts (water and sewer lines, treatment plants, septic tanks, and drainfields) showing provisions for connections to public or private utility systems where feasible or anticipated.

(E) **DEVELOPMENT REQUIREMENTS FOR MOBILE HOME PARKS**

(1) **[Minimum Park Size]**

Every mobile home park shall have a minimum area of ten (10) contiguous acres. (See definition of "mobile home park," Section 1-1-1 of this Code.)

(2) **[Minimum Mobile Home Space Size]**

Every mobile home space shall be clearly established on the ground and shall have a minimum area of six thousand (6,000) square feet and a minimum width at the building of fifty (50) feet. (See definition of "mobile home space," Section 1-1-1 of this Code.) *[Note: The County Health Department, the State Department of Human Resources, or the State Department of Environment, Health, and Natural Resources may increase the minimum area requirement where necessary to be consistent with protection of groundwater resources or limitations of sewage disposal systems.]*

(3) **[Only One Mobile Home per Space]**

Only one (1) mobile home may be parked on any mobile home space at one time. (See definition of "mobile home," Section 1-1-1 of this Code.)

(4) **[Mobile Home Space Surfacing]**

The surface of each mobile home stand or pad shall be graded where necessary for proper drainage, and shall be covered by a paved slab or by compacted earth, gravel, or stone. (See definition of "mobile home stand," Section 1-1-1 of this Code.)

(5) **[Yards; Separation of Mobile Homes]**

A mobile home park shall provide a yard along its perimeter that is at least twenty (20) feet deep. Yards are not required on mobile home spaces, but each mobile home shall be located no less than twenty (20) feet from another mobile home or other principal building.

[Amended 9/16/96 to substitute for minimum front, rear, and side yard standards applicable to each mobile home stand or pad (O-96-41)]

(6) **[Ground Cover]**

In order to control erosion, all disturbed land areas shall be protected by a vegetative ground cover. (See definition of "ground cover" in the Erosion and Sedimentation Control Ordinance.)

(7) **[Streets; Access]**

All streets within a mobile home park shall be paved. (See definition of "paved," Section 1-1-1 of this Code.) Through streets connecting two (2) public thoroughfares or extending to adjacent properties shall be built to the minimum construction standards required by the State Department of Transportation for acceptance to the State Highway System. All streets shall be identified by names approved by the Subdivision Administrator, Community Development Services Agency.

In addition, the following regulations shall apply to every mobile home park:

- (a) Each mobile home space shall abut upon an improved street or driveway which shall have unobstructed access to a public thoroughfare.
- (b) With the exception of through streets described in (7) above, every street shall have a minimum paved width of eighteen (18) feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of thirty (30) feet.
- (c) Every street shall have a maintained 6-foot-wide reserved strip running parallel and adjacent to each side of the paved surface. Such strip shall be used for driveways, walkways, grass, low-growing vegetative ground cover, or utility right-of-way only. No other use shall be permitted on a reserved strip.

(8) **[Off-Street Parking]**

Each mobile home space shall have off-street parking facilities for two (2) vehicles.

(9) **[No Direct Access to Thoroughfare Outside Park]**

No mobile home space shall have direct vehicular access to any thoroughfare other than those thoroughfares located within the mobile home park.

(10) **[Maximum Cul-de-sac Length]**

Unless unusual topography or configuration of property lines dictates otherwise, cul-de-sac streets in mobile home parks shall conform to a maximum 500-foot length. *[Amended 7/20/92 to delete reference to County Thoroughfare Plan (O-92-17)]*

(11) **[State Approval of Ingress and Egress]**

Plans for ingress to and egress from each mobile home park shall be approved by the State Department of Transportation.

(12) **[Reserved]** *[Sign regulations deleted 7/16/84 (R-84-156) - see Section 1-1-21]*

(13) **Transitional Bufferyards and Screening**

(a) Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-40, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

(b) In order to eliminate visual distractions to passing motorists, reduce levels of noise, dust, or glare, preserve the character of existing neighborhoods, and in other ways serve the purposes of zoning as set forth in Section 153A-341 of the General Statutes, mobile home parks shall be screened from adjacent highways and from existing adjoining conventional residential developments. Such screening shall consist of a seven-foot-high fence or a six (6) foot high vegetative screen. *[Amended 6/15/87 to move from Paragraph to Subparagraph (b) (R-87-64)]*

[Added 11/18/85 (R-85-230); amended 6/15/87 to add heading (R-87-64)]

[See Section 1-1-26(G)(4) for additional standards specifically applicable to mobile (manufactured) homes located within areas of special flood hazard.]

(F) **SANITARY FACILITIES, WATER SUPPLY, GARBAGE COLLECTION, AND UTILITIES**

In every mobile home park, all utility installations shall comply with applicable building and health codes of the County and the State, and the requirements of the State Utilities Commission.

(1) **Utilities; Mobile Home Stand**

Each mobile home stand shall be equipped with water and sanitary sewer connections.

(2) **Mobile Home Equipment**

Each mobile home shall be connected to utilities provided at each mobile home space.

(3) **Street Lights**

A lighting system shall be installed within each mobile home park.

(4) **Water Supply**

Each mobile home park shall obtain water from either a public water supply or a source approved by the County Health Department, the State Department of Human Resources,

or successor agencies. The water supply and pressure shall be adequate for the park requirements.

(5) Sewage and Refuse Disposal

Each mobile home park shall be provided with an adequate sewage disposal system, either by connection to a public sewer system or to a system constructed in compliance with the regulations of the County Health Department, the State Department of Natural Resources and Community Development, or successor agencies.

(6) Garbage Disposal

All garbage and refuse in each mobile home park shall be stored in suitable waterproof and rodentproof receptacles, which shall be kept covered with tightly fitting lids. All garbage and refuse shall be regularly disposed of in a sanitary manner acceptable to the County Health Department or successor agency.

(G) RECREATION AREAS AND FACILITIES

Adequate and suitable areas to serve the anticipated population shall be provided and shall consist of at least ten thousand (10,000) square feet per twenty-five (25) mobile homes. In addition, when the anticipated population includes children, suitable facilities shall be provided as shown in the following table:

Facility	Per 25 Mobile Homes	Minimum Size of Single Facility
Play lot	300 sq. ft.	300 sq. ft.
Recreational facilities	10,000 sq. ft.	10,000 sq. ft.

For mobile home parks with less than twenty-five (25) homes, the minimum size facilities shown in the preceding table shall be required. No recreation facilities shall be placed in an area utilized for septic tank filter fields.

[Section added 3/28/60]

SECTION 1-1-41 HIGHWAY DISTRICT**(A) PURPOSES OF HIGHWAY DISTRICT**

The interest of the public in its highways and major thoroughfares and the interests of the owners of adjacent lands are generally interdependent, but often in conflict. The efficiency, permanency, safety, and convenience, and enjoyment of such highways and major thoroughfares depend to a great extent upon the way such adjacent lands are utilized. On the other hand, the value of the adjacent lands, and the uses which can be made of them, depend to a great extent upon the continuation of the highway or thoroughfare and the amount and nature of the traffic upon it.

(1) This District is adopted for the purposes of:

- (a) Protecting the public investment in and lengthening the time during which highways and major thoroughfares can continue to serve their functions of moving people and goods without expansion or relocation, by expediting the free flow of traffic and reducing the hazards arising from unnecessary points of ingress and egress and cluttered roadside development;
- (b) Requiring that buildings and structures be sufficiently set back from the right-of-way to provide adequate storage for vehicles until they can safely enter the flow of traffic;
- (c) Enhancing the value of adjacent lands by preserving and extending the useful life of the highway and thoroughfare systems, avoiding land uses that conflict with the roadside and the surrounding area, and reducing the risks of creating blighted areas as the result of future highway or thoroughfare relocations;
- (d) Ensuring the attractiveness of roadside uses, which will in turn contribute to and enhance trade, tourism, capital investment, and the general welfare; and
- (e) Reserving adequate roadside space through which neighborhood traffic may be admitted to and from the highway and thoroughfare system in a manner that avoids undue traffic concentrations, sudden turnings and stoppings, and other hazards.

(2) The Highway District accomplishes the above purposes by:

- (a) Establishing more stringent regulation along major thoroughfares over the minimum width of building lots and depth of minimum front yards than are imposed along lesser roads and streets;
- (b) Prohibiting uses which involve a high number of traffic movements unless they are developed according to an approved site plan and certain standards which, together with certain incentives, are intended to encourage the clustering of such uses on one (1) or more lots developed under one (1) site plan and served by a common system of ingress and egress;
- (c) Requiring all yards to be landscaped, and limiting the uses which can be made of them;
- (d) Generally decreasing the number of points of ingress to, and egress from, such highway and thoroughfares, while increasing the separation between such points.

(B) DISTRICT REGULATIONS**(1) Locational Criteria for Highway District**

The County should utilize this District on lands adjacent to principal and minor arterials and selected portions of major collectors, as identified by the State Department of Transportation functional classification system, and interchanges with fully controlled access roads as determined appropriate for the types of uses which are allowed within it, and where there is or will be a need to exercise the types of regulations which are herein established in order to protect the public investment in such highways and the safety and convenience of the traveling public.

- (2) [Reserved] *[Amended 7/20/92 to delete exemption of all agricultural and forestry uses from Section regulations (O-92-17) - but see Section 1-1-23(C)(1)]*

(3) Definitions

- (a) Access point: A point of ingress and/or egress, which may be a driveway or an access road.
- (b) Access road: A public or private one-way or two-way road for ingress and/or egress. Such access roads may be of various types, including frontage roads, rear access roads, and cul-de-sacs. This definition includes secondary roads, but does not include driveways.

[Amended 7/20/92 to delete definition of "major thoroughfare" (O-92-17) - see definition in Section 1-1-1]

(4) Recorded Lots

- (a) All lots recorded in the office of the Register of Deeds prior to the effective date of this Section are entitled to a permit for any general use permitted in this District pursuant to receiving other necessary permits. Where the lot does not contain a minimum of twenty thousand (20,000) square feet, exclusive of required yards, the yard standards shall be modified in the following prescribed order so as to increase the lot coverage to a minimum of twenty thousand (20,000) square feet, exclusive of required yards:
1. Reduce the required rear yard up to a maximum of forty (40) percent and/or reduce the required side yard up to a maximum of thirty (30) percent.
 2. Reduce the required front yard up to a maximum of thirty (30) percent.

(C) PERMITTED USES

Permitted general uses are those designated in Table A with an "X" under the column "General Use Permit." Permitted special uses are those designated in Table A with an "X" under the column "Special Use Permit." *[Amended 7/13/98 to delete provisions re review process (O-98-24)]*

(D) CONSTRUCTION AND OPERATION STANDARDS

- (1) [Reserved] *[Amended 10/16/95 to provide that minimum lot area standards for residential uses in R-30 zoning apply to general uses, and to delete reference to compliance with yard, and appropriate Health Department and State regulations from provision in (b) (O-95-19); lot area standards relocated to Subdivision Ordinance 4/15/96 (O-96-7)]*

(2) Supplemental Lot Width and Frontage Requirements for Special Uses

A lot on which a special use is to be located shall have a width and road frontage width meeting the following standards:

- (a) Where direct access is to be provided from a major thoroughfare, both the lot width and frontage width along the major thoroughfare shall both be at least four hundred (400) feet.
- (b) Where direct access is to be provided from an access road serving only two (2) lots, both the lot width and frontage width along the access road shall be at least two hundred (200) feet.
- (c) Where direct access is to be provided from an access road serving three (3) or more lots, the lot width and frontage width along the access road shall be at least one hundred fifty (150) feet.
- (d) Where the lot fronts on a cul-de-sac road and is not a corner lot, the lot width along the cul-de-sac road shall be at least one hundred (100) feet.
- (e) Where the lot fronts on a rear access road but direct access is to be provided from a more minor thoroughfare, the lot width along the rear access road shall be at least one hundred (100) feet.

[Amended 10/16/95 to provide that minimum lot width standards for residential uses in R-30 zoning apply to general uses (O-95-19); lot width standards for general uses relocated to Subdivision Ordinance 4/15/96, with road-based standards for special uses clarified as supplemental standards (O-96-7)]

(3) Front Yard**(a) For General Uses**

The minimum front yard depth standards established in Section 1-1-37(F)(1) for residential uses in the Residential-30 zoning district shall be applicable to general uses in the Highway District, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

(b) For Special Uses

The minimum front yard depth for special uses shall be fifty (50) feet, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

(c) Reductions for Special Uses

The Board of Adjustment, in considering an application for a special use, may reduce the building setback lines and minimum front yard requirements upon making a finding that the proposed reduction of those requirements:

- 1. Will not substantially defeat the purposes for which those requirements were established, as set forth in Section 1-1-41(A) of this Ordinance;
- 2. Will not adversely affect traffic conditions in the vicinity by, for example, impeding sight lines at street intersections and curb cuts; and

3. Is necessitated by the configuration of the land, which makes it impossible to comply with the standard setback and front yard requirements.

[Amended 10/16/95 to delete "Building Setback Lines and Required" from heading, add new (a), renumber old (a) and (b) to (b) and (c), limit (b) to special uses, delete a 90-foot minimum setback from major thoroughfares, and add proviso to (b) that yard depth be measured from the edge of a major thoroughfare's ultimate planned right-of-way (O-95-19)]

(4) **Rear and Side Yards**

(a) For General Uses

The minimum rear and side yard depth standards established in Section 1-1-37(F)(1) for residential uses in the Residential-30 zoning district shall be applicable to general uses in the Highway District, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).

(b) For Special Uses

1. Minimum depth of rear yard: Forty (40) feet; but fifty (50) feet when adjacent to a public right-of-way or residential district, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).
2. Minimum width of side yard of corner lot: Fifty (50) feet, provided that the minimum depth of a yard abutting a major thoroughfare shall be measured from the edge of the thoroughfare's ultimate planned right-of-way (as determined from the Wake County Thoroughfare Plan).
3. Minimum width of one side yard: Thirty (30) feet; but fifty (50) feet when adjacent to a Residential District.
4. Minimum aggregate width of side yards: Eighty (80) feet; but fifty (50) feet when one (1) side yard abuts a railroad track.
5. A minimum side or rear yard is not required when a railroad siding located on or along a lot line serves two (2) adjacent lots.

