



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

The Burke County Zoning Ordinance

Adopted by the Board of Commissioners on
June 15, 2021.



Table of Contents

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Table of Contents with Sections	ii
How to Use this Ordinance	vi
Article 1.0 Purpose and Introduction	1-1
Article 2.0 Definitions	2-1
Article 3.0 Zoning Districts	3-1
Article 4.0 Overlay Districts	4-1
Article 5.0 Use Standards	5-1
Article 6.0 Non-Residential Design Standards	6-1
Article 7.0 Development Procedures	7-1
Article 8.0 Administration, Appeals, and Enforcement	8-1
Article 9.0 Vested Rights	9-1
Appendix A Amendments to the Zoning Ordinance	



Table of Contents with Sections

Table of Contents with Sections		ii - v
How to Use this Ordinance		
Sec. 1	Content Organization and Page Layout	vi
Sec. 2	Content Organization and Page Layout Continued	vii
Sec. 3	Reading the Ordinance	viii
Article 1.0	Purpose and Introduction	1-1
Sec. 1.1	Purpose	1-2
Sec. 1.2	Title	1-2
Sec. 1.3	Intent	1-2
Sec. 1.4	Non-Exclusionary Intent	1-2
Sec. 1.5	Jurisdiction	1-3
Sec. 1.6	Authority and Enactment	1-3
Sec. 1.7	Separability	1-3
Sec. 1.8	Conformance with Adopted Plans	1-3
Article 2.0	Definitions	2-1
Sec. 2.1	Construction of Language	2-2
Sec 2.2	Definitions	2-3 / 2-41
Article 3.0	Zoning Districts	3-1
Sec. 3.1	Districts Established	3-2 / 3-14
Sec. 3.2	Lot Area Requirements by District	3-15
Sec. 3.3	Application of Regulations	3-15
Sec. 3.4	Uniform Application of Regulations	3-16
Sec. 3.5	Uses	3-16
Sec. 3.6	Buildings	3-17
Sec. 3.7	Reduction of Lots and Yards	3-17
Sec. 3.8	Additional Dwellings on a Single Lot	3-17
Sec. 3.9	Manufactured Home Park	3-17
Sec. 3.10	Compliance with Other Laws and Regulations	3-18
Sec. 3.11	Uses Not Delineated in this Ordinance	3-18
	Table of Uses	3-19 / 3-28
	Setbacks	3-29 / 3-31
	Lot Size	3-32 / 3-33
Article 4.0	Overlay Districts	4-1

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Table of Contents with Sections

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Sec. 4.1	Scenic Overlay District_____	4-2 / 4-9
Sec. 4.2	Lake and River Overlay District_____	4-10 / 4-34
Sec. 4.3	Morganton-Lenoir Airport Overlay District_____	4-35 / 4-38
Sec. 4.4	Water Supply Watershed Protection Overlay_____	4-39 / 4-47
Article 5.0	Use Standards_____	5-1
Sec. 5.1	Accessory Dwelling Units_____	5-2 / 5-3
Sec. 5.2	Accessory Structures (Residential)_____	5-3 / 5-5
Sec. 5.3	Home Occupations_____	5-5 / 5-8
Sec. 5.4	Short-Term Rentals_____	5-8 / 5-12
Sec. 5.5	Manufactured Home Parks_____	5-12 / 5-16
Sec. 5.6	Multi-Family, Townhouse, and Condominium_____	5-16 / 5-19
Sec. 5.7	Planned Unit Development_____	5-19 / 5-23
Sec. 5.8	Commercial Recreation Vehicle Parks and Campgrounds_____	5-23 / 5-26
Sec. 5.9	Special Events Grounds_____	5-26 / 5-27
Sec. 5.10	Shooting Range_____	5-28 / 5-29
Sec. 5.11	Racetracks (Commercial)_____	5-29 / 5-30
Sec. 5.12	Kennel_____	5-30 / 5-31
Sec. 5.13	Crematory_____	5-31 / 5-32
Sec. 5.14	Barge Loading Area_____	5-32 / 5-34
Sec. 5.15	Land Clearing and Inert Debris Land Fills_____	5-34
Sec. 5.16	Winery, Brewery, and Distillery_____	5-34
Sec. 5.17	Communication Towers Wireless/Alternative Structures_____	5-35 / 5-41
Sec. 5.18	Public Utility Facilities_____	5-41 / 5-42
Sec. 5.19	Advertising Signs and Structures_____	5-42 / 5-50
Sec. 5.20	Residential Fences_____	5-51 / 5-52
Article 6.0	Non-Residential Design Standards_____	6-1
Sec. 6.1	Non-Residential Building Design Standards_____	6-2 / 6-22
Sec. 6.2	Industrial Design Standards_____	6-23 / 6-25
Article 7.0	Development Procedures_____	7-1
Sec. 7.1	Intent_____	7-2
Sec. 7.2	Site Plan Review Required_____	7-2
Sec. 7.3	Uses Subject to Site Plan Review_____	7-2
Sec. 7.4	Minor Site Plan Review_____	7-3



Table of Contents with Sections

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Sec. 7.5	Major Site Plan Review_____	7-3
Sec. 7.6	Site Plan Review Process _____	7-3 / 7-4
Sec. 7.7	Site Plan Committee Members_____	7-4
Sec. 7.8	Submittal of Incomplete Site Plans_____	7-5
Sec. 7.9	Permits_____	7-5
Sec. 7.10	Site Plan Requirements_____	7-5 / 7-6
Article 8.0	Administration, Appeals, and Enforcement_____	8-1
Sec.8.1	Introduction_____	8-2
Sec. 8.2	Appointment of the Zoning Administrator _____	8-2
Sec. 8.3	Duties and Powers of the Zoning Administrator_____	8-2
Sec. 8.4	Conflict of Interest_____	8-3
Sec. 8.5	Application Procedures_____	8-3
Sec. 8.6	Submittal of Application_____	8-4 / 8-5
Sec. 8.7	Issuance of Zoning Permit_____	8-6
Sec. 8.8	Denial of Application _____	8-6 / 8-7
Sec. 8.9	Burden of Proof_____	8-7
Sec. 8.10	Administrative Remedies_____	8-7
Sec. 8.11	Creating Other Use Districts and/or Changes Between_____	8-7 / 8-8
	Other Use Districts	
Sec. 8.12	Text Amendments_____	8-8 / 8-9
Sec. 8.13	Variance and Interpretation_____	8-9 / 8-10
Sec. 8.14	Appeals Procedure _____	8-10
Sec. 8.15	Boards of Appeal_____	8-11
Sec. 8.16	The Board of Adjustment_____	8-11
Sec. 8.17	Rules of Procedure_____	8-11 / 8-12
Sec 8.18	Duties and Powers_____	8-12 / 8-13
Sec. 8.19	Financing the Board of Adjustment_____	8-13
Sec. 8.20	Appeals to the Board of Adjustment_____	8-14
Sec. 8.21	Decisions of the Board of Adjustment_____	8-14
Sec. 8.22	Conflict of Interest_____	8-14
Sec. 8.23	The Board of Commissioners_____	8-15
Sec. 8.24	Conflict of Interest_____	8-15
Sec. 8.25	The Planning Board_____	8-15 / 8-16



Table of Contents with Sections

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Sec. 8.26	Rules of Procedure_____	8-16
Sec. 8.27	Duties and Powers_____	8-17
Sec. 8.28	Conflict of Interest_____	8-17
Sec. 29	Fess and Deposits_____	8-17
Sec. 30	Zoning Map and Amendments_____	8-17 / 8-18
Sec. 31	Zoning Map Amendments_____	8-18
Sec. 32	Replacement of the Official Zoning Map_____	8-18
Sec. 33	Rules for Determining Boundaries_____	8-18 / 8-19
Sec. 34	Compliance, Penalty, and Other Remedies_____	8-19
Sec. 35	General Provisions of compliance_____	8-20
Sec. 36	Prohibited Uses_____	8-20
Sec. 37	Exempt Uses_____	8-20
Sec. 38	Uses by Right_____	8-21
Sec. 39	Special Uses_____	8-21
Sec. 40	Non-Conforming Lots_____	8-21
Sec. 41	Conflict with Other Laws and Privates Contracts_____	8-21 / 8-22
Sec. 42	All Permits and Licenses to Conform_____	8-22
Sec. 43	Violations_____	8-22 / 8-24
Sec. 44	Validity_____	8-24
Sec. 45	Effective Date_____	8-24
Sec. 46	Development Agreements_____	8-24
Article 9.0	Vested Rights_____	9-0
Sec. 9.1	Initial Adoption of Ordinance_____	9-1
Sec. 9.2	Site Plan Vested Right_____	9-1
Sec. 9.3	Establishment of Vested Rights_____	9-1
Sec. 9.4	Vested Rights (Permit Choice)_____	9-2 / 9.3
Sec. 9.5	Approval Procedures_____	9-3
Sec. 9.6	Duration of a Vested Right_____	9-3 / 9-4
Sec. 9.7	Termination of a Vested Right_____	9-4
Sec. 9.8	Limitations_____	9-4
Sec. 9.9	Appeals_____	9-5
Sec. 9.10	Vested Right Attached to Property	9-5



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



How to Use This Ordinance

Content Organization and Page Layout

The Zoning Ordinance is organized into Articles, which are further divided using standard outline hierarchy. The content and page layout are designed to promote clear understanding of requirements, as well as quick retrieval of relevant information. The following key will assist in navigating through this document.

Article Tabs link to the first page of each Article

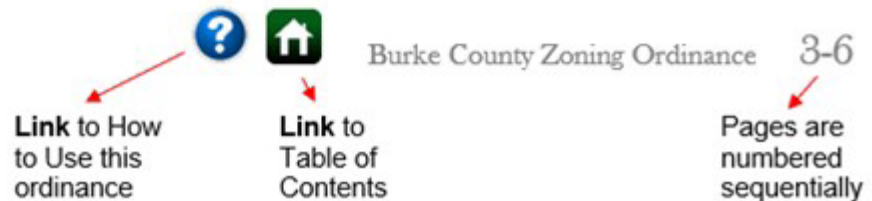
Sections and Subsections contain the Ordinance regulations in a hierarchical manner.

Bold Blue Font links to other sections of the ordinance



A detached accessory dwelling unit may be permitted as an accessory use on lots with an existing primary dwelling.

Accessory Structures No residential accessory structures shall be erected in any front yard or within the minimum side or rear yard setback of any lot. (See exemptions for open car ports in **Article 4, Accessory Structures**)



User Notes provide helpful information (see example below).



Open carports may be located in the front yard of a lot with an existing primary dwelling, if it can be located outside of the right-of-way.

Digital User Notes link directly to pages within the ordinance (see example below).



Click on the district heading below to be taken to the corresponding district regulations.

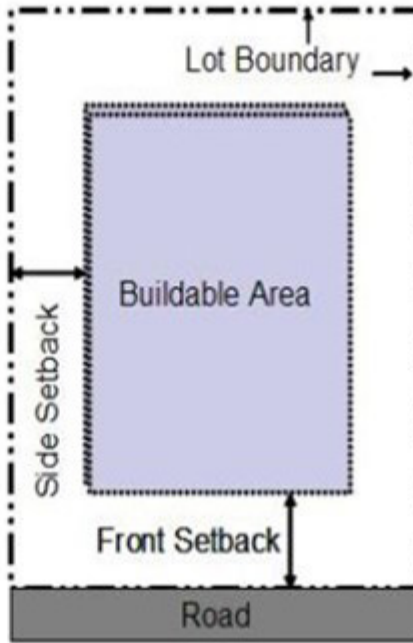


Setbacks

Setbacks Residential

Front yard: 30 ft.
Side yard: 15 ft.
Rear yard: 20 ft.

Front yard exceptions:
(When adjacent to a minor arterial, major collector, or urban major thoroughfare the required setback shall be 45 feet)



READING THE ORDINANCE

Below are some rules to keep in mind when reading this document.

The use of the word shall, carries significant meaning in this ordinance. When regulations indicate that their requirements shall be carried out, the word shall, is always mandatory.

Article 2, Definitions, when used in this ordinance shall have the meaning given to them. If a term is not listed in this section, it will carry the customary dictionary meaning.

The following terms are used often and must be read accurately:

- The word “person” includes a firm, corporation, association, organization, trust, or partnership.
- The word lot includes plot or parcel.
- The word “building” includes “structure”.
- The word “used” or “occupied” as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied.



Digital User Note:

What is a link?

A link allows for quick reference to a relevant section. By 'clicking' a link, the user is taken directly to a page in the Ordinance or another reference document. The user may return to the original page by clicking the 'previous view' button.

What information is linked?

All **blue text** is linked to another page within the Zoning Ordinance.

In addition several other features of the document are linked to allow users to navigate through the ordinance. Click on any of the following features to quickly locate another section:



Article tabs located on the side of each page are linked to the first page of each Article



Icons located at the bottom of each page are linked to the 'How to Use This Ordinance' section, and the Table of Contents page.

Table of Use Headings



Table of Use headings are linked to the corresponding district regulations



Article 1.0

Purpose and Introduction

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



1.0 Purpose and Introduction

1.1 Purpose

The purpose of this ordinance is to promote the health, safety, and general welfare of the public while ensuring orderly, attractive, and economically sound development within Burke County.

1.2 Title

This ordinance shall be known as the “Zoning Ordinance of Burke County, North Carolina”

1.3 Intent

It is the intent of this ordinance to:

1. Permit and encourage new uses and the continuation of reasonable existing uses,
2. To review proposed new uses and changes in uses,
3. To regulate uses which might, if left unregulated, become unreasonable where they exist,
4. And to prohibit uses which are unreasonable where they exist or are proposed.

This ordinance should not be interpreted to exclude any reasonable use that shows a demonstrated need within the county, and where the location of the use may be appropriate. It is not the intent of this ordinance to restrict or regulate “bona fide farm purposes”.

1.4 Non-Exclusionary Intent

It is not the intent of this ordinance to exclude any economic, racial, religious, political, or ethnic group from land ownership, or tenancy within Burke County; nor is it the intent of this ordinance to use public powers to promote the separation of economic, racial, religious, or ethnic groups within Burke County.

1.5 Jurisdiction

These regulations govern the development and use of land in Burke County identified on “The official Zoning Map of Burke County, North Carolina” which is incorporated by reference and declared to be a part of this ordinance.

1.6 Authority and Enactment

The County Commissioners of Burke County, North Carolina, in pursuance of the authority granted by the North Carolina General Statues (NCGS), hereby adopt and enact into law the following Articles and Sections.

1.7 Separability

This ordinance is not intended to modify, supersede, or repeal any other ordinances, regulations, or other provisions of law. Where this ordinance imposes restrictions different from another ordinance, regulation, or other provision of law, the provision that is more restrictive shall govern.

1.8 Conformance with Adopted Plans

In accordance with NCGS, the regulations adopted in this ordinance shall be consistent with the 2030 Blueprint Burke Strategic Land Use Plan, Burke County Code of Ordinances, and any other plans adopted by the Board of Commissioners.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 2.0 Definitions



2.0 Definitions

2.1 Construction of Language

For the purposes of this ordinance, certain terms or words used herein shall be interpreted as follows:

1. All words used in the present tense shall include the future, all words in the singular number include the plural number, and all words in the plural number include the singular number.
2. The word "building" includes the word "structure".
3. The word "dwelling" includes "residence".
4. The word "person" includes a "firm", "corporation", "association", "organization", "trust", or "partnership" as well as an "individual".
5. The word "shall" is mandatory and the word "may" is permissive.
6. The word "lot" includes the words "plot" or "parcel".
7. The words "used" or "occupied" as applied to any land or building include the words "intended", "arranged", or "designed to be used or occupied".

2.2 Definitions

When used in this ordinance the following words and phrases shall have the meaning given in this section:

ABC Store

A commercial retail store owned and operated under the authority and control of the local Alcoholic Beverage Control Board.

Access Management

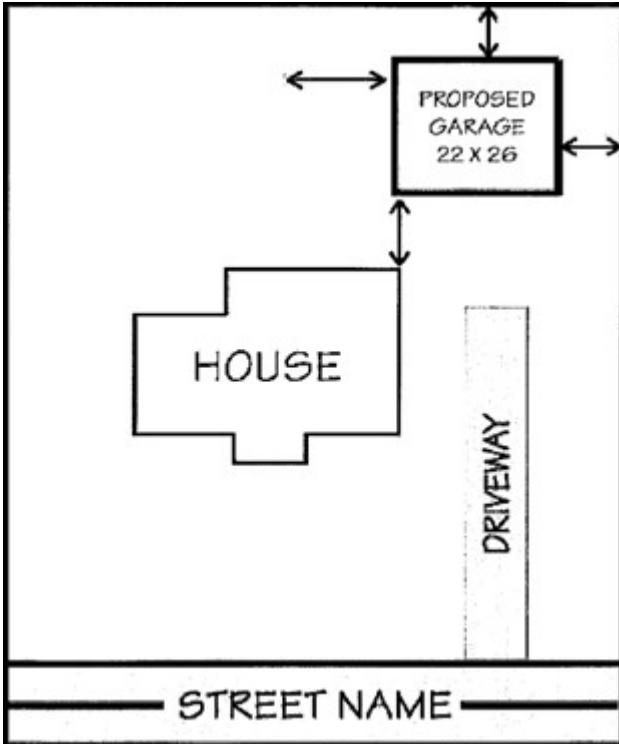
The systematic control of the location, spacing, design and operation of driveway, median openings, interchanges, and street connections to a roadway, as well as roadway design applications that affect access, such as median treatments and auxiliary lanes and the appropriate separation of traffic signals.

Access Point

Any driveway, street, turnout, or other means of providing ingress and egress for vehicles to or from the public roadway system.

Accessory Building/Use (See graphic below)

A building use or structure second to the primary use on the same lot and of a nature customarily incidental and subordinate to the principal use or structure. (Examples) accessory uses are private garages, storage sheds, playhouses, swimming pools, satellite dish antennas, telephones and fuel pumps.

**Accessory Dwelling Unit**

A small detached dwelling that includes a kitchen, bathroom, and sleeping space located on the same lot as a primary dwelling unit. (Examples) The term shall include garage apartment and guest house.

Adult Care Facility

An assisted Living facility built to Institutional Building Code standards that provides 24 hour personal and nursing care services to seven (7) or more adults. (Examples) The term shall include nursing home, rest home, skilled nursing facilities, assisted living, and intermediate care facilities.

Accessory Dwelling Unit

A small detached dwelling that includes a kitchen, bathroom, and sleeping space located on the same lot as a primary dwelling unit. (Examples) The term shall include garage apartment and guest house.

Adult Care Facility

An assisted Living facility built to Institutional Building Code standards that provides 24-hour personal and nursing care services to seven (7) or more adults. (Examples) The term shall include nursing home, rest home, skilled nursing facilities, assisted living, and intermediate care facilities.

Adult Care Home

An assisted Living residence built to Residential Building Code standards where an individual provides 24-hour personal care services two to six (2-6) adults. (Examples) The term shall include family care home.