(c) Reductions for Special Uses

The Board of Adjustment, in considering an application for a special use, may reduce the yard requirements contained herein upon making a finding that the proposed reduction of these requirements:

1. Will not substantially defeat the purposes for which those requirements were established, as set forth in Section 1-1-41(A) of this Ordinance;
2. Will not adversely affect traffic conditions in the vicinity by, for example, impeding sight lines at street intersections and curb cuts; and
3. Is necessitated by the configuration of the land, which makes it impossible to comply with the standard rear and side yard requirements.

[Amended 10/16/95 to add "Rear and Side" to heading, substitute new (a) for 20-foot minimum side yard depth and 30-foot rear yard depth (50 feet if adjacent to thoroughfare) and a minimum 90-foot yard depth adjacent to major

thoroughfares, and substitute proviso that yard depth be measured from a major thoroughfare's ultimate planned right-of-way for 90-foot yard depth minimums in (b)1. and (b)2. (O-95-19)]

(5) Yard Usage

(a) For General and Special Uses

1. Sediment impoundments, boundary fences, gates, and security stations may be located in any required yard.
2. Accessory buildings are only permitted in a maximum of fifty (50) percent of the required side and rear yards provided that:
 - a. No accessory building shall be located in front of the front building line; and
 - b. No accessory building shall be located closer than ninety (90) feet to a corner side yard lot line, or twenty (20) feet to a side or rear yard lot line.
3. Parking and loading shall not be permitted in any required front yard or corner side yard, nor within twenty (20) feet of any lot line in any other required yard area.

(b) For Special Uses Only

1. Accessory uses - other than necessary driveway and railroad crossings - and the outdoor storage, display, and dispensing of goods and services are prohibited within any required side or rear yard abutting a public right-of-way, residential district, or major thoroughfare, but are permitted within any other required side or rear yard, provided they are located at least twenty (20) feet from the side or rear lot line. *[Amended 2/7/00 to clarify and reduce setbacks from residential district (from 50 ft.) and major thoroughfares (from 90 ft.) (O-00-5)]*
2. Those portions of the front, rear, side, or corner side yards that are not devoted to the uses, buildings, and structures that are permitted within this Section shall be landscaped in accordance with the regulations as set forth in Section 1-1-29 of this Ordinance.
3. Screening and fencing: The Board of Adjustment may require a screen or fence to be provided in all or any part of those yards where there is outdoor storage or display of materials, outdoor recreation; accessory building(s), or parking. In order to require a screen or fence, the Board of Adjustment must make a finding that such yard usage would not be essential to the operation of the proposed use, or that such usage would be unsightly when viewed from an adjacent zoning district or public thoroughfare.

(6) Impervious Surface Coverage

- (a) For general uses, the total impervious surface coverage of any lot or parcel shall not exceed thirty (30) percent of the area of that lot or parcel except for lots within Cluster or Open Space subdivisions, where this impervious surface coverage limit shall be increased by a percentage equal to the percentage of the subdivision site dedicated or reserved as permanent open space. *[Amended 4/15/96 to add exception for cluster subdivision lots (O-96-7)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

- (b) For special uses, the total impervious surface coverage of any lot or parcel may exceed thirty (30) percent of the area of that lot or parcel only if on-site detention of sediment and storm water is provided for the runoff in excess of that which would occur with thirty (30) percent impervious surface coverage.

[Amended 10/16/95 to substitute heading for "Lot Coverage", add (a), and reword (b) (O-95-19)]

(7) Points of Ingress and Egress for General and Special Uses

- (a) [To and From Adjacent Highway or Thoroughfare]

Each building lot shall be limited to one (1) point of ingress to, and one (1) point of egress from, the adjacent highway or thoroughfare. Points of ingress and egress may be combined into one (1) two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from a highway or thoroughfare shall not be allowed unless necessary to improve traffic movement or safety, increase sight distances, or for similar reasons.

- (b) [Corner Lots]

Ingress to and egress from a corner lot or lots may be limited to the more minor thoroughfare and shall be prohibited within two hundred (200) feet of the intersection along the major thoroughfare. Ingress to and egress from reverse frontage lots shall be limited to the more minor thoroughfare.

- (c) [To and From Access or Reverse Frontage Roads]

No restrictions are placed upon the number of points of ingress and egress between a lot or lots and a private access or reverse frontage road. If such roads are dedicated to the public, the number of points of ingress and egress which are allowed shall be determined by the governmental agency or body having the authority to accept the road.

- (d) [Standards]

All points of ingress and egress and access roads and reverse frontage roads shall be designed, constructed, and maintained according to sound engineering principles and any applicable standards of the State Department of Transportation.

- (e) [Joint Ingress and Egress]

If the owners of two (2) or more lots jointly provide a direct point of both ingress and egress, or an access or reverse frontage road, to serve their lots, adequate provisions shall be made by dedication, covenants, restrictions, or legal instruments for ensuring that such points of ingress and egress on such roads are provided and maintained consistent with the regulations and intent of this Section of the Code.

- (f) Spacing Standards

- 1. [Intent]

The spacing standards of this Section are intended to improve the compatibility of roadside uses with adjacent thoroughfares by ensuring the separation and proper location of points of ingress and egress.

2. [Major thoroughfares]

The spacing requirements for lots with direct points of ingress and egress to major thoroughfares:

- a. For lots with general uses, a minimum of one hundred (100) feet;
- b. For lots with special uses, a minimum of two hundred (200) feet.

3. [Measurement]

The spacing requirements of this Section shall be measured from the centerlines of the nearest points of ingress and egress; and the spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.

4. [Reductions due to hardship]

Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the enforcement officer may authorize a decrease in the spacing dimensions of up to twenty (20) percent, provided that a record of why such a decrease is necessary is made a part of the permit.

(g) Paving of Entrance for Special Uses

All points of ingress and egress and all access roads which serve lots for special uses shall be paved for at least the first fifty (50) feet nearest to the major thoroughfare to which it connects.

(8) Additional Special Use Standards

- (a) No use requiring a discharge permit, or engaged in the manufacture, processing, or storage of chemicals, toxic materials, or petroleum products in solid or liquid form, except for service stations, shall be permitted in this District when it is mapped in a water supply watershed so designated by State or County agencies.

(9) Performance Standards

All general and special uses shall comply with the performance standards contained in Section 1-1-27 of this Code.

(10) Multiple Uses of Buildings and Lots

- (a) If both general and special uses are located on the same lot, the lot shall comply with the minimum lot width and other regulations for special uses.
- (b) Unless this Code expressly provides otherwise, only one (1) principal building or structure may be located on a building lot, but each building or structure may contain more than one (1) dwelling unit or principal use.
- (c) If ingress to and egress from a lot or lots is provided by an access road or reverse frontage road, one (1) or more principal buildings or structures may be located on the

lot or lots as provided in an approved site plan and special use permit; and each building or structure may contain one (1) or more dwelling units or principal uses as provided in Subsection (D)(10)(b) of this Section. However, no permit shall be issued unless the petitioner submits evidence showing sufficient control over the lot or lots to ensure compliance with the approved site plan.

(11) Off-Street Parking

Each lot shall provide off-street parking in conformance with Section 1-1-28 of this Code and Subsection (D)(5)(a)3. of this Section.

[Former Subsection (12), containing sign standards, deleted 7/16/84 (R-84-156) - see Section 1-1-21]

(12) Transitional Bufferyards and Screening

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-41, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

Table A: Uses Permitted in Highway District

Use	No Permit Required	General Use Permit	Special Use Permit
Forestry	X		
Roadside stands offering for sale only agricultural products produced on the premises, as an accessory use to a bona fide farm <i>[Amended 7/20/92 to substitute for "Stands and offices for the sale of agricultural products grown on premises." (O-92-17)]</i>		X	
Single-family dwellings		X	
The offices of resident members of recognized professions such as physicians, dentists, engineers, lawyers, artists, and architects		X	
Home occupations such as dressmaking, music teaching, and beauty parlors, provided that: such professions and occupations shall be engaged in only by residents of the premises; no more than fifty (50) percent of the floor area of a dwelling shall be used for such occupations; no display of products nor any advertising, except as specified in Section 1-1-21, shall be visible from the street; and no accessory buildings shall be used for such home occupations		X	
Multifamily dwellings			X
Churches and other places of worship, including parish houses and Sunday schools			X
Colleges, schools, libraries, museums, and galleries			X
Cemeteries, subject to provisions of Section 1-1-37(D)(11)			X
Family burial grounds, subject to provisions of Section 1-1-37(C)(6)		X	
Publicly operated recreation buildings, playgrounds, parks, and athletic fields			X
Hospitals, sanatoria, philanthropic or educational institutions, but no penal or correctional institutions			X
Buildings which are used exclusively by federal, state, or local government for public purposes			X
Privately operated indoor and outdoor recreation facilities, including camps, golf courses, marinas, riding clubs, and other similar uses			X
Static transformer stations, radio and television towers, and transmitting or relay station			X
Telecommunication towers as permitted under Section 1-1-37(C)(16) and (17)		X	
Telecommunication towers as permitted under Section 1-1-37(E)(2)			X
Transmission lines, towers, and telephone exchanges		X	
Skeet, trap, and rifle clubs and areas, provided: that any shooting station shall be at least one thousand (1,000) feet from any adjacent property line; a wooded buffer at least three hundred (300) feet wide consisting of primarily evergreen trees shall exist or be planned and propagated between the firing area and adjoining property; and that the plans show adequate			X

Use	No Permit Required	General Use Permit	Special Use Permit
fencing and other safety measures immediately surrounding any danger area			
Offices, clinics, and medical and dental laboratories			X
Hotels, motels, tourist homes, rooming and boarding houses			X
Retail stores and service establishments			X
Automobile sales of new and used vehicles, service stations, and repair shops			X
Businesses providing service to customers in their vehicles			X
Off-premise signs <i>[Added 7/16/84 as substitute for "commercial advertising signs" (R-84-156)]</i>			X
Shopping centers			X
Wholesale establishments primarily engaged in the sale of merchandise for resale to the public			X
Warehousing			X
Public airfields and landing strips			X
Establishments processing for the direct consumption of the principal products which are customarily delivered to individuals or retail outlets, as, for example, baking plants, bottling plants, printers, cleaning and dyeing establishments			X
Industrial-I uses, as defined in Section 1-1-39			X
Accessory uses			X
The expansion, alteration, change, or restoration of nonconformities			X
Family care home (six (6) or fewer residents) <i>[Added 6/16/86 (R-86-100)]</i>		X	
Group homes (seven (7) or more residents) <i>[Amended 6/16/86 to add "(seven (7) or more residents)" (R-86-100)]</i>			X
Kennels, subject to provisions of Section 1-1-37(D)(6) in the residential section of this Code			X
Small child day care homes, as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>	X		
Large child day care homes, as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>		X	
Child day care centers, and large child day care homes other than those permitted as an accessory use to a residential dwelling unit <i>[Added 2/17/92 (O-92-5)]</i>			X
Modular sales offices, subject to provisions of Section 1-1-37(C)(15) <i>[Added 8/16/93 (O-93-11)]</i>		X	
Bed and breakfast homestays, as an accessory use to residential dwellings, and subject to the standards in Section 1-1-37(E)(4) <i>[Added 7/18/94 (O-94-16)]</i>			X
Bed and breakfast residences, subject to the standards in Section 1-1-37(D)(12) <i>[Added 7/18/94 (O-94-16)]</i>			X

[Table A added 4/2/79; amended 7/20/92 to delete the uses "general farming," "specialized horticulture," "specialized animal husbandry," and hobby farming" (O-92-17); amended 4/15/96 to delete the use "Consolidated Open Space Developments" (O-96-7); amended 12/16/96 to add the uses "Telecommunication towers as permitted ..." (O-96-51)]

[Section added 5/7/62]

SECTION 1-1-42 AIRPORT DISTRICTS**(A) INTENT OF AIRPORT DISTRICTS**

- (1) The intent of Airport District I regulations is to:
 - (a) Incorporate the intent of Airport District II regulations listed in (A)(2)(a) through (e) of this Section;
 - (b) Ensure the attractiveness of roadside uses, which will in turn contribute to and enhance trade, tourism, capital investment, and the general welfare; and
 - (c) Enhance the efficiency, safety, convenience, and enjoyment of major public thoroughfares within Airport Districts by controlling the type and design of land uses allowed thereon.
- (2) The intent of Airport District II regulations is to:
 - (a) Limit land uses in Airport Districts to nonresidential uses;
 - (b) Confine, to the extent possible, land in these Districts to industrial, commercial, agricultural, or recreational uses which are not subject to high population concentrations;
 - (c) Ensure that such uses are located, designed, constructed, and maintained in a manner compatible with Airport District uses;
 - (d) Protect the public from annoyance by aircraft noise, especially jet noises;
 - (e) Protect the public from danger of falling aircraft;
 - (f) Provide for those uses that are not appropriate for major public thoroughfares, but which are otherwise suitable Airport District uses.

(B) APPLICATION OF SECTION

The following regulations shall apply in both Airport Districts. Wherever the Zoning Regulations of Raleigh-Durham Airport Authority impose more stringent standards than are required by the regulations made under authority of this Ordinance, the provisions of the Zoning Regulations for Raleigh-Durham Airport Authority shall govern. *[Note: Under authority granted by State statutes, the Raleigh-Durham Airport Authority now exercises exclusive zoning authority over its property making up the site of the Raleigh-Durham International Airport.]*

(C) LOCATIONAL CRITERIA FOR AIRPORT DISTRICTS

Airport District I and Airport District II should encompass land subjected to specified and measurable amounts of aircraft noise associated with runway configurations.

Airport District I is intended for those lands subjected to specified airport noise levels that are adjacent to selected interstate highways, principal and minor arterial roads, and designated portions of major and minor collector roads, as defined by the State Department of Transportation functional classification system. Accordingly, Airport District I shall also include those lands adjacent to U.S. 70, Interstate 40, S.R. 1839, S.R. 1002 between U.S. 70 and Interstate 40, and S.R. 3015 between S.R. 1002 and Interstate 40, within the Airport Zoning Districts.

(D) BONA FIDE FARMS

These regulations may not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to the regulations.

(E) USES PERMITTED IN AIRPORT DISTRICTS

Sanitary landfills, mining operations, and nonconforming uses are subject to the provisions of Subsections (G) and (H) of this Section. Family burial grounds and cemeteries are permitted as general uses in both Airport Districts, subject to the provisions of Subsections 1-1-37(C)(6) and 1-1-37(D)(11) of this Code. Customary home occupations and the offices of resident members of recognized professions are permitted as general uses in those residences that exist as nonconforming uses in both Airport Districts. All other legal land uses are permitted as general uses in both Airport Districts*, except for the following prohibited uses**.

- (1) Residences, including mobile homes.
- (2) Other residential or related uses:
 - (a) SIC #702, rooming or boarding houses.
 - (b) SIC #805, nursing and personal care facilities.
 - (c) SIC #806, hospitals.
 - (d) SIC #9223, correctional institutions.
- (3) SIC #29, petroleum refining and related industries (which are prohibited because of their susceptibility to fire and explosion).
- (4) Places of public assembly that do not provide services necessary to the traveling public:
 - (a) SIC #704, organization hotels and lodging houses on a membership basis.
 - (b) SIC #783, motion picture theaters.
 - (c) SIC #79, amusement and recreation services (except low-intensity uses such as golf courses and stables).
 - (d) SIC #82, educational services.
 - (e) Private clubs.

All other places of public assembly that do not provide services necessary to the traveling public are prohibited in Airport Districts.

* Note - See Subsections (F)(2), (F)(4), (F)(5)(a), and (F)(8) for limitations on uses in Airport District I only.

** Note - See U.S. Department of Commerce, Office of Federal Statistics and Standards, *Standard Industrial Classification Manual*, 1972, for definitions for each SIC classification.

(F) DEVELOPMENT REQUIREMENTS IN AIRPORT DISTRICTS

Unless otherwise indicated, the provisions of this Section shall apply to uses in both Airport Districts.

(1) Minimum Yard Requirements

- (a) Where multiple uses/structures are located on the same lot, the lot shall comply with the minimum yard requirements of this Section. Primary buildings on such lots shall be spaced a minimum of twenty-five (25) feet apart.
- (b) When any Airport District use is located across a street from or adjacent to a Residence District, the minimum depth (in the case of front, corner, or rear yards) or width (in the case of side yards) of the yard abutting the street/District shall be ninety (90) feet.
- (c) Parking areas for customers or employees, sidewalks, and shelters (such as canopies, awnings, or covered walkways) are permitted in the interior of required yards, and may occupy up to half of the interior depth or width of the required yard, provided such structures in no way obstruct the line of sight along a thoroughfare.
- (d) Every front and corner yard shall have a minimum depth of fifty (50) feet.
- (e) The width of every side yard and the depth of every rear yard shall be at least twenty-five (25) feet, with the following exceptions:
 - 1. Where a side or rear boundary abuts a railroad track, no yard is required.
 - 2. Where a side or rear yard is adjacent to a public right-of-way, the width of the side yard or depth of the rear yard shall be at least fifty (50) feet.
- (f) The minimum depth or width of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan). *[Added 7/22/96 (0-96-22)]*

(2) Off-Street Parking and Loading Requirements

Off-street parking and loading spaces of sufficient number to provide for vehicles customarily parked or used in conjunction with each building or use shall be provided on each lot, pursuant to Section 1-1-28 of this Code. All parking areas shall be so located and designed that ingress and egress is by forward motion of the vehicle.

Within Airport District I only, overnight parking areas for heavy equipment, mobile homes, or trailers shall be located at least fifty (50) feet from the right-of-way boundary of any thoroughfare.

(3) Utility Requirements

Approval of water supply and sewage disposal plans by the Wake County Health Department or State agency having jurisdiction over the site is required prior to the issuance of any land use permit.

(4) Accessory Buildings and Uses

Within both Airport Districts, buildings and uses of land customarily accessory to the principal land uses are permitted, pursuant to Section 1-1-22 of this Code. However, within Airport District I, accessory buildings or structures shall be located at least fifty (50) feet from the right-of-way boundary of any thoroughfare.

[Former Paragraph (4), containing sign regulations, deleted 7/16/84 (R-84-156) - see Section 1-1-21]

(5) **Transitional Bufferyards and Screening**

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where depth of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-42, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

(6) **Lighting Requirements**

All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from above. This restriction shall not apply to warning lights such as those installed in towers, tall buildings, etc., to mark obstructions to aircraft.

(7) **Bulk Storage of Flammable Substances and Hazardous Materials**

The bulk storage of a flammable liquid or gas, or hazardous material whose release could pose a threat to the public health, is allowed only as an accessory use to a permitted principal use, and only where such substance is necessary to the normal operations of the principal use. "Tank farms," gasoline or fuel distribution centers, warehousing of explosives, and similar facilities for bulk storage of such substances as a principal use are prohibited.

Any aboveground storage facility for such substances shall:

- (a) Be located outside of an airport's runway protection zone, as defined by the Federal Aviation Administration (FAA) for the category of airport;
- (b) Be located so as to conform to FAA standards for the setback of structures from the sides of airport runways;
- (c) Be in a location that has been found acceptable from an aeronautics standpoint by an Obstruction Evaluation Study performed by the FAA; and
- (d) Be located, designed, and operated so as to conform to all applicable State Building Codes.

[Amended 3/21/94 to substitute for requirement that all flammable substances and dangerous chemicals be stored underground (O-94-4)]

(8) **Regulation of Outside Activities in Airport District I**

When located within five hundred (500) feet of a right-of-way boundary of any thoroughfare in Airport District I, the following activities shall be entirely enclosed by a building:

- (a) Bulk material or machinery storage;
- (b) Salvage of used materials or junk;
- (c) Asphalt or concrete mixing plants.

In addition, within Airport District I, yards used for the sale or storage of building materials shall be enclosed or shall be covered by canopies, where such yards are located within five-hundred (500) feet of any right-of-way boundary of any thoroughfare.

(G) NONCONFORMING USES**(1) [General]**

Land uses, including mobile homes and other residential structures, that are currently nonconforming uses or that become nonconforming by reason of rezoning to either Airport District may be continued, maintained, or repaired without a zoning permit.

However, the alteration, expansion, change, rebuilding, or resumption of a nonconforming use is permitted pursuant to a special use permit issued by the Board of Adjustment under the provisions of Section 1-1-24 of this Code.

(2) [Nonconforming Residential Structures]

All nonconforming uses in Airport Districts are subject to the provisions of Section 1-1-24 of this Code. In addition, the following regulations shall apply to nonconforming residential structures:

- (a) The Board of Adjustment shall issue a permit for a special use provided the alteration, expansion, change, rebuilding, or resumption conforms to the extent possible to all regulations governing Residential Districts. Minimum depth or width of front, corner, side, and rear yards shall be determined by the Board of Adjustment, but shall not be less than the minimum required for any yard in Section 1-1-37 of this Code.
- (b) Where a mobile home or other residential structure becomes nonconforming by reason of rezoning to Airport District I or Airport District II, and where the structure was the only residence upon the lot it occupied at the time of rezoning to Airport District I or Airport District II, and where the lot occupied by the structure was owned or being purchased by the resident of the structure at the time of rezoning to Airport District I or Airport District II, the structure may be removed or demolished and replaced by another residential structure, subject to approval by the Board of Adjustment as required in Paragraph (1) above.

(H) SPECIAL USES REQUIRING APPROVAL BY THE BOARD OF COMMISSIONERS

Sanitary landfill and mining operations are permitted as special uses in Airport Districts, pursuant to provisions of Sections 1-1-12 and 1-1-13 of this Code. *[Note: Sections 1-1-12 and 1-1-13 were amended 7/13/98 to make such special uses subject to approval by the Board of Adjustment rather than Board of Commissioners (O-98-24)]*

[Section added 5/7/62]

SECTION 1-1-43 OFFICE AND INSTITUTIONAL DISTRICT**(A) INTENT**

It is the intent of this Section to regulate use of land in such a way as to allow creation of intermediate classes of use which cannot be allowed in Residential Districts, but while permitted in Office and Institutional District, would not require the wide range of uses that are permitted in General Business or Commercial Districts. The uses permitted in this Section allow additional flexibility to those permitted in Residential Districts while not expanding permitted uses to include lower classifications of uses permitted in General Business or Commercial Districts.

(B) PERMITTED GENERAL USES

- (1) All uses permitted in Residential Districts
- (2) Government buildings and grounds
- (3) Eleemosynary institutions
- (4) Office or studio or professional and service occupations and agencies such as: Accountant, architect, artist, broker, dentist, engineer, insurance adjuster, landscape architect, lawyer, physician, realtor, chiropractor, chiropodist, osteopath, masseur, and optometrist, secretarial agency, finance agency, insurance agency, mortgage agency, office business machine agency, dental supply companies serving dentists and dental laboratories only
- (5) Funeral home, radio and televisions studios
- (6) Group homes
- (7) Child day care centers, large child day care homes, and small child day care homes
[Added 2/17/92 (O-92-5)]
- (8) Telecommunication towers that are located on a structure constructed for purposes other than supporting telecommunication equipment, that are no taller than thirty (30) feet or thirty (30) percent of the structure's height, and that meet all relevant standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2). *[Added 12/16/96 (O-96-51)]*
- (9) Telecommunication towers that are no more than two hundred fifty (250) feet high and that meet the following standards:
 - (a) If the tower is more than one hundred (100) feet high, it shall be located at least one thousand (1,000) feet from any other telecommunications tower greater than one hundred (100) feet high; provided, however, that this separation requirement shall not apply from a tower if the applicant submits sufficient evidence to demonstrate that a reasonable effort to co-locate on that tower was made, or that co-location on the tower will not technically satisfy the applicant's specific needs.
 - (b) The tower shall meet the standards set forth in Subparagraphs (c) through (i) of Section 1-1-37(E)(2).

[Added 12/16/96 (O-96-51)]

[Amended 7/13/98 to substitute Subsection title for "Uses Permitted" (O-98-24)]

(C) PERMITTED SPECIAL USES

- (1) Related service facilities such as a snackbar, restaurant, barbershop, beauty shop, or gift shop, provided such facilities are to be utilized primarily by the building occupants, and do not occupy more than ten (10) percent of the building floor area, and shall not be directly open to or visible from the street, and provided that the hours shall coincide with those of the main use occupancy of the building
- (2) Private or commercial kennels, as defined as Section 1-1-1, are permitted as special uses in the Office and Institutional District, provided that such kennels comply with all of the standards contained in this Subsection.

Kennels are a service trade, and are therefore appropriate uses in Office and Institutional Districts. However, recognizing the potential nuisance problems involved in allowing kennels in Office and Institutional Districts, this Subsection contains the following site and structural standards (The Board of Adjustment shall use these standards in reviewing application for kennels in Office and Institutional Districts):

- (a) All buildings and structures related to the care of animals shall be located a minimum of one hundred (100) feet from any property line, except where:
 1. Adjacent property is owned or occupied by the kennel owner or operator; or
 2. All kennel areas are surrounded by an effective noise screen, in which case the yard requirement may be reduced to fifty (50) feet. Such reduction in yard requirement is only permitted for kennels having a total holding capacity of twenty-five (25) or fewer animals. Where a noise screen is provided, it shall comply with all provisions of Section 1-1-29 of this Code, and shall consist of one of the following combinations:
 - a. An earth berm covered with a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, but the earth berm itself shall be no more than five (5) feet. The minimum width of the entire noise screen shall be twenty-five (25) feet;
 - b. A masonry, stone, or block wall, augmented on one side by a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, and the minimum width of the vegetation shall be twenty-five (25) feet.
- (b) The lot on which the animals are located shall be surrounded by a 6-foot-high security fence. Such fence may consist of a masonry wall, metal fence of solid appearance, or a chain link fence. The wall or fence shall be screened on its exterior side with a trimmed hedge, informal screen planting, or screen of natural vegetative cover; or, an earth berm may be used in combination with such fencing. The height of the berm should not be greater than two-thirds (2/3) of the required height of the fence unless scale dictates otherwise. *[Amended 11/18/85 to substitute standards for fence type, screening, and berm height for a reference to conformance with the provisions of Section 1-1-29 (R-85-230)]*

All fences shall have a height of seven (7) or more feet, and all screens shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

- (c) Adequate parking facilities with safe and efficient pedestrian and vehicular access and egress shall be provided; such parking facilities shall be landscaped in accordance with Section 1-1-28 of this Code. *[Amended 11/18/85 to refer to Section 1-1-28 instead of Section 1-1-29 (R-85-230)]*
- (d) A living, dense, visual screen consisting of an evergreen shrub hedge with a minimum opacity of eighty (80) percent shall be provided between animal uses and property lines except where:
1. Animals are entirely enclosed in adequately ventilated, soundproof enclosures;
 2. Existing vegetative cover is sufficient to meet the eighty (80) percent opacity requirement.

[Amended 11/18/85 to delete reference to conformance with Section 1-1-29 (R-85-230)]

The hedge shall consist of evergreen shrubs. Such hedge may be supplemented with other vegetation to increase its attractiveness or opacity, but the eighty (80) percent opacity shall be met primarily through the shrubs which are provided.