Adult Day Care Facility

A non-residential commercial facility built to Institutional Building Code standards that provides supervision or care for a period of less than 24 hours per day for three (3) or more adults unrelated to the operator.

Adult Entertainment Establishment

A nightclub, bar, restaurant, bookstore, retail store, theater, or similar establishment that regularly features live or recorded performances that are characterized by depictions of sexual activity and specified anatomical areas.



For the purposes of this definition, specified anatomical areas shall include human genitals, buttocks and female breasts. In no instance shall such an establishment be permitted within one-quarter mile of any church or school.

Adult Gaming Establishment

A commercial facility or location used for the sole purpose of adult based digital arcade style games where participants seek to win monetary compensation as allowed by state statutes.

Affected Property Owner

The owner of any property impacted by a proposed development.

Agribusiness

An agricultural use that manufactures and distributes farm equipment and supplies or processes, stores, and distributes agricultural products. **(Examples)** Uses may include stockyards, livestock markets, dairies, forestry, and similar exempt agricultural uses.

Agritourism

Any activity carried out on a bona fide farm, ranch or vineyard that allows members of the general public to view or enjoy rural activities, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the property because of its farm or rural setting.

Agritourism Structure

Any building or structure used for public or private events that are taking place on a bona fide farm because of its farm or rural setting. **(Examples)** Including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals and other events.

Airport

Any area of land or water designated for the landing and take-off of aircraft including all structures necessary for housing and the maintenance and operation of all public aircraft.

Air Quality

The specific measurement in the ambient air of a particular air pollutant at any given time.

Alcoholic Beverage Control (ABC) Board

Board that controls alcoholic beverage sales in the county.

Amenities

A man-made or natural feature that enhances or makes a particular site more attractive for development.



Armory

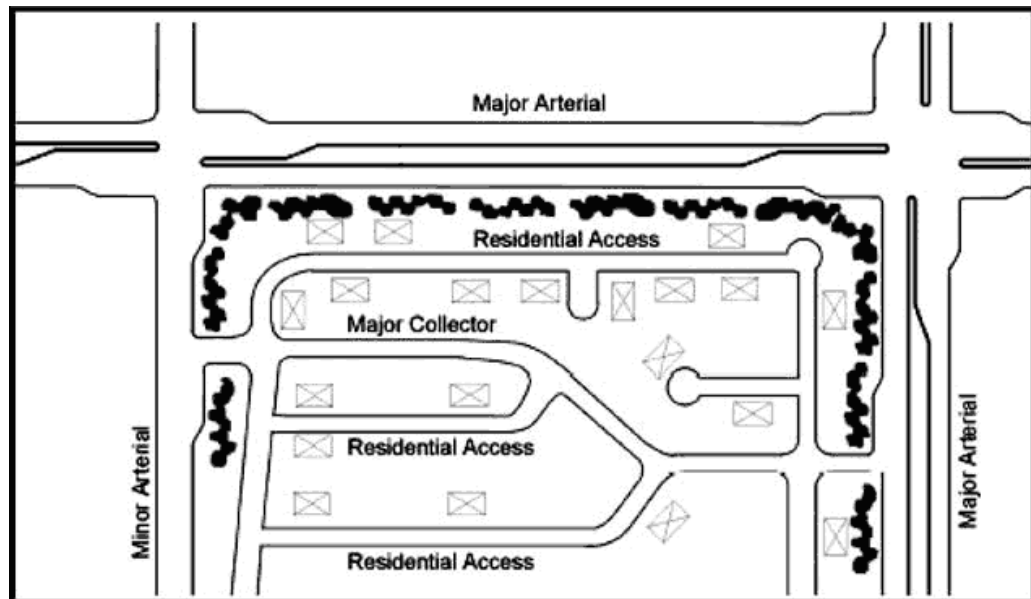
A facility where arms and military equipment used for training reserve military personnel are stored.

Art Gallery

A room or building devoted to the exhibition and sale of works of art.

Arterial Minor (See graphic below)

A highway linking cities and large towns, providing an integrated network for intrastate and inter-county service, supplementing the principal arterial system so that all geographic areas are within a reasonable distance of an arterial highway, and intended as routes that have minimum interference through movement.

**Arterial Principal**

A highway providing an integrated network of roads that connect principal metropolitan areas and serve long distance travel demands such as statewide and interstate travel.

Automobile Parts Recycling

A place of business used for storing, keeping, buying or selling used automobile parts; (Examples) Including salvage yards, junk yards, automobile graveyards, and used auto parts dealers.

Automobile Service Station

A commercial location used for the retail sale of gasoline, diesel, or oil, automobile accessories, and minor services; excluding painting or automotive repair.

Bar

A commercial location used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption as an accessory use, and where food may also be sold upon obtaining the appropriate ABC permit. (Side Bar) Shall include night club.

Barge Loading Area

A specific shoreline site, not to exceed one acre in size, used for loading and unloading equipment and materials to and from barges engaged in shoreline stabilization activities, and pier construction and installation.

Bed & Breakfast

A commercial location, occupied by the owner, where lodging and/or meals are provided for compensation for not more than ten (10) persons.

Best Management Practices (BMP)

A structural or nonstructural management-based practice used to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Board of Commissioners

The Burke County Board of Commissioners; the governing body.

Board of Adjustment

The Burke County Board of Adjustment as established by the Board of Commissioners. It is considered a quasi-judicial board composed of residents of Burke County. This board is empowered to hear appeals from decisions of the Planning Director or their designee. This board grants conditional use permits, and variances from the provisions of the Burke County Zoning Ordinance as prescribed in the NC General Statutes.

Boat Dock (Private)

A dock is a structure at the [edge](#) of water where [boats](#) can [tie](#) up (moor) and which the person constructing the dock owns a leasehold interest in or title to.

Boat Storage and Maintenance Facility

Commercial location for the storage, upkeep, and repair of privately-owned watercraft.

Bona fide farm

The term Bona fide farm is defined herein to be synonymous with the term “bona-fide-farm purposes” as set out in the second paragraph of North Carolina General Statute 153A-340(b) as amended. The term bona fide farm is not to be construed to include any use beyond that associated with a bona fide farm and/or bona fide purposes as set out in North Carolina General Statute 153A-340(b) as amended.

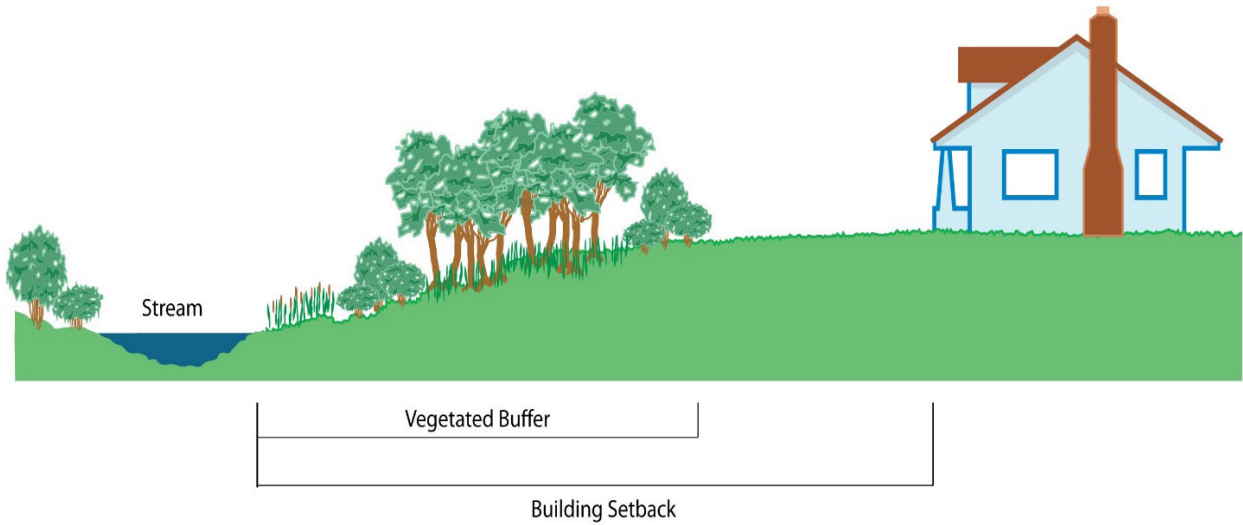
A Bona fide farm must meet the following criteria:

- (i) the property is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S.105-164.13E(a) or
- (ii) is enrolled in the present-use value program pursuant to G.S.105-277.3 or
- (iii) is enrolled in a forest management plan pursuant to G.S.105-277.3 or
- (iv) has a Profit or Loss From Farming (Schedule F Form) or most recent income tax return



Buffer (See graphic below)

An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.



Buffering or Screening

Any device, structure, natural growth, or a combination of, which serve as a barrier to vision or noise between adjoining properties.