[Added 11/18/85 (R-85-230)]

The hedge shall have a thickness of not less than forty (40) of its intended or required height, whichever is greater, within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

The hedge shall have a height of six (6) or more feet within four (4) growing seasons. *[Added 11/18/85 (R-85-230)]*

- (e) The number of animals kept on a lot shall be in accordance with the following (in addition to the standard listed above):
1. Six (6) or more animals may be kept on lots of forty thousand (40,000) square feet or greater, provided the following standards are met:
 - a. The yard area is increased (beyond forty thousand (40,000) square feet) by two thousand (2,000) square feet for each additional animal (above six (6) animals).
 2. Twenty-six (26) or more animals may be kept on lots of 80,000 square feet or greater, provided the following standards are met:
 - a. All buildings and structures related to the care of animals shall be located at least one hundred (100) feet from any property line, except where adjacent property is owned or occupied by the kennel owner or operator;
 - b. The yard area shall be increased (beyond eighty thousand (80,000) square feet) by five hundred (500) square feet for each additional animal (above twenty-six (26) animals);
 - c. All animal uses shall be surrounded by an effective noise screen, in compliance with provisions of Section 1-1-29 of this Code, and consisting of one of the following combinations:
 - i. An earth berm covered with a combination of dense evergreen shrubs and evergreen trees. The minimum heights of the entire noise screen shall be eight (8) feet, but the earth berm itself shall

be no more than five (5) feet. The minimum width of the entire noise screen shall be twenty-five (25) feet;

- ii. A masonry, stone, or block wall, augmented on one side by a combination of dense evergreen shrubs and evergreen trees. The minimum height of the entire noise screen shall be eight (8) feet, and the minimum width of the vegetation shall be twenty-five (25) feet.

[Amended 4/15/96 to delete former Paragraph (3), containing Consolidated Open Space Development regulations (O-96-7)]

- (3) Telecommunication towers that are more than two hundred fifty (250) feet high, but no more than five hundred ten (510) feet high, and that meet the standards set forth in Subparagraphs (a) and (b) of Section 1-1-43(B)(9). *[Added 12/16/96 (O-96-51)]*

[Amended 7/13/98 to substitute Subsection title for "Uses Permitted after Approval of Plans by Board of Adjustment" (O-98-24)]

(D) PARKING

Parking shall not be permitted in any required side yard.

[Former Subsection (E), containing sign regulations, deleted 7/16/84 (R-84-156) - see Section 1-1-21]

(E) TRANSITIONAL BUFFERYARDS AND SCREENING

Transitional bufferyards and screening shall be established and maintained according to the requirements of Section 1-1-29 of this Ordinance. Where width of the transitional bufferyard required by Section 1-1-29 exceeds the yard depth required by this Section 1-1-43, the Section 1-1-29 requirements shall control. *[Added 6/15/87 (R-87-64)]*

(F) STORAGE

Outside storage shall not be permitted within any required side yard. Storage areas shall be screened or located where they will not be seen from any adjoining property.

(G) UTILITY REQUIREMENTS

Approval of water supply and sewage disposal plants by the County or State agencies having jurisdiction of such facilities over the land to be developed will be required before the issuance of use or building permits.

- (H) [RESERVED] *[Amended 4/15/96 to relocate lot area standards to Subdivision Ordinance (O-96-7)]*

- (I) [RESERVED] *[Amended 4/15/96 to relocate lot width standards to Subdivision Ordinance (O-96-7)]*

(J) MINIMUM YARD STANDARDS

The minimum depth of yards shall be forty (40) feet for front or corner side yards, twenty (20) feet for side yards, and twenty-five (25) feet for rear yards, provided the minimum depth of a yard abutting an existing major thoroughfare shall be measured from the edge of the thoroughfare's ultimate right-of-way (as recommended in the Wake County Thoroughfare Plan). On lots created as part of a Cluster or Open Space subdivision, the above minimum yard depth standards - other than those applicable to yards abutting a major thoroughfare - shall be reduced fifty (50) percent, provided that no building in a Cluster or Open Space subdivision shall be located within thirty (30) feet of the perimeter of the cluster subdivision site. *[Added 7/22/96 to*

consolidate rear, front and corner side, and side yard standards from former Sections (J), (K), and (L), and cluster subdivision yard reductions from former Section (M) (O-96-22)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]

[Section added 2/1/71]

SECTION 1-1-44 PLANNED DEVELOPMENT (PD) DISTRICT**(A) DEFINITIONS**

As used in this Section, the following words shall have the following meanings:

- (1) Board of Commissioners means the Board of Commissioners of the County of Wake, North Carolina.
- (2) General comprehensive plan means the comprehensive plan for the Wake County Zoning Area as embodied in and reflected by this Ordinance.
- (3) Official zoning map means the "Wake County Zoning Area, Zoning, Plan," which is a map and a part of this Ordinance.
- (4) Owner or property owner means the person, group of persons, corporation, or other entity which owns sufficient legal interest in the property involved to enable it to develop the land within a PD District (existing or proposed) in accordance with the development plan for that district if such development is permitted under this Ordinance. It is not necessary for any given member of a group comprising the "owner" to have dominion over all the land; a group of owners of the individual parcels making up a PD District is specifically contemplated under the term "owner." Further, it is not necessary that the ownership of the property be in fee simple. Rather, the ownership may be in any legal form which confers the requisite power as, for example, leasehold or estate for a sufficient period, easement, or contract to purchase any such property interest contingent upon obtaining the necessary zoning classification.
- (5) PD District means a Planned Development District established or proposed pursuant to the provisions of this Ordinance.
- (6) Petitioner means the person, group of persons, corporation, or other legal entity submitting a formal petition for the establishment of a PD District under this Ordinance.
- (7) Planning Board means the Wake County Planning Board, the planning agency created by the Board of Commissioners pursuant to statutory authority now appearing as Section 153A-321 of the General Statutes of North Carolina or other applicable statutory authority.
- (8) Planning Director means the Director of Planning for Wake County, a head of department of County government and an employee of the Board of Commissioners.

(B) PURPOSE

The purpose of the PD District is to permit the establishment of areas in which diverse uses may be combined and integrated through careful planning so as to provide a unified and compatible development which is consistent with the general comprehensive plan, and which may reasonably be expected to result in a quality of living environment which is more closely in keeping with the purposes of zoning than would otherwise likely be obtained.

(C) INTENT

It is not the intent of the Board of Commissioners that the PD District become a loophole designed to permit otherwise illegal contract, conditional or spot zoning, or the clandestine institution of the unlawful use variance. Rather, the PD District is intended to permit further refinement and more detailed expression of the general comprehensive plan in situations where

the owners of the property present a development plan which is found to be in the public interest and consistent with the general comprehensive plan.

(D) **PROCEDURE**

(1) **Preliminary**

The establishment of a PD District is in the nature of an amendment to the official zoning map and requires a development plan, regulatory standards and other documents, and certain showings of proof. For that reason, it is recommended, though not required, that the proposed PD District be discussed in a preliminary manner on one (1) or more occasions with the Planning Director and the Planning Board before being made the subject of a formal petition. It should be the function of those preliminary discussions to determine the particulars of the development plan, regulatory standards and other documents, and showings of proof which the Planning Board will require in order to give a favorable recommendation to the Board of Commissioners regarding the proposed PD District.

(2) **Formal Petition and Filing**

The PD District is a zoning district and the establishment thereof requires an amendment to the official zoning map. Such an amendment shall be proposed by formal petition pursuant to the general requirements of this Ordinance pertaining to all such petitions and to the additional requirements of this Section pertaining specially to petitions for the establishment of PD District. But, in the event of a conflict, the requirements of this Section shall control. A petition for the establishment of a PD District shall be filed by delivering it to the Planning Director. Upon receipt of such a petition, the Planning Director shall schedule it to come before the Planning Board in due course as prescribed by the rules of the Planning Board, but in any event within sixty (60) days from the date on which it was filed; provided that the Planning Director shall be afforded at least thirty (30) days prior to the date of the petitioner is scheduled to come before the Planning Board within which to prepare the recommendations required by Subsection (3) immediately below.

(3) **Recommendation of the Planning Director**

Before the time the petition for the proposed PD District comes before the Planning Board, the Planning Director shall inspect the development, general plan, regulatory standards and other documents, and the evidence submitted in support of the petition, and shall prepare a recommendation for the delivery to the Planning Board as to:

- (a) The technical sufficiency of the plans and the documents;
- (b) Whether or not the proposed PD District is in accordance with the general comprehensive plan;
- (c) Whether or not the proposed PD District is in keeping with the purpose and intent of the Board of Commissioners for creating such Districts as set out herein; and
- (d) The conditions, if any, which should be imposed in order to accomplish the purposes set out in Subsection (G)(5) hereof, should the District be established.

(4) **Certified Recommendation of the Planning Board; Notice to Petitioner**

Following receipt of the recommendations of the Planning Director, the Planning Board shall inspect the plans, documents and other evidence, and may undertake any other

activities within its power which it deems to be appropriate, and, after which, shall certify its findings and recommendations regarding the petition for the proposed PD District to the Board of Commissioners as to:

- (a) The technical sufficiency of the plans and documents;
- (b) Whether or not the proposed PD District is in accordance with the general comprehensive plan;
- (c) Whether or not the proposed PD District is in keeping with the purpose and intent of the Board of Commissioners for creating such Districts as set out herein; and
- (d) The conditions, if any, which should be imposed in order to accomplish the purposes set out in Subsection (G)(5) hereof, should the district be established. The Planning Board shall notify petitioner by first class mail when its findings and recommendations regarding the petition are prepared, and shall make them available to petitioner for copying, should that be desired.

(5) Timing and Sequence of Events; Notice

Upon receipt of a formal petition to establish a PD District, the Planning Director shall schedule the petition to come before the Planning Board within sixty (60) days after the date on which it is filed. He shall give notice of such scheduling to the petitioner at the time the petition is filed or by first class mail, but in any event not later than fourteen (14) days prior to the date on which the petition is scheduled to come before the Planning Board. The Planning Director shall make his recommendations to the Planning Board when the matter of the proposed PD District is brought before it. The Planning Board shall certify its findings and recommendations to the Board of Commissioners within ninety (90) days after the date on which the petition was filed, which time may be extended by the Board of Commissioners upon request by the Planning Board for good cause shown.

(6) Public Hearing

No amendment establishing a PD District may be adopted without a public hearing in accordance with Section 1-1-7 of this Ordinance. *[Amended 8/19/85 to substitute for provisions establishing procedures for calling a public hearing and declaring a decision not to call a hearing as constituting a denial (R-85-160)]*

(7) Permits to Issue

Upon amending this Ordinance to allow the PD District to be established, the Board of Commissioners will order the Zoning Administrator, in his capacity as zoning enforcement officer, to issue a special or conditional use permit, as appropriate, in the name of the Board of Commissioners for the establishment of any and all uses which are consistent with the development plan for the District and such standards and conditions as the Board of Commissioners may have prescribed therefor. Uses which are subject to any conditions specially prescribed for the PD District shall be permitted by special use permit; those subject to conditions shall be permitted by conditional use permit.

(E) REQUIREMENTS FOR PETITION

The petition for establishment of a PD District must be accompanied by:

- (1) A proposed development plan for the District, accompanied by regulatory standards (the land use regulations which are proposed for the District - see more particularly Subsection (F) hereof);

- (2) A general plan in the nature of a future land use map of the kind found in general comprehensive plan documents for governmental jurisdictions, showing existing and proposed (to the extent that it can be readily determined at the time) development within the proposed District and beyond its borders for at least one (1) mile;
- (3) Proposed conditions, including special administrative provisions for regulating land use and development within the PD District (see particularly subsection (G)(5) hereof); and
- (4) Other documents and evidence sufficient to allow the Planning Board to make the findings and recommendations required in Subsection (G) hereof.

(F) **REQUIREMENTS FOR THE PROPOSED DEVELOPMENT PLAN AND REGULATORY STANDARDS**

(1) **General**

The development plan and regulatory standards proposed for a PD District must be designed to accomplish the purposes of zoning, as more particularly set out in Section 153A-341 of the General Statutes of North Carolina, and in keeping with the purposes and intent of the Board of Commissioners as set out in this Section, and particularly in Subsections (B) and (C) hereof.

(2) **Nature of the Development Plan and Regulatory Standards**

It is recognized that the precise nature of the development plan and the regulatory standards must be governed largely by the nature of the development itself, and it is intended that petitioners should be afforded as much latitude as may be had, consistent with the public interest, in the way development plans are rendered and regulatory standards set out.

(3) **Examples**

Where appropriate, the development plan might be a map showing the proposed PD District as an aggregation of smaller areas in which the regulatory standards could be stated as being the same as those now prescribed by this Ordinance for one (1) or more other zoning districts, with or without specified modifications. Or, the development plan might be a precise site plan with all, or nearly all, essential regulatory standards shown on its face. Or some combination of the foregoing might be used. Or some entirely different and innovative method of setting out regulatory standards might be proposed.

(4) **Minimum Specifications**

Regardless of how a given petitioner may decide to render the development plan and set out the regulatory standards, the plan and standards must be consistent with:

- (a) All requirements pertaining thereto appearing in applicable state law or ordinances of the Board of Commissioners, or in rules of the Planning Board which have been approved by the Board of Commissioners; and
- (b) Must specify, as a minimum, the following regulatory standards: the maximum height, number of stories, and size of buildings and other structures; the maximum percentage of lots which may be covered; the minimum size and dimensions of yards, courts, and open spaces; the maximum density of population; and the location

and use of buildings, structures, and land for trade, industry, residence, and other purposes.

(G) **FINDINGS AND RECOMMENDATION TO BE MADE BY THE PLANNING BOARD**

The Planning Board shall examine the petition for establishment of a PD District and shall certify its findings and recommendations regarding it to the Board of Commissioners as prescribed in Subsection (E)(5) and this Subsection.

(1) **Areas of Consideration**

In the course of such examination, the Planning Board shall, as a minimum, consider the following matters regarding the petition for the proposed PD District, and shall certify its findings regarding each of them to the Board of Commissioners as to whether or not the development plan and regulatory standards proposed adequately treat the matter when measured against the purposes of zoning as set out in Section 153A-341 of the General Statutes of North Carolina.

- (a) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, access in case of fire or catastrophe, and street names approved by the Subdivision Administrator, Wake County Community Development Services Agency;
- (b) Off-street parking and loading areas, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the proposed uses on adjacent and neighboring properties, and properties in the general area;
- (c) Refuse and service areas, with particular reference to the items in (a) and (b) above;
- (d) Utilities, water and sewerage systems, and other essential services, whether public or private, with reference to location, availability, sufficiency, compatibility, and provisions for continuing maintenance;
- (e) Transitional bufferyards and screening with reference to type, dimensions, and character; *[Amended 6/15/87 to substitute "Transitional bufferyards and screening" for "Screening and buffering" (R-87-64)]*
- (f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the area;
- (g) Required yards and other open spaces with reference to adequacy and suitability for the purposes intended;
- (h) Changes in surface drainage characteristics with reference to erosion, siltation, pollution, flooding, or other detrimental effects, both on the site and on other properties;
- (i) General compatibility with, and effect upon, the general environment, adjacent properties and other property in the general area;
- (j) Substantial consistency with the general comprehensive plan: Are the predominate uses proposed for the PD District substantially the same as those permitted by the current zoning classification of the area; or has the petitioner adequately demonstrated that the changes proposed should be made in the public interest in the manner prescribed in (2) immediately below?

(2) **Substantial Departure from the General Comprehensive Plan**

In order to justify a substantial departure from the general comprehensive plan in the establishment of a PD District, a two-part demonstration shall be required. First, it must be demonstrated that a change is necessary in the public interest because a mistake was made when the property was last classified for zoning purposes, or because a material change in relevant circumstances has occurred since the property was last zoned, or because of some other legally recognized justification or combination of justifications. Second, after sufficiently demonstrating that the zoning classification of the property should be substantially different from that currently existing, it must be demonstrated that the proposed PD District represents uses of the land involved which are at least as appropriate in the public interest as any other use or combination of uses permitted under the zoning classifications currently established by this Ordinance.

(3) **Findings to be upon Substantial Basis**

The Planning Board shall make its findings and recommendations regarding a petition for a PD District upon the basis of competent, material, and substantial evidence. (Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It must do more than create the suspicion of the existence of the fact to be established.) The findings and recommendations certified by the Planning Board to the Board of Commissioners regarding the petition shall indicate, by reference or otherwise, the substantial evidence upon which findings and recommendation is based.

(4) **Burden of Proof**

The burden of proof shall always be upon the petitioner to provide the evidence and make the demonstrations sufficient to permit the Planning Board to make its required findings and determinations, but superfluous proof shall not be required and shall be objectionable.

(5) **Conditions**

The Planning Board shall certify, as part of its recommendations to the Board of Commissioners regarding the proposed PD District, the conditions which it has determined should be imposed upon the establishment of the district in order to accomplish one or more of the purposes set out below. In order to ensure that conditions which are necessary in the public interest are as nearly compatible as may be with proposed development, it shall be the duty of the petitioner to prepare, either as part of his original petition or subsequently, and propose such conditions as are determined to be necessary by the Planning Board. It is the policy of the Board of Commissioners that conditions proposed by the petitioner shall be acceptable without alteration if they may reasonably be found to adequately serve the necessary purposes intended.

- (a) To provide assurances that structures and improvements which are essential to the carrying out of the development plan will be constructed in a satisfactory and timely manner, to protect the public against fraud or misrepresentation regarding the development, or to provide safeguards against unforeseen occurrences which would jeopardize the development, or similar purposes.
- (b) To provide assurances that actions or facilities which are necessary in the public interest will be obtained in a timely and sufficient manner (such as maintenance of sewerage systems; the reservation of school or other sites for public purchase; the protection or preservation of existing public buildings, historic sites, or other structures in the area in which the public has an interest; and similar purposes).

- (c) To overcome difficulties or deficiencies in physical or functional design (such as the development of rules and procedures for the regulation of commonly held areas; limitations on the direction or intensity of exterior lighting; maintenance of development of buffer areas; conditions involving the timing or phasing of the development of certain portions of the plan; and similar purposes).
- (d) To overcome hazardous or limiting characteristics of, or to protect, the land or natural formations or growths upon the land (such as limited ground water supply or soil permeability; areas of flood and other hazards; excessive slopes or depressions; protection from pollution and siltation; protection of critical areas of natural growths or mineral deposits; and similar purposes).
- (e) To overcome uncertainties or difficulties in administering the land use regulations which are to be applied by this Ordinance with the District.

(6) **[Dedications]**

Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that recreational space be provided.

(H) **CERTAIN SIZES OF PD DISTRICTS ARE PRESUMED TO BE SUFFICIENTLY LARGE**

A PD District shall be of sufficient size to reasonably accomplish the objectives of the development plan. The following sizes of PD Districts for the predominate uses shown shall be presumed to be of sufficient size. Smaller sizes may be approved upon adequate proof and demonstration by the petitioner, and certified finding and recommendation by the Planning Board.

- (1) PD Districts of predominately residential development: Ten (10) acres.
- (2) PD Districts of predominately commercial, or office and institutional development: Ten (10) acres.
- (3) PD Districts of predominately industrial development: Twenty (20) acres.
- (4) PD Districts of predominately agricultural or conservation use: Six hundred forty (640) acres.

(a) Enlarging or Internally Changing PD Districts

1. General policy

It is anticipated that PD Districts may from time to time need to be changed internally or enlarged. It is in the public interest to permit such internal changes or expansions where it will:

- a. Facilitate development by overcoming difficulties without compromising the plan; or
- b. Obtain improvements in the development of the area through further refinement or expansion of the plan; or
- c. Permit the phased execution of a well designed plan for a larger area.

2. Policy regarding enlargement specially

Where a proposed expansion of a PD District is:

- a. Substantially consistent with the general plan for the surrounding area presented in connection with the petition for establishment of the PD District or a previous expansion thereof; and
- b. Appears, upon the basis of the evidence presented, to be a reasonable and well designed addition to the existing development plan for the District which could have been approved as part of the original District had it been included at the time, it will be the policy of the Board of Commissioners to allow the expansion unless just and sufficient cause is shown why that should not be done.

3. Procedure

An internal change to, or an enlargement of, an established PD District (including the conditions and regulatory standards appertaining thereto) is an amendment to this Ordinance and must be petitioned for in the same manner and subject to the same requirements as for the establishment of a PD District except that:

- a. Any owner or owners of any property included in the proposed internal change or expansion may join in and file the petition, but petitioner must notify all other owners of included property (as they appear of record for tax purposes) by first class mail of the fact that the petition has been filed, the general nature of the petition, the fact that it affects property of which the addressee is an owner of record, and of the fact that a copy of the petition may be seen at the office of record, and of the fact that a copy of the petition may be seen at the office of the Planning Director. In order to permit its being viewed by the other property owners, petitioner shall file at least five (5) additional complete copies of the petition and all attachments thereto with the Planning Director.
- b. Plans and documentary and other evidence presented, and demonstrations made, in connections with the petition for establishment and any previous amendments to the PD District may be incorporated by reference into the petition and into the Planning Board's certified findings and recommendations to the extent they are relevant and remain accurate.

4. Preliminary discussions recommended

It is strongly recommended, though not required, that prospective petitioners for internal changes or expansions of PD Districts discuss the matter with the Planning Director and the Planning Board to determine the nature of the plans and the proof which will be required.

(I) PLANNING DIRECTOR TO PRESERVE EVIDENCE

The Planning Director shall maintain, in the nature of a public record, all plans, documents, exhibits and other such evidence submitted in support of all approved PD Districts and any changes thereto.

[Section added 9/3/74]

**SECTION 1-1-44.1 [RIVER FALL] PLANNED DEVELOPMENT DISTRICT, REGULATORY
STANDARDS APPLICABLE THERETO**

[Note: All land zoned River Fall Planned Development District (and for which this Section's regulations were tailored) subsequently passed from the zoning jurisdiction of Wake County to that of the City of Raleigh on 2/28/86 (R-86-49) and 5/15/89 (R-89-43). Although the Section has not been repealed, it can no longer be applied within Wake County's zoning jurisdiction, and is, therefore, not included in this copy of the Wake County Zoning Ordinance.]

[Section added 5/5/75 (as the Spring Lake Village Planned Development District); repealed, then readopted (as the River Fall Planned Development District) 10/21/85 (R-85-210)]

SECTION 1-1-44.2 BEACHWOOD PLANNED DEVELOPMENT DISTRICT**(A) [RELATION TO SECTION 1-1-44]**

The regulatory standards for the Beachwood Planned Development District implement the requirements established in Section 1-1-44, Planned Development District, of the Zoning Ordinance.

(B) [APPLICABLE DEVELOPMENT STANDARDS]

The following development plans constitute the regulatory standards and conditions under which the site described in Section I, above, shall be developed. *[Note: "Section I" refers to the first section of the resolution amending the Zoning Ordinance (R-87-42), which identifies the land rezoned to Planned Development District and to which these regulations apply.]*

- (1) **Exhibit A - Proposed Development Criteria.** *[Note: Exhibit A is a plan entitled "Beachwood: Proposed Planned Development District," dated 3/31/87, and showing the general layout, general standards, planned parcels, and parcel-specific standards for the Beachwood Planned Development District. It is on file (ZP-608) in the Wake County Planning Department.]*
- (2) **Exhibit B - Proposed Roadway Improvements.** *[Note: Exhibit B consists of three drawings (Figures 3a, 3b, and 3c) dated 3/31/87 that show lane configurations and cross-sections associated with the on-site and off-site roadway improvements planned for Phases I, II, and III of the Beachwood Planned Development District. It is on file (ZP-308) in the Wake County Planning Department.]*

[Section added 4/21/87 (R-87-42)]

SECTION 1-1-44.3

[Note: No Section 1-1-44.3 has ever been adopted. The next Section is Section 1-1-44.4 (Beachwood Amendment Planned Development District).]

SECTION 1-1-44.4 BEACHWOOD AMENDMENT PLANNED DEVELOPMENT DISTRICT**(A) [RELATION TO SECTION 1-1-44]**

The regulatory standards for the Beachwood Amendment Planned Development District implement the requirements established in Section 1-1-44, Planned Development District, of the Zoning Ordinance.

(B) [APPLICABLE DEVELOPMENT STANDARDS]

The following development plans constitute the regulatory standards and conditions under which the site described in Section I, above, shall be developed. *[Note: "Section I" refers to the first section of the resolution amending the Zoning Ordinance (R-88-85), which identifies the land rezoned to Beachwood Amendment Planned Development District (being Parcel 2 of the land previously zoned Beachwood Planned Development District on 4/21/87) and to which these regulations apply.]*

- (1) **Exhibit A - Proposed Adjustments to Planned Development District.** *[Note: Exhibit A is a plan entitled "Beachwood: Proposed Adjustments to Planned Development District," dated 6/22/88, and showing standards applicable to the Beachwood Amendment Planned Development District. (These standards replace the office/institutional development standards previously applicable to the site under its former zoning as Parcel 2 of Beachwood Planned Development District with the same shopping center development standards applicable to Parcel 1 of the Beachwood Planned Development District (see Section 1-1-44.2).) Exhibit A is on file (ZP-608) in the Wake County Planning Department.]*
- (2) **Exhibit B - Proposed Roadway Improvements.** *[Note: Exhibit B consists of three drawings (Figures 3a, 3b, and 3c), dated 3/31/87, and showing lane configurations and cross-sections associated with planned on-site and off-site roadway improvements. It is on file (ZP-308) in the Wake County Planning Department.]*

[Section added 9/19/88 (R-88-85)]

SECTION 1-1-46 SPECIAL HIGHWAY OVERLAY DISTRICT**(A) INTENT**

Special Highway Overlay District (SHOD) zoning is intended to ensure that lands adjacent to Special Highways are developed in a manner that maintains or enhances the natural scenic beauty and wooded character viewed by travelers on the Special Highway. Further, it is intended to mitigate potential adverse impacts of the Special Highway on adjacent land uses. Special Highways Overlay Districts shall be applied to areas identified as Special Transportation Corridors in the Wake County Land Use Plan. *[Amended 7/21/97 to refer to Land Use Plan's Special Transportation Corridors instead of General Development Plan's Special Highway Planning Areas (O-97-32)]*

(B) DISTRICT BOUNDARIES**(1) General Application**

Where applied, SHOD zoning shall include the existing or proposed right-of-way of the Special Highway plus adjacent lands where development may affect the natural scenic beauty viewed by travelers on the Special Highway. In general, district boundaries shall follow property lines and identifiable geographic features located between one thousand two hundred fifty (1,250) and one thousand five hundred (1,500) feet from the Special Highway, as measured from and perpendicular to each side of the highway right-of-way.

(2) Exceptions

District boundaries may be located closer to the Special Highway where

- (a) intervening topography or other permanent natural features preclude adjacent development from being visible from the Special Highway, or
- (b) the adjacent underlying zoning is Residential and existing or approved residential development has already defined or substantially altered the natural character of adjacent land.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the SHOD shall comply with use and development regulations applicable to the underlying zoning district, except that the following regulations shall apply wherever they are more restrictive than those of the underlying zoning district.

(1) Signs

Signs shall be regulated by those Section 1-1-21 regulations applicable to Special Highway Overlay Districts.

(2) Maximum Building Height

The height of any building shall be limited to sixty (60) feet above the centerline elevation of the Special Highway's travel lanes nearest the building; provided, however, that this height limit may be increased by one (1) foot for each two (2) feet of distance between the building and the Special Highway bufferyard, up to a maximum height limit of one hundred fifty (150) feet; and provided further that this height limit shall not apply where it would limit a building's height to less than sixty (60) feet above the highest finished grade at the building's foundation. For the purpose of measuring this height limit adjacent to a proposed Special Highway, the centerline elevation of Special Highway travel lanes shall be

determined from the best design information available from the North Carolina Department of Transportation.