Building

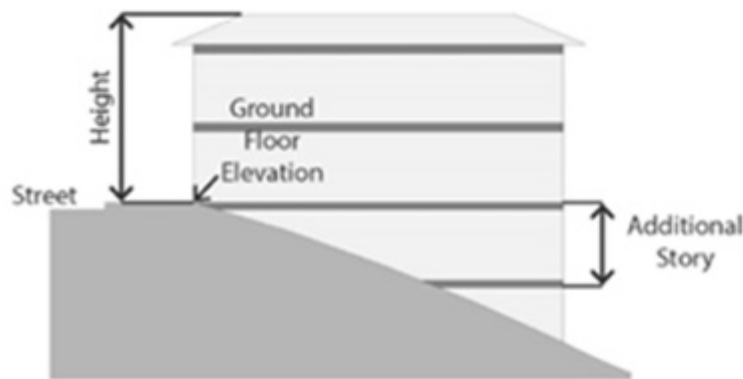
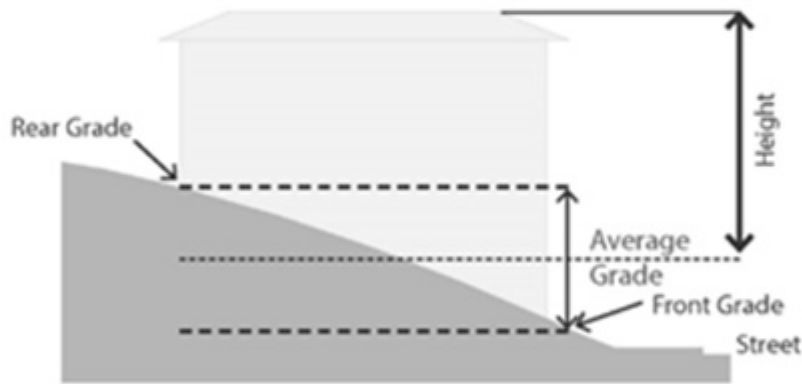
A permanent structure designed or intended for the shelter, housing or enclosure of persons, animals, or property.

Building Height (See graphic below)

The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof, to the average height of the gables in the case of a pitched roof, and to the deck line in the case of a mansard roof.

FIGURE 4.4: HEIGHT MEASUREMENTS





Building Inspector

The building official named by the County Manager to administer and enforce the provisions of the building code.

Building Permit

An official document issued by the building inspector or their designee before a building or structure is started, improved, enlarged, or altered as proof that such action is compliant with the state building code.

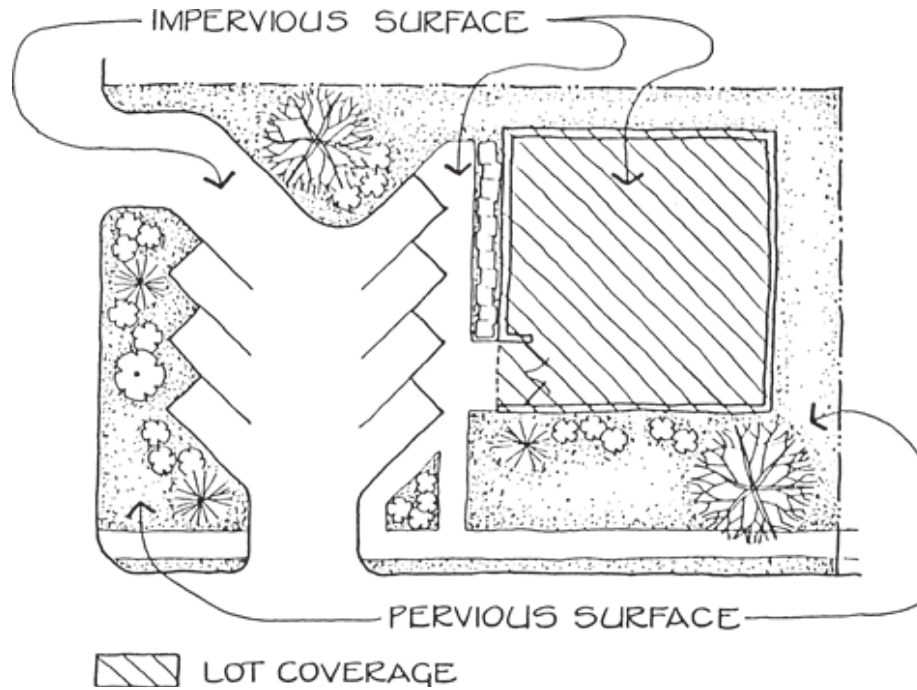
Building (Principal)

The primary structure on a property.

Built-Up Area (Impervious Surface) (See graphic below)

The portion of a development project and/or lots that is covered by impervious cover.

(Examples) Including buildings, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABG and gravel within the development.



Bulkhead

A retaining wall created along a body of water behind which fill is placed.

Car Wash

Any premises or building used for washing motor vehicles.

Cemetery

Land and facilities used for the burial of the dead. **(Examples)** Term shall include graveyard, burial ground, memorial park, mausoleums, crematories, and pet cemetery.

Chair

A person appointed by the Board of Adjustment, the Planning Board and/or Board of Commissioners, whichever is appropriate, to preside at public meetings or hearings.

Child Care Facility

A non-residential commercial facility licensed by the state, where three (3) or more pre-school age children, or six or more school-age children receive childcare. “daycare center”.

Church

A place of worship where religious services are regularly conducted by a recognized religious organization granted tax exempt status under Section 501 (c) (3) of the Internal Revenue Code.

Cluster Development

The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water runoff impacts.

Collector Major

A highway providing service to any major traffic generator not served by the arterial system, providing links to the higher classified highway routes, and serving as an important intra-county travel corridor. **(Examples)** I-40, US 70, Hwy 18, US-64

Collector Minor

A highway collecting traffic from local roads, bringing all developed areas within a reasonable distance of a collector road providing service to small communities, and linking important local traffic generators with the rural area. **(Examples)** Burkemont Rd., Summers Rd.

College

A public or private educational institution providing higher education or specific professional or vocational training.

Commercial Use

A business enterprise, occupation, or employment conducted primarily for making and sustaining profit.

Common Open Space

The open space land held in common ownership by property or unit owners in a development, normally provided for in the declaration of restrictive covenants.

Communication Facility (Wireless)

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless communications and (ii) radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. **(Examples)** The term shall include wireless facility.

Communication Tower (Wireless)

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. **(Examples)** The term shall include wireless communication tower, cell tower, wireless support structure.

Communication Tower Wireless (Alternative Structure)

Communication tower that uses alternative structures to conceal the presence of antennas or towers and are architecturally compatible with the area. **(Examples)** Such structures include



but are not limited to, clock towers, water towers, bell steeples, light poles, sculptures, and similar alternative design mounting structures.

Community Center

A building used for recreational, social, and cultural activities that is usually owned and operated by a public agency.

Compatible

Capable of existing together in harmony.

Composting Facility

A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

Comprehensive Plan

All plans regarding land use that have been officially adopted by the Board of Commissioners.

Condominium

A single dwelling unit, providing complete independent living facilities for one or more persons including permanent provisions for sleeping, eating, cooking and sanitation.

Country Club

A privately owned club, often with a membership quota and admittance by invitation or sponsorship, that generally offers both a variety of recreational sports and facilities for dining and entertaining. Typical athletic offerings are golf, tennis, and swimming.

County

For the purpose of this ordinance County shall mean Burke County, North Carolina.

Cremated Remains

All human or animal remains recovered after the completion of the cremation process, including pulverization, which leaves only bone fragments reduced to unidentifiable dimensions.

Cremation

The technical process, using intense heat and flame, that reduces human and/or animal remains to bone fragments.



Cremation includes the processing and may include the pulverization of the bone fragments.

Crematory or Crematorium

The building, buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office and other parts of the crematory business.

Critical Area (Watershed)

The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than other areas of the watershed.

Department of Health and Human Services

For the purpose of this ordinance Department of Health and Humans Services shall mean Burke County Department of Health and Human Services.

Developer

A person, governmental agency, or entity with a legal equitable interest in a property that is to be developed.

Development

A tract of land to be developed or a manmade change to improved or unimproved real estate. (Examples) The term shall include buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

Development Permit

Any permit issued by a local government that allows the development of property. (Examples) Types of permits include building permits, zoning permits.

Discharging Landfill

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

Distillery

A legal establishment for the manufacture, blending, fermentation, processing and packaging of distilled alcohol spirits (including but not limited to; rum, vodka and whiskey). Such facilities do not provide onsite retail sales and must comply with all ABC commission laws and permits.

Dwelling

Any building or portion thereof which is designed for or used for residential purposes.

Dwelling, Single-Family

A building designed for or occupied exclusively by one (1) family in a single dwelling unit.

Dwelling, Two-Family

A building designed for or occupied exclusively by two (2) families living independently of each other in two dwelling units. (Example) The term shall include duplex.

Dwelling, Multi-Family

A building or portion thereof used for or designed as a residence for three (3) or more families living independently of each other. (Examples) The term shall include condominiums, apartment complexes, townhomes.

Dwelling Unit

One (1) or more rooms in a residential building or mixed-use building which are intended for use by one (1) family, and included include provisions for living, sleeping, eating, cooking and sanitation.

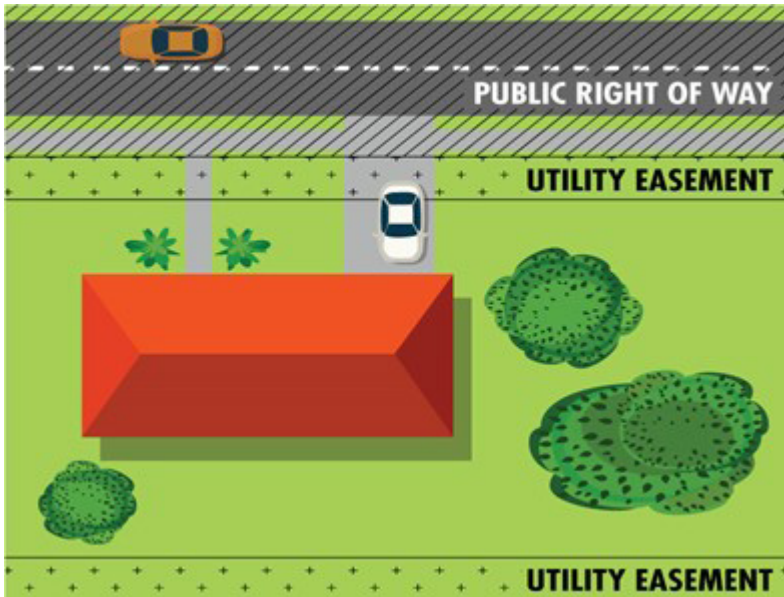


Drinking Establishment

An establishment where alcoholic beverages are served and consumed on the premises upon obtaining the appropriate ABC permit.