(3) Special Highway Bufferyards

(a) Bufferyard Required

1. A Special Highway bufferyard shall be provided and maintained immediately adjacent to and along each side of the Special Highway right-of-way, including the full length of controlled access right-of-way associated with the Special Highway that extends away from the Special Highway at intersections.
2. Where the underlying zoning is a Residential District and the principal use, either existing or proposed, is a one-family or two-family dwelling, the minimum width of the Special Highway bufferyard shall be thirty (30) feet. In all other cases, the minimum width of the Special Highway bufferyard shall be fifty (50) feet.
3. Where public necessity requires the location of major public utility lines adjacent to a Special Highway and the easement or right-of-way for a line precludes provision of a Special Highway bufferyard immediately adjacent to the highway right-of-way, the required bufferyard shall be provided adjacent to the outer edge of the utility easement or right-of-way. The public utility line easement or right-of-way shall be screened in accord with the requirements of (b)(2) below.

(b) Bufferyard Screening and Vegetation

1. General

Along that part of the Special Highway bufferyard closest to the Special Highway, existing vegetation shall be retained or supplemented with additional planting as necessary to provide Type A Screening. Within the remainder of the bufferyard existing vegetation shall be left undisturbed except as necessary to allow the construction or installation of structures permitted in the bufferyard [see (c) below]. The provisions of Section 1-1-29 (I) through (L), applicable to transitional bufferyards, shall also apply to Special Highway bufferyards.

2. Screening of adjacent public utility lines, existing or proposed

Where public necessity requires the location of major public utility lines adjacent to a Special Highway, sufficient vegetation and/or other screening shall be retained or provided within the Special Highway right-of-way (with approval from NCDOT) or the public utility line easement or right-of-way to minimize any dominating linear view of the cleared utility line easement or right-of-way seen by travelers on the Special Highway.

(c) Structures Permitted in a Special Highway Bufferyard

The following minor structures are allowed in a Special Highway bufferyard:

1. Pedestrian or bicycle paths, including steps;
2. Planters, retaining walls, fences, park tables and seating, hedges, and other landscaping structures;

3. Utility lines (above or below the ground), their support structures, and minor structures accessory to utility lines, provided that they generally cross rather than run along the length of the bufferyard.

(4) Exterior Lighting

All exterior lighting shall be constructed or located so that the light source is not directly visible from a vehicle traveling on the Special Highway.

[Section added 11/18/85 (R-85-233); revised in its entirety 9/7/93 (O-93-17)]

SECTION 1-1-48 RESOURCE CONSERVATION OVERLAY DISTRICT**(A) PURPOSE AND INTENT OF RESOURCE CONSERVATION OVERLAY DISTRICT**

The purpose of these regulations is to protect and preserve the water quality of designated special water impoundments while allowing the orderly development of land in the watersheds of these sensitive areas.

Special water impoundments provide significant wildlife or plant life habitats, possess characteristics unique to Wake County, public recreation, or offer potentials for future public recreation.

It is the intent of these regulations to protect the water quality in these impoundments by requiring vegetated buffer areas around them as well as along drainageways leading to them.

(B) DISTRICT BOUNDARY

Resource Conservation Overlay Districts shall be appropriately located within special watersheds and such other significant physical and biological areas and habitats as the Wake County Board of Commissioners deems appropriate.

(C) REGULATION OF USES

The uses permitted or prohibited in the Resource Conservation Overlay District shall be those uses permitted or prohibited in the underlying zoning district, except that location of such uses shall be restricted as required by paragraph 1-1-48(E) below.

(D) USES EXEMPTED

Bona fide farms, including land held for forestry practices, are exempt from the provisions of this Section, provided that farming constitutes the primary use of the property. Any use of farm property for non-farm purposes is subject to these regulations.

(E) DEVELOPMENT STANDARDS

The standards of both the Resource Conservation Overlay District and the underlying district shall apply. Where the standards of the overlay District and the underlying district differ, the more restrictive standards shall control.

- (1) 100-foot-wide special water impoundment buffers shall be maintained around special water impoundments. Special water impoundment buffers shall be measured perpendicular to the normal pool shoreline of the special water impoundment, and shall extend one hundred (100) feet from the normal pool shoreline of the special water impoundment, inside the watershed draining into that impoundment.
- (2) 50-foot-wide drainageway buffers shall be maintained along each side of a stream, and twenty-five-foot-wide drainageway buffers shall be maintained along each side of an upper watershed drainageway, as defined in Section 1-1-1 of this Ordinance, up to a point where less than five (5) acres are drained by such upper watershed drainageway.

In order to determine the amount of land drained by an upper watershed drainageway or a stream, USGS or Wake County topographic maps may be used.

- (3) 50-foot-wide water impoundment buffers shall be maintained around water impoundments located on a stream, and twenty-five-foot-wide water impoundment buffers shall be maintained around water impoundments located on an upper watershed drainageway.
- (4) Drainageway buffers, water impoundment buffers, and special water impoundment buffers shall be designated on lots created after November 19, 1986. Vegetation within such buffers shall remain undisturbed except as may be necessary to accommodate any of the following uses:
 - (a) Boat docks, ramps, piers, or similar structures;
 - (b) Greenways, pedestrian paths, path shelters and benches, and related recreational uses;
 - (c) Reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places;
 - (d) Drainage facilities or utilities;
 - (e) Roads, provided they cross the buffer at a horizontal angle of at least sixty (60) degrees;
 - (f) Forestry and husbandry activities that eliminate diseased, infected or damaged timber or nuisance vegetation.
 - (g) Sedimentation and erosion control measures and devices as approved by Wake County Department of Community Development Services.
 - (h) Grassed yards.
 - (i) Construction of new lakes or ponds, provided that applicable buffers shall be designated around such new lakes or ponds.
- (5) [Setback from Buffer]

All buildings shall be set back a minimum of twenty (20) feet from the edge of any drainageway buffer, special water impoundment buffer, or water impoundment buffer. Where the setback from a buffer area results in a greater setback from a building lot line than that required in Section 1-1-37, the requirements of this Paragraph shall control.

[Section added 10/20/86 (R-86-136R)]

SECTION 1-1-49 WATER SUPPLY II OVERLAY DISTRICT**(A) INTENT**

The intent of the Water Supply II Overlay District (WS-II) is to ensure that the quality of public water supplies is protected while allowing limited orderly development. WS-II overlay regulations protect water quality by requiring vegetated watershed buffers around surface water bodies and streams, and by limiting impervious surface coverage.

(B) APPLICATION OF DISTRICT

Water Supply II Overlay shall be applied to those areas of WS-II water supply watersheds, as classified by the North Carolina Environmental Management Commission, that are outside of the watershed's critical area. *[Amended 5/19/97 to replace reference to a watershed's "noncritical area" (O-97-21)]*

(1) Designated Area

Land in a water supply watershed classified WS-II (e.g., the Little River watershed) that is outside of the watershed's critical area and that:

- (a) Is already located in an underlying zoning district that does not apply appropriate watershed protection standards; or
- (b) Is located within an Urban Services Area/Water Supply Watershed (as designated in the Land Use Plan) and is being rezoned, in accord with an adopted joint land use plan, to an underlying zoning district that does not apply appropriate watershed protection standards.

[Amended 9/16/96 to substitute for reference to portions of the noncritical area of the Little River watershed (O-96-38); amended 5/19/97 to replace reference to a watershed's "noncritical area" (O-97-21); amended 7/21/97 to refer to Land Use Plan's Urban Services Area/Water Supply Watershed instead of General Development Plan's Perimunicipal Planning Area (O-97-32)]

(2) Existing Development

Existing development is not subject to the requirements of this Section 1-1-49; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of December 31, 1993. Redevelopment and expansions of any existing development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section. The land area to which this Section's impervious surface coverage limits are applied is the total area of a parcel minus the area of impervious surfaces existing or vested as of December 31, 1993.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the WS-II Overlay District shall comply with the use and development regulations applicable to the underlying zoning district, except that the following standards shall apply wherever they are more restrictive than those of the underlying zoning district:

(1) Density and Impervious Surface Requirements

Residential lots of at least forty thousand (40,000) square feet in area, and residential lots in a Cluster or Open Space subdivision or existing Consolidated Open Space Development

with an overall lot density no more than one (1) lot per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed twelve (12) percent of the total area of the site, as designated on the site plan. *[Amended 5/19/97 to also exempt residential cluster subdivisions and COSDs (O-97-21)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(2) General Requirements

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances. *[Added 5/19/97 (O-97-21)]*

(3) Water Supply Watershed Buffers

Vegetable buffers along surface water bodies and drainageways within the Water Supply II Overlay District shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(4) Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments

- (a) The use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by the Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval. *[Amended 5/19/97 to update County agency references (O-97-21)]*
- (b) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (c) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double walled or have other secondary containment devices.
- (d) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike, sized to handle the maximum amount of hazardous materials to be stored or used.
- (e) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources. *[Renumbered from (8) 5/19/97 (O-97-21)]*

(6) Prohibited Land Applications

Land application of sludge residuals or petroleum-contaminated soils is prohibited.
[Renumbered from (9) 5/19/97 (O-97-21)]

(7) Gas Stations Prohibited

Automobile gasoline service stations are prohibited. *[Added 8/7/00 (O-00-22)]*

[Section added 12/20/93 (O-93-22)]

SECTION 1-1-50 WATERSHED CRITICAL AREA OVERLAY DISTRICT**(A) INTENT**

The intent of the Watershed Critical Area Overlay District (WCAO) is to ensure that the quality of public water supplies is protected while allowing limited orderly development. WCAO regulations protect water quality by requiring vegetated watershed buffers around surface water bodies and streams, and by limiting impervious surface coverage.

(B) APPLICATION OF DISTRICT

Watershed Critical Area Overlay shall be applied to the designated critical areas of WS-III water supply watersheds as classified by the North Carolina Environmental Management Commission.

(1) Designated Area

Land in the critical area of a water supply watershed classified WS-III (e.g., the Swift Creek watershed) that:

- (a) Is already located in an underlying zoning district that does not apply appropriate watershed protection standards; or
- (b) Is located within an Urban Services Area/Water Supply Watershed (as designated in the Land Use Plan) and is being rezoned, in accord with an adopted joint land use plan, to an underlying zoning district that does not apply appropriate watershed protection standards.

[Amended 9/16/96 to substitute for reference to the critical area of the Austin Creek watershed (O-96-38); amended 7/21/97 to refer to Land Use Plan's Urban Services Area/Water Supply Watershed instead of General Development Plan's Perimunicipal Planning Area (O-97-32)]

(2) Existing Development

Existing development is not subject to the requirements of this Section 1-1-50; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of December 31, 1993. Redevelopment and expansions of any existing development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section. The land area to which this Section's impervious surface coverage limits are applied is the total area of a parcel minus the area of impervious surfaces existing or vested as of December 31, 1993.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the WCAO shall comply with the use and development regulations applicable to the underlying zoning district, except that the following standards shall apply wherever they are more restrictive than those of the underlying zoning district:

(1) Density and Impervious Surface Requirements

Residential lots of at least forty thousand (40,000) square feet in area, and residential lots in a Cluster or Open Space subdivision or existing Consolidated Open Space Development with an overall lot density no more than one (1) lot per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all

other residential lots and for nonresidential developments, impervious surface coverage shall not exceed twelve (12) percent of the total area of the site, as designated on the site plan. *[Amended 5/19/97 to also exempt residential cluster subdivisions and COSDs (O-97-21)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(2) General Requirements

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances. *[Added 5/19/97 (O-97-21)]*

(3) Water Supply Watershed Buffers

Vegetative buffers along surface water bodies and drainageways within the Watershed Critical Area Overlay District shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(4) Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments

- (a) The use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by the Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval. *[Amended 5/19/97 to update County agency references (O-97-21)]*
- (b) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (c) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double walled or have other secondary containment devices.
- (d) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike, sized to handle the maximum amount of hazardous materials to be stored or used.
- (e) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources. *[Renumbered from (8) 5/19/97 (O-97-21)]*

(6) Prohibited Land Applications

Land application of sludge residuals or petroleum-contaminated soils is prohibited.
[Renumbered from (9) 5/19/97 (O-97-21)]

(7) Gas Stations Prohibited

Automobile gasoline service stations are prohibited. *[Added 8/7/00 (O-00-22)]*

[Section added 12/20/93 (O-93-22)]

SECTION 1-1-51 WATERSHED MANAGEMENT AREA OVERLAY DISTRICT**(A) INTENT**

The intent of the Watershed Management Area Overlay District (WMAO) is to ensure that the quality of public water supplies is protected while allowing limited orderly development. WMAO regulations protect water quality by requiring vegetated watershed buffers around surface water bodies and streams, and by limiting impervious surface coverage.

(B) APPLICATION OF DISTRICT

Watershed Management Area Overlay zoning shall be applied to those areas of WS-III water supply watersheds, as classified by the North Carolina Environmental Management Commission, that are outside of the watershed's critical area. *[Amended 5/19/97 to replace reference to a watershed's "noncritical area" (O-97-21)]*

(1) Designated Area

Land in a water supply watershed classified WS-III (e.g., the Swift Creek watershed) that is outside of the watershed's critical area and that:

- (a) Is already located in an underlying zoning district that does not apply appropriate watershed protection standards; or
- (b) Is located within an Urban Services Area/Water Supply Watershed (as designated in the Land Use Plan) and is being rezoned, in accord with an adopted joint land use plan, to an underlying zoning district that does not apply appropriate watershed protection standards.

[Amended 9/16/96 to substitute for reference to the noncritical area of the Austin Creek watershed (O-96-38); amended 5/19/97 to replace reference to a watershed's "noncritical area" (O-97-21); amended 7/21/97 to refer to Land Use Plan's Urban Services Area/Water Supply Watershed instead of General Development Plan's Perimunicipal Planning Area (O-97-32)]

(2) Existing Development

Existing development is not subject to the requirements of this Section 1-1-51; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of December 31, 1993. Redevelopment and expansions of any existing development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section. The land area to which this Section's impervious surface coverage limits are applied is the total area of a parcel minus the area of impervious surfaces existing or vested as of December 31, 1993.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the WMAO district shall comply with the use and development regulations applicable to the underlying zoning district, except that the following standards shall apply wherever they are more restrictive than those of the underlying zoning district:

(1) **Density and Impervious Surface Requirements**

Residential lots of at least twenty thousand (20,000) square feet in area, and residential lots in a cluster subdivision or existing Consolidated Open Space Development with an overall lot density of no more than two (2) lots per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed twenty-four (24) percent of the total area of the site, as designated on the site plan.

[Amended 5/19/97 to also exempt residential cluster subdivisions and COSDs (O-97-21)]

(2) **General Requirements**

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances. *[Added 5/19/97 (O-97-21)]*

(3) **Water Supply Watershed Buffers**

Vegetative buffers along surface water bodies and drainageways within the Watershed Management Area Overlay District shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(4) **Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments**

- (a) The use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by the Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval. *[Amended 5/19/97 to update County agency references (O-97-21)]*
- (b) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (c) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double walled or have other secondary containment devices.
- (d) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike, sized to handle the maximum amount of hazardous materials to be stored or used.
- (e) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources. *[Renumbered from (8) 5/19/97 (O-97-21)]*

(6) Prohibited Land Applications

Land application of sludge residuals or petroleum-contaminated soils is prohibited. *[Renumbered from (9) 5/19/97 (O-97-21)]*

(7) Gas Stations Prohibited

Automobile gasoline service stations are prohibited. *[Added 8/7/00 (O-00-22)]*

[Section added 12/20/93 (O-93-22)]

SECTION 1-1-52 WATERSHED PROTECTED AREA OVERLAY DISTRICT**(A) INTENT**

The intent of the Watershed Protected Area Overlay District (WPAO) is to ensure that the quality of public water supplies is protected while allowing limited orderly development. WPAO regulations protect water quality by requiring vegetated watershed buffers around surface water bodies and streams, and by limiting impervious surface coverage.

(B) APPLICATION OF DISTRICT

Watershed Protected Area Overlay shall be applied to the designated protected areas of WS-IV water supply watersheds as classified by the North Carolina Environmental Management Commission.

(1) Designated Areas

Land in the protected area of a water supply watershed classified WS-IV - other than the Falls Lake watershed (e.g., the Jordan Lake, Cape Fear (Lillington), Cape Fear (Sanford) and Upper Neuse River/Richland Creek watersheds) - that:

- (a) Is already located in an underlying zoning district that does not apply appropriate watershed protection standards; or
- (b) Is located within an Urban Services Area/Water Supply Watershed (as designated in the Land Use Plan) and is being rezoned, in accord with an adopted joint land use plan, to an underlying zoning district that does not apply appropriate watershed protection standards.

[Amended 9/16/96 to substitute for references to the protected areas of the Jordan Lake and other Cape Fear (Sanford and Lillington) watersheds (O-96-38); amended 5/19/97 to replace reference to a watershed's "noncritical area" (O-97-21); amended 7/21/97 to refer to Land Use Plan's Urban Services Area/Water Supply Watershed instead of General Development Plan's Perimunicipal Planning Area (O-97-32); amended 2/21/05 to include Upper Neuse River/Richland Creek in the designated areas (OA-04-02)]

(2) Existing Development

Existing development is not subject to the requirements of this Section 1-1-52; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of December 31, 1993. Redevelopment and expansions of any existing development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section. The land area to which this Section's impervious surface coverage limits are applied is the total area of a parcel minus the area of impervious surfaces existing or vested as of December 31, 1993.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the WPAO District shall comply with the use and development regulations applicable to the underlying zoning district, except that the following standards shall apply wherever they are more restrictive than those of the underlying zoning district:

(1) Density and Impervious Surface Requirements**(a) In a Development Served by a Curb and Gutter System**

Residential lots of at least twenty thousand (20,000) square feet in area, and residential lots in a Cluster or Open Space subdivision or existing Consolidated Open Space Development with an overall lot density no more than two (2) lots per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed twenty-four (24) percent of the total area of the site, as designated on the site plan. *[Added 5/19/97 (O-97-21)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(b) In a Development Not Served by a Curb and Gutter System

Residential lots of at least fifteen thousand (15,000) square feet in area, and residential lots in a Cluster or Open Space subdivision or existing Consolidated Open Space Development with an overall lot density no more than two (2) lots per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed thirty (30) percent of the total area of the site, as designated on the site plan. *[Amended 5/19/97 to renumber from (a), to also exempt residential cluster subdivisions and COSDs, and to relocate impervious surface coverage limits for development served by a curb and gutter system to (a) (O-97-21)] [Amended 1/18/05 to add "Open Space" (OA 04/11)]*

(c) Engineered stormwater control structures shall meet design guidelines of the State Division of Water Quality, or its successor agency. Responsibility for maintenance of all permanent infiltration, retention, and detention control measures and facilities, after site development is completed, shall lie with the owner of the use. When designed in accord with the guidelines of the State Division of Water Quality, or its successor agency, lakes and ponds used singularly or in a system for stormwater runoff control may be included as a pervious surface for the purpose of calculating the impervious surface coverage of a site. *[Amended 5/19/97 to renumber from (b) and update agency references (O-97-21)]*

(2) General Requirements

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances. *[Added 5/19/97 (O-97-21)]*

(3) Water Supply Watershed Buffers

Vegetative buffers along surface water bodies and drainageways within the Watershed Protected Area Overlay District shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(4) Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments

(a) The use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and

emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by the Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval. *[Amended 5/19/97 to update County agency references (O-97-21)]*

- (b) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (c) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double walled or have other secondary containment devices.
- (d) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike, sized to handle the maximum amount of hazardous materials to be stored or used.
- (e) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources. *[Renumbered from (8) 5/19/97 (O-97-21)]*

(6) Prohibited Land Applications

Land application of sludge residuals or petroleum-contaminated soils is prohibited. *[Renumbered from (9) 5/19/97 (O-97-21)]*

(7) Gas Stations Prohibited

Automobile gasoline service stations are prohibited. *[Added 8/7/00 (O-00-22)]*

[Section added 12/20/93 (O-93-22)]

SECTION 1-1-53 WATERSHED PROTECTED AREA OVERLAY-2 DISTRICT**(A) INTENT**

The intent of the Watershed Protected Area Overlay-2 District (WPAO-2) is to ensure that the quality of public water supplies is protected while allowing limited orderly development. WPAO-2 regulations protect water quality by requiring vegetated watershed buffers around surface water bodies and streams, and by limiting impervious surface coverage.

(B) APPLICATION OF DISTRICT

Watershed Protected Area Overlay-2 shall be applied to the designated protected areas of WS-IV water supply watersheds as classified by the North Carolina Environmental Management Commission.

(1) Designated Areas

Land in the protected area of a water supply watershed classified WS-IV - other than the Falls Lake watershed (e.g., the Jordan Lake, Cape Fear (Lillington), Cape Fear (Sanford) and Upper Neuse River/Richland Creek watersheds) - that

- (a) has been, or is committed to being, developed with basin-wide or other large-area stormwater management systems with lakes and detention facilities that provide protection of water quality beyond that provided by limiting the impervious surface coverage of individual developments; and
- (b) makes up no more than ten (10) percent of the total land area of that portion of the watershed outside of its critical area and within the County's zoning jurisdiction as of July 1, 1995.

[Amended 2/21/05 to include Upper Neuse River/Richland Creek (OA 04/02)]

(2) Existing Development

Existing development is not subject to the requirements of this Section 1-1-53; existing development shall be considered to be any impervious surfaces created, or for which a vested right has been established, as of December 31, 1993. Redevelopment and expansions of any existing development shall be subject to the requirements of this Section; however, the impervious surface coverage of the existing development is not required to be included when applying the impervious surface coverage limits of this Section. The land area to which this Section's impervious surface coverage limits are applied is the total area of a parcel minus the area of impervious surfaces existing or vested as of December 31, 1993.

(C) DEVELOPMENT STANDARDS

The use and development of land or structures within the WPAO-2 District shall comply with the use and development regulations applicable to the underlying zoning district, except that the following standards shall apply wherever they are more restrictive than those of the underlying zoning district:

(1) Density and Impervious Surface Requirements

- (a) In a Development Served by a Curb and Gutter System

Residential lots of at least twenty thousand (20,000) square feet in area, and residential lots in a Cluster or Open Space Subdivision or existing Consolidated Open Space Development with an overall lot density no more than two (2) lots per

acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed thirty (30) percent of the total area of the site, as designated on the site plan. *[Amended 1/18/05 to add "Open Space Subdivision" (OA 04/11)]*

(b) **In a Development Not Served by a Curb and Gutter System**

Residential lots of at least fifteen thousand (15,000) square feet in area, and residential lots in a Cluster or Open Space subdivision or existing Consolidated Open Space Development with an overall lot density no more than two (2) lots per acre, are not subject to impervious surface coverage limits except as required by the underlying zoning. For all other residential lots and for nonresidential developments, impervious surface coverage shall not exceed thirty (30) percent of the total area of the site, as designated on the site plan. *[Amended 1/18/05 to add "Open Space Subdivision" (OA 04/11)]*

- (c) Engineered stormwater control structures shall meet design guidelines of the State Division of Water Quality, or its successor agency. Responsibility for maintenance of all permanent infiltration, retention, and detention control measures and facilities, after site development is completed, shall lie with the owner of the use. When designed in accord with the guidelines of the State Division of Water Quality, or its successor agency, lakes and ponds used singularly or in a system for stormwater runoff control may be included as a pervious surface for the purpose of calculating the impervious surface coverage of a site.

(2) **General Requirements**

All development shall, to the maximum extent practicable, minimize impervious or partially pervious surface coverage, direct stormwater away from surface waters, incorporate Best Management Practices (BMPs) to minimize water quality impacts, and transport stormwater runoff from the development by vegetated conveyances.

(3) **Water Supply Watershed Buffers**

Vegetative buffers along surface water bodies and drainageways within the Watershed Protected Area Overlay-2 District shall be maintained in accordance with the provisions of Section 1-1-31. *[Amended 5/19/03 to consolidate Water Supply Watershed buffer regulations into a new Section 1-1-31 (OA/02/02)]*

(4) **Limitations on Use and Storage of Hazardous Materials in Nonresidential Developments**

- (a) The use and storage of hazardous materials is permitted, in accord with a site-specific Emergency Contingency Plan approved by Wake County's Emergency Management staff. The Contingency Plan shall include an inventory of, and emergency spill containment procedures for, all hazardous materials to be used or stored in reportable quantities. No use or storage of a hazardous material may occur until a Contingency Plan has been approved by the Emergency Management staff. In addition, the Emergency Contingency Plan shall include a plan for the site showing the buildings and locations where hazardous materials are to be used or stored. The Contingency Plan shall be annually updated and submitted to the County's Emergency Management staff for approval.

- (b) All facilities for chemical and pesticide handling, fuel storage, and refueling operations shall be designed to prevent spillage and runoff from these activities from entering surface waters.
- (c) Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double walled or have other secondary containment devices.
- (d) Points of storage or use of hazardous materials shall be protected by a corrosion resistant dike, sized to handle the maximum amount of hazardous materials to be stored or used.
- (e) All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous materials to be stored or used. These floor drains shall not be open to a natural drainage system.

(5) Requirements for Forestry Activities

Silvicultural activities are subject to the provisions of the *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11 .0101-.0209), implemented by the State Division of Forest Resources.

(6) Prohibited Land Applications

Land application of sludge residuals or petroleum-contaminated soils is prohibited.

(7) Gas Stations Prohibited

Automobile gasoline service stations are prohibited. *[Added 8/7/00 (O-00-22)]*

[Section added 7/21/97 (O-97-34)]

CHRONOLOGICAL SUMMARY OF ZONING ORDINANCE AMENDMENTS SINCE 1984 CODIFICATION

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
3/5/84	R-84-30	3/5/84	Readoption and codification of entire Ordinance (1-1-1 through 1-1-44.1), with amendments up to 6/20/83	
2/6/84	(Motion of 2/6/84)	2/6/84	1-1-45 (incorporated into codified Ordinance by R-84-30)	
3/5/84	R-84-37	3/5/84	1-1-1 1-1-37(C)(9)(b) 1-1-37(D)(6)&(9) 1-1-37(E.2) 1-1-37(F)-(M) 1-1-37(T)(1) 1-1-37(V)	
7/16/84	R-84-156	7/16/84	1-1-1 1-1-21 1-1-36(I) 1-1-37(E.1)(5) 1-1-37(E.2)(3) 1-1-37(U) 1-1-38(B)(7) 1-1-39(H) 1-1-40(E)(12) 1-1-41(D)(12) 1-1-41(Table A) 1-1-42(F)(5) 1-1-43(E) 1-1-45III(K)	
7/30/84	(Motion of 7/30/84)	7/30/84	1-1-21(E)(12)(b)2	
9/17/84	R-84-177	9/17/84	1-1-37(E.2)(3)(b)	
12/17/84	R-84-254	12/17/84	1-1-37(E.3)	
1/21/85	R-85-1	1/21/85	1-1-37(C)(9)(b)10 1-1-37(C)(10) 1-1-37(E)(3)	
1/21/85	R-85-2	1/21/85	1-1-21(F)(2)(a)1	
1/21/85	R-85-8	1/21/85	1-1-1	
2/18/85	R-85-26	2/18/85	1-1-38(B)(8) 1-1-38(C)(7)	ZP-551
2/18/85	R-85-27	2/18/85	1-1-1 1-1-37(E.2)(2)(c),(d) 1-1-37(E.2)(3)(b)	ZP-552
8/19/85	R-85-160	8/19/85	1-1-44(D)(6)	
10/21/85	R-85-205	10/21/85	1-1-1 1-1-2 1-1-21(F)(2)(a)1	