If the facility also sells food and the sale of food products represents more than fifty (50) percent of the facility's total sales, the facility is considered an eating establishment/restaurant.

**Easement (See Side Graphic)**

A right given from one person to another person or entity granting access to property that the person or entity does not own (**Examples**) roads, utilities, and property access.



A property owner cannot cut off access to or build on top of an easement.

Emission, Minimal (Class B Source)

Any stationary source whose uncontrolled emissions are less than one hundred (100) tons of any pollutant per year.

Emission, Moderate (Class A2 Source)

Any stationary source whose uncontrolled emissions while operating at the design capacity are equal to or exceed one hundred (100) tons of any regulated pollutant per year, but whose actual emissions are less than one hundred (100) tons per year.

Emissions, Severe (Class A1 Source)

Any stationary source whose actual emissions or potential emission while operating at the designed capacity are equal to or exceed one hundred (100) tons of any pollutant per year.

Existing Development

Those projects that are built or those projects that have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

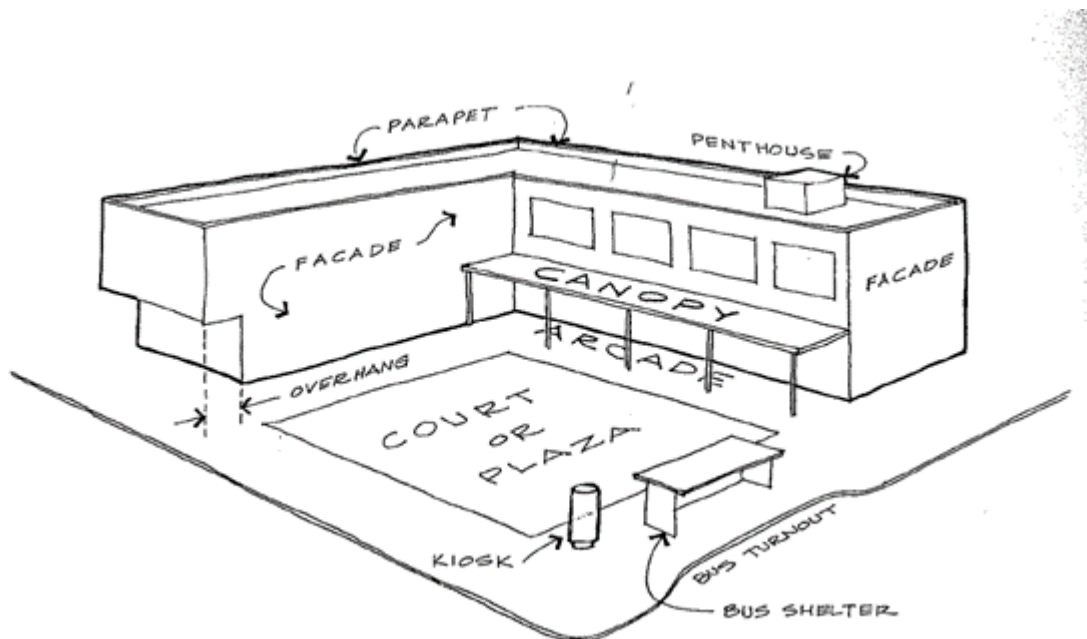
- (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or



- (2) Having a valid building permit or
- (3) Having an approved site specific or phased development plan.

Facade (See graphic below)

The exterior portion of a building extending from grade to the top of the parapet wall, or eaves and the entire width of the building.



Family

A group of individuals not necessarily related by blood, marriage, adoption or guardianship living together as a single housekeeping unit.



Family does not include any society, club, fraternity, sorority, association, lodge, federation, or like organization.

Family Care Home

An adult care home, built to International Building Code Standards, with support and supervisory personnel, that provides room and board, personal care and habitation services in a family environment for not more than six resident handicapped persons.

- A family care home shall be considered a residential use
- Shall be allowed in all residential zoning districts
- Shall not be located within one-half mile of an existing family care home.

(Example) The term shall include group home.

Family Child Care Home

A residence built to International Building Code Standards that is licensed by the state to provide childcare for more than two (2) children but less than nine children, who do not reside in the home.

Farm Brewery

The use of land for producing agricultural products, including barley, other grains, hops, or fruit used by the brewery to manufacture malt beverages.



These facilities may incorporate tasting rooms, tours and/or other forms of agritourism. Farm Breweries meet the bona-fide farm exemption.

Farm Winery

The use of land for producing agricultural products including grapes and other fruit used to manufacture unfortified wine owned by the winery and approved by the Alcohol Beverage Control Commission for sale in North Carolina.



These facilities may incorporate tasting rooms, tours, and/or other forms of agritourism. Farm Wineries shall meet the bona-fide farm exemption.

Financial Institutions

A building or structure used to provide financial and banking services to consumers or clients and usually providing on-site or drive-in services. (Examples) The term shall include banks, credit unions, lending establishments, and automatic teller machines, but not pawn shops.

Floor Area

The sum of the gross horizontal areas of each floor of the principal building, and any accessor buildings or structures, measured from the exterior walls or from the center line of party walls.



Does not include off street parking, basement space, stair wells, elevator shafts, and maintenance crawl spaces, uncovered steps, interior and exterior balconies, floor space used for mechanical equipment.

Gangway

A walkway that may be attached to land that extending over water to allow dry access to watercraft or to provide other recreational access to the lake. A gangway may be fixed or floating.



Gazebo

A roofed structure opened on all sides with places for sitting.



Golf Course

Land developed for the recreational purpose of playing golf. (Examples) including country clubs and private and public courses, driving ranges, pro and snack shops and excluding miniature golf courses.

Grade

The elevation of the land which is level at a specific point.

Grade, Finished

The final elevation of the average ground level adjoining a building at all exterior walls after development.

Grandfathered

Any non-conforming lot, parcel, or structure existing prior to the adoption of this ordinance is exempt from this ordinance.



Any change of the use of the property after this ordinance must comply with the Burke County Zoning Ordinance.

Group Projects

A group of two (2) or more principal structures built on a single lot, tract, or parcel of land which will not be subdivided and are occupied by separate businesses or industrial enterprises. (Examples) Term shall include commercial shopping centers, shopping complexes, and industrial parks.

Handicapped Person

A person or persons classified as having a physical impairment that manifests itself in one or more of the following ways (**Examples**) Term shall include non-ambulatory, semi-ambulatory, visually impaired, deaf or hard of hearing, physical or mental conditions.

Hazardous Waste

Solid or liquid waste which, because of concentration, quantity, physical, chemical or infectious characteristics:

- (a) May cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (b) May pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed; and
- (c) Is identified by the United States Environmental Protection Agency as hazardous.

Health Club

A commercial establishment having members who pay a fee to use its health and fitness facility. (**Examples**) Term shall include gymnasiums (except public), private clubs, (athletic, health, or recreational), and weight control establishments.

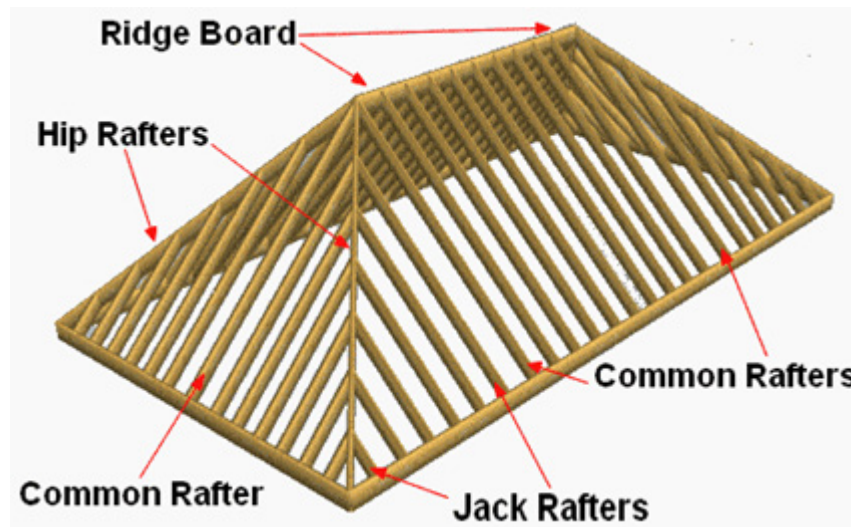
Height

Distance above a level or surface.

Hipped Roof

A roof where all sides slope downwards from a center ridge. There are no gables or other vertical sides to the roof. (See figure 1 – below)

Example of Hip Roof structure

**Hobby Farm**

A small farm, consisting of animals commonly found in a farm setting which do not meet the tax-exempt regulations of a “Bona-Fide Farm” and is operated and maintained for pleasure or personal use.

Homeless Shelter

Any facility providing temporary housing to indigent, needy, or homeless persons.

Home Occupations

An accessory use of a dwelling unit for gainful employment of the person living in the dwelling unit.

Humus Layer

Decayed leaves and other organic materials in or on the soil.

Industrial/Commercial Park Development

A unified facility developed for commercial or industrial uses in which flexibility is allowed for specific land uses as dictated by market.

Industrial Use

Uses that are industrial in nature. (Examples) Uses include resource extraction, manufacturing, warehousing, storage, distribution, shipping, and other related uses.

Industrial Use, Light

An industrial use with minimal impact to the surrounding land uses.



The use will not create any substantial noise, smoke, vibration, odor, or traffic.

Institutional Use

A non-profit, religious, or quasi-public use, established and used for a public purpose (Examples) Uses include a church, library, or private school, hospital, or government owned or operated building, structure or land.

Kennel

Any physical holding site that boards, houses, keeps or cares for ten (10) or more domesticated animals over four (4) months of age at any one (1) time at one location, whether by an individual or other entity. Kennels shall also include an establishment wherein any person or other entity engages in the business or practice of selling more than one (1) litter of domesticated animals at any one (1) time.

For the purpose of this definition:

Domesticated animals shall be defined as dogs and cats. Litter shall be defined as the offspring resulting from the breeding of two (2) domesticated animals. Location shall be defined as a parcel of property that bears its own County Property Identification Number.

In correlation with North Carolina General Statutes the following shall not constitute the operation of a kennel as defined above and in no way, shall this provision regulate the following:

1. The ownership of domesticated animals for one's own hunting or tracking purposes.

Land Clearing and Inert Debris Landfill

A facility for the disposal of land clearing waste. (Examples) Types of waste include concrete,



brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and decomposable vegetative yard trash such as brush and stumps.

Landfill

A state inspected facility for the disposal of solid waste on land in a sanitary manner.



For the purpose of this ordinance this term does not include composting facilities.

Landowner

Any person with a legal or equitable interest in real property. (Examples) Term shall include the heirs, devisees, successors, assigns, and personal representatives of such owner.

Leaf Litter

Normal fallen leaves from trees.

Lot

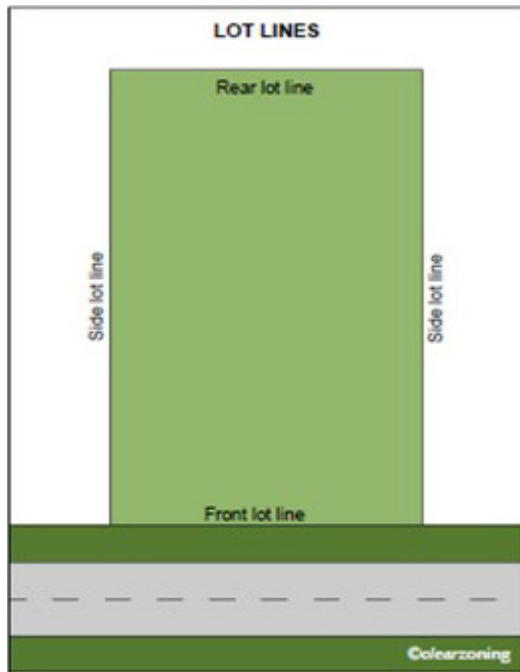
A measured portion or parcel of land separated from other portions or parcels by description in a site plan, or a recorded plat, or by metes and bounds, with the intent to transfer ownership or develop immediately or in the future.

Lot, Corner

A lot located at the intersection of two or more streets or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than one hundred thirty-five degrees.

Lot Coverage (Impervious Surface)

The percentage of a lot which may be covered with buildings or structures.



Lot Line (Property Line) (See side graphic)

The boundary of a lot.

Lot of Record

A lot that is part of a recorded subdivision plat or described in a recorded deed.

Lot Width.

The distance between side lot lines measured at the building setback line.



Major Variance (Watershed)

A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- (1) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system;
- (2) the relaxation, by a factor greater than ten (10%) percent, of any management requirement under the low-density option;
- (3) the relaxation by a factor greater than five (5%) percent of any buffer, density or built-upon area requirement under the high-density option.

Manufactured Home

A dwelling unit, that meets or exceeds the construction standards of the U.S. Department of Housing and Urban Development (HUD) on the date of its manufacture. A manufactured home is at least eight (8) feet wide and forty (40) feet in length, may be composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis and be placed on temporary or permanent foundation. Unless located in a manufactured home park, manufactured homes are to be placed on the lot to be in harmony with nearby site-built structures. Where there are no nearby structures for comparison, it shall be sited with the front running parallel to the street.



This term shall not include the term “Mobile Home.”



Manufactured homes are not to be used as accessory buildings or office space except as temporary offices on construction sites or sales offices on manufactured home sales lots.

Manufactured homes in Burke County are classified in the following categories:

Class A: A double-wide or multi-sectioned manufactured housing unit that meets the U. S. Housing and Urban Development Department (HUD) manufactured home construction standards and adhere to the following appearance criteria:

- a. *The main portion of the building shall have a length not exceeding four times its width. The minimum width shall be sixteen (16) feet.*
- b. *The pitch of the main roof of the building shall have a minimum rise of three (3) feet for each twelve (12) feet of horizontal run. The roof shall be finished with a type of material that is commonly used in residential construction. The eave projection shall be no less than six (6) inches, which may include a gutter.*
- c. *The exterior siding shall consist predominantly of vinyl, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction.*
- d. *All Class A manufactured homes shall be placed on brick, concrete block, or other masonry foundation. The foundation shall be continuous and unpierced except for ventilation as required by the state of North Carolina Regulations for Manufactured / Mobile Homes.*



- e. *Class A manufactured home shall have either a deck or a porch with steps. This structure shall be located in the front of the home. The minimum square footage shall measure at least thirty-six (36) square feet. Any door that opens outward must have a minimum 3'X3' landing. The towing apparatus and tongue shall be removed upon final placement of the unit and underskirted or screened with shrubbery. Such shrubbery shall be of a height and density to assure a total visual barrier of the towing apparatus and maintained to continue its effectiveness.*

Class B: A single-wide manufactured housing unit that meets the (HUD) manufactured home construction standards and also meets the following appearance criteria:

- a. *Roof pitch is at least a three (3) foot rise for every twelve (12) feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in residential construction.*
- b. *The exterior siding shall consist predominantly of vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.*
- c. *Class B manufactured homes must be underpinned. This underpinning may consist of vinyl or masonite materials OR the home may be [placed on a permanent foundation of masonry materials such as brick, block, or stone.*
- d. *A deck or a porch of at least thirty-six (36) square feet in size must be located on the front of the home. Any door that opens outward must have a minimum 3'X3' landing.*
- e. *Towing apparatus and tongue to be removed or screened with landscaping.*

Class C: Double-wide manufactured housing unit existing in Burke County prior to that meets the (HUD) manufactured home construction standards; but does not meet the county's appearance criteria. The home must be underpinned with masonry materials.

Class D: Single-wide manufactured housing unit existing in Burke County prior to that meets the (HUD) manufactured home construction standards; but does not meet the county's appearance criteria. the home must be underpinned with masonry materials.

Class E: Any manufactured housing unit that does not meet the county appearance criteria or the U.S. Department of Housing and Urban Development manufactured home construction standards. Class E manufactured will not be permitted in the county. Homes existing in the county's jurisdiction will be allowed to remain at their current location as non-conformities; but may not be relocated anywhere in the county's jurisdiction or shall not have electrical service restored once the vested right is lost.



This term shall include the term "Mobile Home."

Manufactured or Mobile Home Park

A tract of land under single ownership where three (3) or more manufactured homes are established.

Marina

A facility for storing, servicing, fueling, berthing, and securing of boats which may include eating, sleeping, and retail facilities for owners, crews, and guests.



ing, sleeping, and retail facilities for owners, crews, and guests.



This definition does not include private residential boat slips and ramps.

Mechanical Clearing

Any clearing of trees, shrubs, understories, stumps, or humus layers by wheeled or tracked vehicles. (Examples) Tracked vehicles include bulldozer or backhoe.



Mechanical clearing does not include clearing by handheld power equipment such as chainsaws.

Mini Warehouse

A commercial structure containing separate storage spaces of varying sizes leased or rented on an individual basis.



No outdoor storage shall be allowed in conjunction with the facility.

Mixed-Use Development

The development of a neighborhood, tract of land, building, or structure with a variety of complementary and integrated uses. (Examples) The term includes but is not limited to, residential, office, manufacturing, retail, public, and recreation, in a compact urban form.

Mobile Food Truck

A food truck is a mobile food service establishment that prepares and serves food and/or beverages for sale to the general public on a recurring basis from a truck, vehicle-mounted, or vehicle-towed piece of equipment designed to be readily moved.

Modular Home

A dwelling unit consisting of two or more sections in accordance with the North Carolina State Building Code and transported to the building site to be assembled on a permanent foundation.

Motel

A commercial location providing board and sleeping accommodations to transient guests for compensation. (Examples) The term shall include hotel and inn.

Natural Woodland Buffer

An area of protected vegetation within a measurable distance of a topographic reference line or body of water. (Examples) The term shall include all trees, shrubs, ground cover, forest humus, leaf litter, and soil.

Non-Conforming Lot

An otherwise legally platted lot that does not conform to the minimum area requirement of this ordinance either at the effective date of this ordinance or as a result of subsequent amendments thereto.

Non-Conforming Structure

A building or structure that does not conform with one or more regulations or is designed



or intended for a use that does not conform to the use regulations of this ordinance. (Examples) Examples include lot, yard, height, lot coverage.

Non-Conforming Use

Use or activity which does not conform to the use regulations for the use district in which it is located at the effective date of this ordinance, or as an amendment thereto.

Non-Residential Use

Any activity, building, or structure not used for residential purposes.

Non-Rural Use

Any use other than a rural use as defined by this ordinance.

North American Industry Classification System (NAICS)

A multi-digit code utilized by the federal Office of Management and Budget to classify establishments by type of activity in which they are engaged.