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
			1-1-37(C)(1) 1-1-37(C)(9)(b)1 1-1-37(E.3)(3)(c) 1-1-37(F)-(N) 1-1-37(O)-(S)[□(H)-(L)] 1-1-37(U),(V)[□(M),(N)]	
10/21/85	R-85-206	10/21/85	1-1-2 1-1-7	
10/21/85	R-85-207	11/19/85	1-1-1 1-1-37(C)(9)(b)2 1-1-37(E.2)(3)(r) 1-1-37(V)	
10/21/85	R-85-210	10/21/85	1-1-44.1	ZP-570
11/18/85	R-85-233	11/18/85	1-1-1 1-1-2 1-1-21(F) 1-1-46	
11/18/85	R-85-230	11/18/85	1-1-1 1-1-14(C)(1) 1-1-23(B) 1-1-29 1-1-37(D)(6)(b)-(d) 1-1-38(D)(3)(b)-(d) 1-1-39(I) 1-1-40(E)(13) 1-1-43(C)(2)(b)-(d)	
11/18/85	R-85-231	11/18/85	1-1-28(F)	
11/18/85	R-85-232	11/18/85	1-1-2 1-1-21(F) 1-1-47	
12/16/85	R-85-255	12/16/85	1-1-1	
4/21/86	R-86-65	4/21/86	1-1-38(D)(5)	
6/16/86	R-86-99	6/16/86	1-1-37(E.4)	
6/16/86	R-86-100	6/16/86	1-1-1 1-1-37(C)(11) 1-1-37(D)(5) 1-1-41(Table A) 1-1-45(Table A)	
8/18/86	R-86-64RR	8/30/86	1-1-37(C)(9)(b)(5)	
10/20/86	R-86-136R	11/19/86	1-1-1 1-1-48	
11/17/86	R-86-179	12/17/86	1-1-1 1-1-29(H)	
3/23/87	R-87-33	4/22/87	1-1-37(N)	
3/23/87	R-87-30	4/1/87	1-1-26(C),(F),(H),(I)1	
3/23/87	R-87-32	4/22/87	1-1-1 1-1-37(E.2)(2), (3)(i) 1-1-37(E.3)[□(E.4)] 1-1-37(E.4)[□(E.5)]	

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
			1-1-37(E.3)	
4/6/87	R-87-31	4/22/87	1-1-1 1-1-37(C)(9) 1-1-37(F) 1-1-37(G)(1) 1-1-37(M) 1-1-37(O)	
4/21/87	R-87-42	4/21/87	1-1-44.2	ZP-608
5/18/87	R-87-52	6/17/87	1-1-11(D),(E) 1-1-12 1-1-13(B)(3) 1-1-37(C)(4),(5) 1-1-37(D)(3),(4),(5)(d), (7),(8)(e),(9)(a) 1-1-37(E.2)(3)(r) 1-1-37(N)(2)	
6/15/87	R-87-64	7/15/87	1-1-1 1-1-12 1-1-13(I) 1-1-29 1-1-37(P) 1-1-38(L) 1-1-39(J) 1-1-40(E)(13) 1-1-41(D)(12) 1-1-42(F)(5) 1-1-43(E) 1-1-44(G)(1)(e) 1-1-45III(D)(5) 1-1-46(D)(5) 1-1-47(H)(6)	
6/15/87	R-87-65	7/15/87	1-1-1 1-1-37(C)(9)(g)1,(v),(x)	
9/21/87	R-87-88	10/21/87	1-1-37(C)(4),(5),(12) 1-1-37(D) 1-1-37(E.2) 1-1-37(E.3)	
9/21/87	R-87-89	10/21/87	1-1-1 1-1-37(F)	
1/19/88	R-88-4	1/19/88	1-1-1 1-1-37(C)(11)	
6/20/88	R-88-61	7/20/88	1-1-37(C)(5) 1-1-37(D)(3),(5)(d) 1-1-37(D)(7),(8)(e) 1-1-37(E.2)(1)(b) 1-1-37(E.3)(2)(b)	
9/19/88	R-88-85	9/19/88	1-1-44.4	ZP-626
11/21/88	R-88-112	12/21/88	1-1-37(C)(9)(y)	OA89/13
11/21/88	R-88-113	12/21/88	1-1-11(E)	OA89/5

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
11/21/88	R-88-114	12/21/88	1-1-37(C)(9)(f)	OA89/6
2/6/89	R-89-13	3/6/89	1-1-46	
3/20/89	R-89-30	3/20/89	1-1-5(A)	
6/19/89	R-89-62	7/1/89	1-1-26	OA88/4
8/21/89	R-89-75	8/21/89	1-1-29(A)(4) 1-1-29(G)(1),(4)	OA89/11
8/20/90	R-90-59	9/20/90	1-1-1 1-1-12	OA90/10
2/18/91	R-91-14	2/18/91	1-1-21(A),(B)(1)-(3) 1-1-37(C)(3)	OA91/2 OA91/3
9/3/91	R-91-51	9/19/91	1-1-7	OA91/1.4
10/21/91	R-91-78	10/21/91	1-1-5(D) 1-1-7(D)(2)(c),(l)(7) 1-1-11(B),(C)(8) 1-1-12(B)(2),(3) 1-1-40(C)(10)	OA92/2
1/21/92	O-92-2	3/21/92	1-1-21(G)(2)	OA92/6
1/27/92	O-92-1	2/21/92	1-1-47	OA91/7
2/17/92	O-92-5	3/17/92	1-1-1 1-1-28(A)(2)(h) 1-1-36(B)(3)(h) 1-1-37(C)(13),(14) 1-1-37(D)(9),(10) 1-1-38(B)(10),(D)(5) 1-1-39(B)(5) 1-1-40(B)(7) 1-1-41(Table A) 1-1-43(B)(7) 1-1-45(Table A)	OA92/3
3/16/92	O-92-9	4/16/92	1-1-11(D)(2)	OA92/5
3/16/92	O-92-10	4/16/92	1-1-1 1-1-2 1-1-21(F) 1-1-36	OA89/2
3/16/92	O-92-8	4/1/92	1-1-26(B)-(D) 1-1-26(E)(1) 1-1-26(G)(3)-(5) 1-1-26(H)(1),(2)(h) 1-1-26(J)(1)(a),(c) 1-1-26(K)	OA91/6
7/20/92	O-92-17	8/20/92	1-1-1 1-1-5(C) 1-1-8 1-1-23(C)(1),(E) 1-1-37(B) 1-1-37(C)(7) 1-1-37(E.2)(1)(c)(15) 1-1-40(E)(10) 1-1-41(B)(2),(3)	OA92/1.1 OA92/2 OA92/10 OA92/11 OA92/12

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
			1-1-41(Table A) 1-1-45I(B)(3),(Table A)	
6/21/93	O-93-7	6/21/93	1-1-26(H)(1)(b)4,5	OA93/10
8/16/93	O-93-11	9/15/93	1-1-37(C)(15) 1-1-41(Table A)	OA93/6
9/7/93	O-93-17	9/7/93	1-1-21(F)(10)(b)1 1-1-46	OA93/5
12/20/93	O-93-22	1/1/94	1-1-1 1-1-2 1-1-5(J) 1-1-7(P) 1-1-37(C)(9)(f),(t) 1-1-37(N) 1-1-49 1-1-50 1-1-51 1-1-52	OA94/2
3/21/94	O-94-4	4/21/94	1-1-42(F)(7)	OA94/3
4/4/94	O-94-5	5/4/94	1-1-37(E)(1) 1-1-37(E.1)(2)(e),(n) 1-1-37(E.6)	OA93/9
5/16/94	O-94-10	6/16/94	1-1-5(C),(F) 1-1-11(C)	OA94/6
7/18/94	O-94-16	7/18/94	1-1-1 1-1-21(F)(2)(b) 1-1-28(A)(1)(c) 1-1-37(D)(12) 1-1-37(E)(4) 1-1-41(Table A) 1-1-45(Table A)	OA93/8
6/19/95	O-95-9	6/19/95	1-1-37(F)(1)(Table 2)	OA95/6
7/17/95	O-95-14	7/17/95	1-1-7(I)(1)	OA95/17
10/16/95	O-95-19	11/16/95	1-1-41(C)(2)(b),(D)(1)- (4)&(6),(Table A)	OA95/16
4/15/96	O-96-7 (pt.)	5/15/96* *[Some amendments in the Ordinance became effective 5/15/96; others became effective 8/15/96]	1-1-1 1-1-5(D) 1-1-21(F)(2)(a)(1) 1-1-37(C)(1),(9),(10) 1-1-37(E)(3) 1-1-37(G), (H) 1-1-38(D)(4) & (E)(3) 1-1-41(Table A) 1-1-43(C)(3) 1-1-45(III)(E)(3), (Table A) 1-1-47(D)(2)(h)	OA96/9
4/15/96	O-96-7 (pt.)	8/15/96* *[Some amendments in the Ordinance became	1-1-1 1-1-37(F) 1-1-37(G), (K), (O) 1-1-38 (I)(2), (6), (7)	OA96/9

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
		<i>effective 5/15/96; others became effective 8/15/96]</i>	1-1-39(E)(2) 1-1-41(D)(1), (2), (6) 1-1-43(H), (I), (M) 1-1-45III(A), (C)(1), (D) 1-1-47(H)(14)(a), (b)	
5/20/96	O-96-9	5/20/96	1-1-37(J)	OA96/7
5/20/96	O-96-10	5/20/96	1-1-1	OA96/11
7/22/96	O-96-22	8/16/96	1-1-37(F), (G)(1) 1-1-38(I)(6) 1-1-39(E)(6) 1-1-42(F)(1)(f) 1-1-43(J), (K), (L), (M) 1-1-45III(D)(1)(d), (2)(c) 1-1-47(H)(5)	OA96/10
8/19/96	O-96-33	8/19/96	1-1-1	OA96/20
9/16/96	O-96-38	9/16/96	1-1-49(B)(1) 1-1-50(B)(1) 1-1-51(B)(1) 1-1-52(B)(1)	OA97/2
9/16/96	O-96-41	10/16/96	1-1-40(E)(5)	OA97/1
12/16/96	O-96-51	12/16/96	1-1-1 1-1-36(B)(2)(b) 1-1-37(C)(16),(17) 1-1-37(E)(2)-(5) 1-1-38(B)(11),(12) 1-1-38(D)(6) 1-1-38(E)(3) 1-1-39(B)(6),(7) 1-1-39(C)(3) 1-1-41(Table A) 1-1-43(B)(8),(9) 1-1-43(C)(3) 1-1-47(D)(1)(f)	OA96/16
12/16/96	O-96-52	1/16/97	1-1-26(D)(3)(b),(4)(b)	OA97/3
4/21/97	O-97-16	4/21/97	1-1-1	OA97/9
4/21/97	O-97-17	4/21/97	1-1-3 1-1-5(H)	OA97/12
5/19/97	O-97-21	5/19/97	1-1-1 1-1-5(F),(I)(6),(J) 1-1-7(P) 1-1-37(N) 1-1-49(B),(C) 1-1-50(C) 1-1-51(B),(C) 1-1-52(B),(C)	OA97/5
6/16/97	O-97-24	6/16/97	1-1-1 1-1-5(G)	OA97/10

Adoption Date	Resolution/ Ordinance Number	Effective Date	Amended Provisions	File Number
			1-1-24	
6/16/97	O-97-26	6/16/97	1-1-7(I)(1),(4),(5)	OA97/14
6/16/97	O-97-27	6/16/97	1-1-37(C)(4),(E.3)	OA97/11
7/21/97	O-97-32	7/21/97	1-1-1 1-1-7(A),(C)(5),(G),(H)(3), (I)(5),(K) 1-1-11(D)(2)(e) 1-1-36(D)(2) 1-1-45.II.(A) 1-1-46(A) 1-1-47(A)(9),(B),(H)(1)(b), (J)(3)(a) 1-1-49(B)(1)(b) 1-1-509(B)(1)(b) 1-1-51(B)(1)(b) 1-1-52(B)(1)(b)	OA97/17
7/21/97	O-97-34	7/21/97	1-1-2 1-1-53	OA97/16
1/20/98	O-98-3	2/20/98	1-1-37(M)(2)	OA98/3
1/20/98	O-98-4	2/20/98	1-1-12(B)	OA98/4
7/13/98	O-98-24	7/13/98	1-1-5(B), (D), (I)(3), (I)(5), (J) 1-1-11(all) 1-1-12(B),(C) 1-1-13(A),(B),(D),(E)(2) 1-1-14(A),(C) 1-1-37(C)-(E.6) 1-1-38(B)-(E) 1-1-39(B),(C) 1-1-41(C) 1-1-43(B),(C) 1-1-45:II(B) 1-1-47(J)(3)(b)	OA98/5
7/13/98	O-98-25	7/13/98	1-1-1 1-1-38(D)(7), (E)(4) 1-1-39(C)(4) 1-1-45(Table A)	OA98/6
2/7/00	O-00-5	2/7/00	1-1-41(D)(5)(b)1	OA00/4
2/7/00	O-00-6	2/7/00	1-1-22(A)	OA00/3
5/1/00	O-00-15	5/1/00	1-1-1 1-1-12 1-1-13 1-1-15	OA00/2

8/7/00	O-00-22	8/7/00	1-1-37(E.2)(1)(b)1 1-1-49(C) 1-1-50(C) 1-1-51(C) 1-1-52(C) 1-1-53(C)	OA00/6
11/6/00	O-00-32	11/6/00	1-1-37(C)(18),(19) 1-1-37(E)(1) 1-1-37(E.1)(2)(j),(l),(m) 1-1-37(E.1)(3)(c)	OA00/7
12/4/00	O-00-39	12/4/00	1-1-21(F)(1)(c)	OA00/10
12/4/00	O-00-41	12/4/00	1-1-37(C)(6) 1-1-37(D)(11)(a)	OA00/12
7/9/01	O-01-19	7/9/01	1-1-21(E)(11),(12)	OA 01/3