Nursing Home

Common terms include Rest Home, Adult Care Facility.

Office / Professional Space

A building or portion of a building used by a business or agency where administrative, professional, or clerical operations are performed.

Open Space

Any land area which is not used for or occupied by a building, driveway, commercial or industrial area, off-street parking, loading space, or refuse storage space.

Open Storage

Unroofed storage area, whether fenced or not.

Operator

The property owner or any person, company, or rental agency that advertises a residential dwelling unit for nightly rentals or that otherwise facilitates the use of the property as a short-term rental.

Parapet

A low protective wall along the edge of a roof, bridge, or balcony.

Parking Lot

A place for the temporary or long-term parking of motor vehicles.

Permit, (Temporary)

A land use permit granted to a property owner or their agent for a limited period of time as defined in the permit application.

Person

An individual, corporation, business or land trust, estate, trust, partnership, association, two or



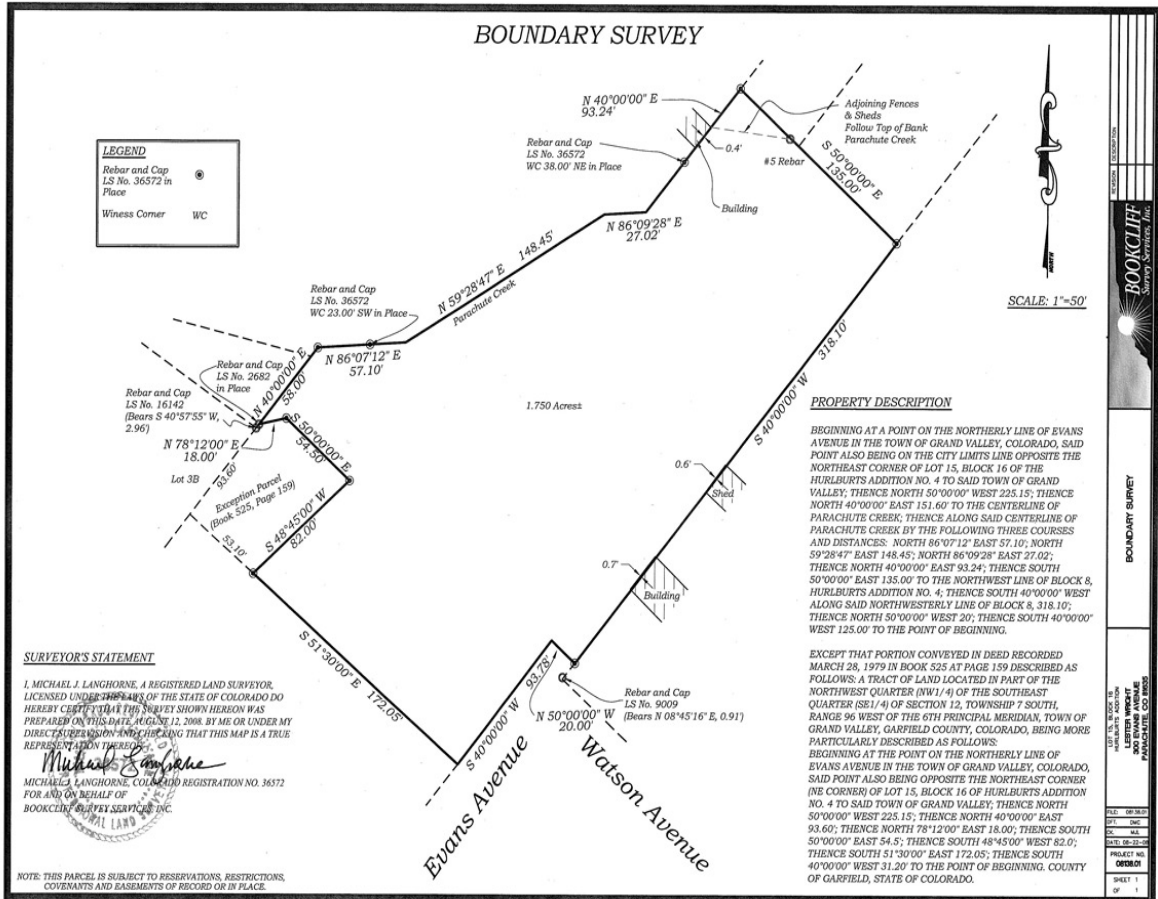
more persons having a joint common interest, State agency, or any legal entity.

Planned Unit Development (PUD)

A form of development characterized by a unified site design for housing units, clustering of buildings and providing common open space, density increases, and a mix of building types. It allows the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis.

Plat

A map or plan of a parcel of land which is to be or has been subdivided.



Primary Structure

A structure or building on a parcel of land that contains the primary use of the parcel.

Public Facilities

Any facility owned, leased, operated, or funded by a governmental agency or public entity. (Examples) The term shall include but not limited to, buildings, transportation, sanitary sewer,

- 1 Purpose and Introduction
- 2 Definitions
- 3 Zoning Districts
- 4 Overlay Districts
- 5 Use Standards
- 6 Commercial Design
- 7 Development Procedures
- 8 Admin & Enforcement

solid waste, drainage, potable water, educational, parks and recreational, and health systems.

Public Service Facilities

The use of land, buildings, or structures by a public utility or governmental agency, that does not solely include the storage and maintenance of equipment and materials.

(Examples) The term shall include water treatment plants, sewage treatment plants, telephone exchanges, resource recovery facilities.

Public Use Facilities

The use of land, buildings, or structures by a governmental agency to provide protective, administrative, and social services directly to the general public.



This term shall not include solely the storage and maintenance of equipment and materials nor public cultural facilities. **(Examples)** The term shall include police and fire stations, municipal buildings.

Public Utility Facilities

Buildings, structures, and facilities that provide utility services, and do not include the storage of materials and maintenance of equipment. **(Examples)** The term shall include electric transmission and distribution lines, gas and water pumping stations, transformer stations, and solar farms.

Racetrack

A racetrack is a facility with a natural or paved course that is used for races between runners, horses, dogs, cars, motorcycles, or go-carts.

Recreational Facility (commercial – indoor)

A commercial recreation use that is open to the public for a fee and conducted primarily within a building. **(Examples)** The term shall include arcades, spas, health clubs, gymnasiums, bowling alleys, billiard halls, and similar uses.

Recreational Facility (commercial – outdoor)

A commercial recreational use that is open to the public for a fee and conducted almost wholly outdoors. **(Examples)** The term shall include driving ranges (not associated with a golf course), miniature golf, water and amusement parks, batting cages, skateboard parks, and similar uses.

Recreational Vehicle

A vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation uses. **(Examples)** The term shall include Motor Home, RV, camper, pop-up coach, camping trailer, Park Model.



The term recreational vehicle does not include mobile or manufactured homes.

Recreational Vehicle Park

Facilities established for occupancy by recreational vehicles, for a fee, as temporary habitation for vacation and recreation purposes.

Purpose and Introduction
1

Definitions
2

Zoning Districts
3

Overlay Districts
4

Use Standards
5

Commercial Design
6

Development Procedures
7

Admin & Enforcement
8

Reference Line

The recognized shoreline boundary of Lakes James, Hickory, and Rhodhiss.



An example is the Duke Power Lake James Project Boundary, elevation 1200 feet above mean sea level, Lake Hickory Project Boundary, elevation 935 (AMSL), and Lake Rhodhiss Project Boundary, elevation 1000 feet (AMSL).

Religious Institution

A structure in which worship, ceremonies, rituals, and education pertaining to a set of beliefs are held. (Examples) The term shall include churches, temples, synagogues, and mosques.

Rental Store

Commercial establishment operated under a fixed-time lease arrangement.

Residential Dock (See graphic below)

An object or structure secured in the water which is intended or used for securing one or more watercraft in the water or to be used for recreation. Docks must be floating. Dock is synonymous with mooring and boat slip.



Residential Pier

A fixed uncovered deck attached to land and extending over water to allow dry access to watercraft or to provide other recreational access to the water.

**Residential Use**

A building or portion of a building, containing one or more dwelling or rooming units. (Examples) The term shall include single family dwellings, multi-family dwellings, mobile or manufactured homes, modular homes, condominiums, and apartments.

Restriction

A limitation on property, which may be created in a deed, lease, mortgage, through zoning or subdivision regulations, or as a condition of approval of an application for development.

Retail / Commercial Space

Land, buildings, or structures where products are sold or rented to customers.

Rezone

To change the zoning classification of a particular lot or parcel of land.

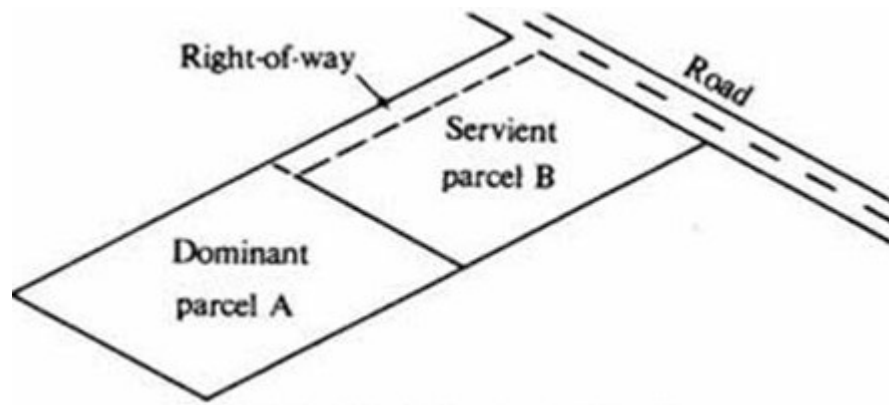
Rezoning Application

A request for a change in zone to permit new uses or prohibit one or more current uses or amend the current requirements.

Click on the  link to be taken to burkenc.org to download the Rezoning Application.

Right-of-Way (See below)

Access over or across particularly described property for a specific purpose or purposes.

**Right-of-Way Line**

The dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

Right-of-Way, State Owned

The right-of-way owned outright by the North Carolina Department of Transportation on which public transportation are constructed and maintained.

Runway (Airport)

A defined area on an airport prepared for landing and take-off of aircraft along its length.

Rural

Land containing farms, forests and scattered houses, exclusively outside of the Primary and Secondary Growth Areas, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for the future.

Rural Use

An activity or land that is undeveloped or used primarily for agricultural purposes.

School, Public or Private

A structure used primarily by and for any two (2) or more age or grade levels in grades kindergarten through twelve and operated by the public school system or approved by the North Carolina Department of Public Instruction. **(Examples)** Examples include Forest Hill Elementary School, Walter Johnson Middle School, Freedom High School, New Dimensions.

Scrap

Discarded or rejected materials that result from manufacturing or fabrication operations. **(Examples)** Term shall include old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; or junked iron, and steel.

Scrapyard

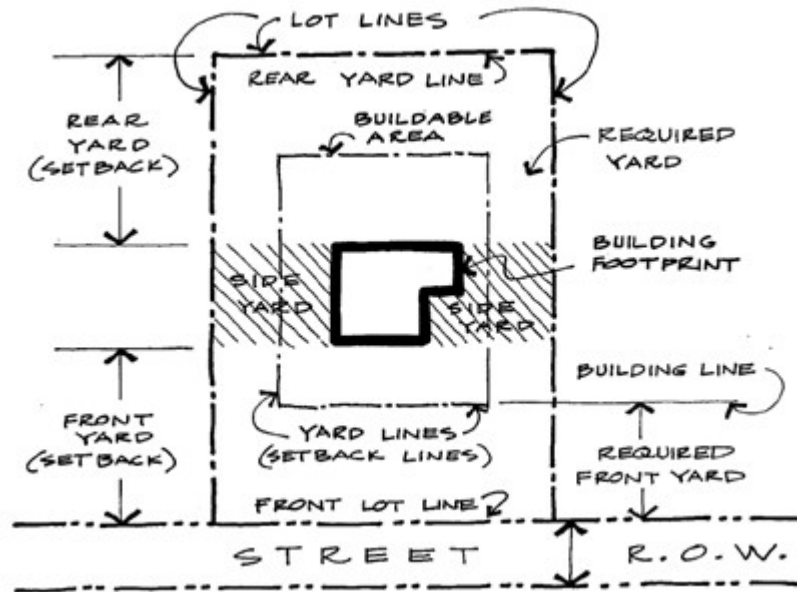
A commercial location used for storing, buying, or selling scrap materials.

Second-Growth Pine

A young sapling, less than two (2) inches in diameter.

Setback (See graphic below)

The distance between a building and any lot line.

**Setback Line (See setback graphic above)**

The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure may be erected or placed.

Shooting Range (Indoor)

The use of a completely enclosed structure for archery and/or the discharging of firearms for the purpose of target practice or temporary competitions.

Shooting Range (Outdoor)

The use of land for archery and/or the discharging of firearms for the purpose of target practice or temporary competitions.

Shopping Center

A group of commercial establishments planned and developed as a unit, with common off-street parking provided on the property.

Shoreline

The point at which a body of water meets the land, including any adjacent unvegetated exposed soil bank or bluff.

Shoreline Stabilization

The placement of hardened structures along the shoreline for the purpose of controlling shoreline erosion in order to permanently protect the landowner's property.

Wood shall not be considered to provide permanent protection. (Examples) The term shall include rip rap, bulkheads, sea walls, etc.

Short-Term Rental

Dedicated Short-Term Rental

The rental of a residential dwelling unit that is not owner-occupied or used as a primary residential dwelling unit to transient guests for a duration not to exceed thirty (30) consecutive days per rental period.

Owner Occupied Short-Term Rental

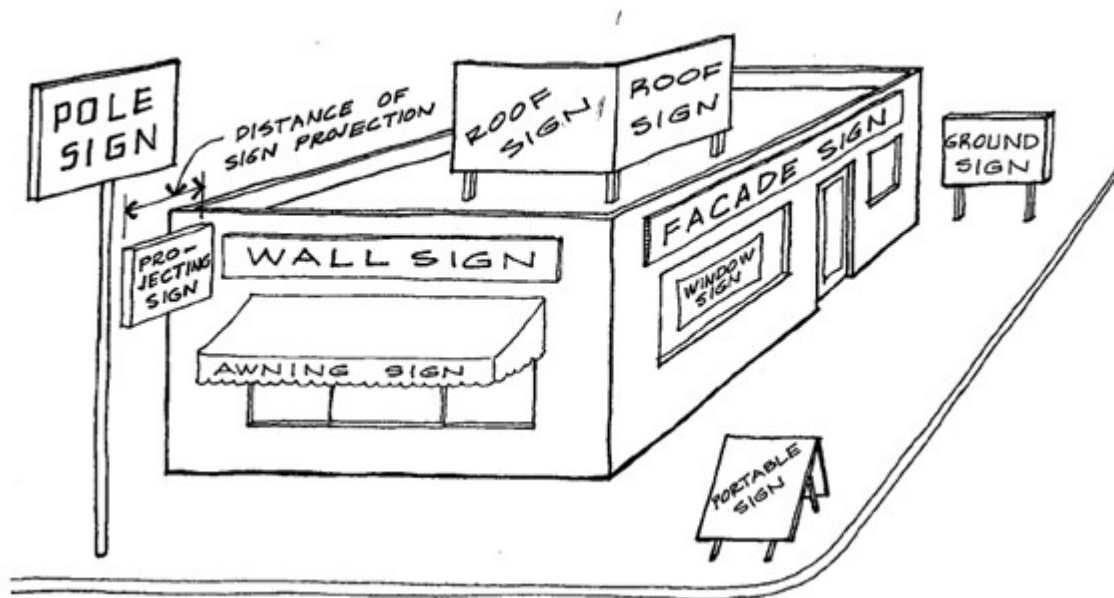
The rental of a primary residential dwelling unit by a transient guest for a duration not to exceed (30) consecutive days, for a maxim of ninety (90) days per calendar year. A principal residential dwelling unit is a residence that is occupied by the property owner (to offer the unit for short-term rental) for a cumulative minimum of 275 days per calendar year.

Short-Term Rental (STR) Permit

A permit, issued from the zoning department, that the property owner is required to hold/obtain before the residential dwelling may be advertised or used as an Owner Occupied or Dedicated short-term rental.

Sign (See graphic below)

Any structure that uses color, graphics, illumination, symbols, or writing to advertise or communicate information to the public.



Sign Area

A square, rectangle, triangle, circle, or other geometric configuration, encompassing the entire advertising area, excluding architectural trim and structural support.

Sign Area

A square, rectangle, triangle, circle, or other geometric configuration, encompassing the entire advertising area, excluding architectural trim and structural support.

Sign, Commercial

A sign informing or advertising products or activities for sale or profit.

Sign, Directional

A sign indicating only the name and direction to a business, farm, activity or a warning.

Sign, Off-Site

A sign, free standing or attached to a building, that conveys information to the public regarding a subject not specific to the premises upon which it is located.

Sign, On-Site

A sign that conveys information to the public related to the activities conducted on the premises upon which it is located.



On-site signs do not include signs erected by the outdoor advertising industry to promote outdoor advertising businesses.

Sign, Outdoor Advertising (Billboard)

A poster panel or painted sign, either free standing or attached to a building, that conveys information to the public about a subject related or unrelated to the premises upon which it is located.

Sign, Temporary

Any sign not permanently mounted and intended to be displayed for not more than sixty (60) days. **(Examples)** Examples include yard sale, garage sale, estate sale, political signs etc.

Site Plan

A scaled plan showing uses, and structures proposed for a parcel of land as required by this ordinance. **(Examples)** Site Plans may include lot lines, streets, buildings, building sites, reserved open space, major landscape features (natural and manmade), and the location of proposed utility lines when applicable, in addition to other features which may be required by the ordinance.

Site Plan Review

The review of a site plan for any public or private project by the designated review agency for the local jurisdiction.

Solar Farm

An installation or area of land in which a large number of solar panels are set up in order to generate electricity.

Special Events Grounds


A permanently established facility or use of property in a rural setting that operates on a



continuous basis to accommodate the temporary assembly of people for special functions and events such as, but not limited to, reunions, weddings, concerts, and other festivals and events. The site takes advantage of special rural characteristics such as natural features, historic structures, and landscapes, special views, open vistas, or a secluded pastoral locale.

Special Use

A use that may be permitted in specified zoning districts only after review by the Board of Adjustment and found to meet specific conditions in order to maintain the safety and general welfare of the community.

Click on the  link to be taken to burkenc.org to download the Rezoning Application.

Spot Zoning

Rezoning of a lot or parcel of land to benefit an owner for a use that is incompatible with surrounding land uses and that does not further the comprehensive land use plan.

Stable, Private

A detached accessory building for the keeping of horses, mules, or ponies owned by the occupants of the premises and not kept for compensation, hire, or sale.

Stable, Public

A detached accessory structure where horses are kept for sale or hire to the public. (Examples) Acceptable uses also include breeding and training of equines, boarding of equines not owned by the occupant of the premises, polo and showgrounds (excluding racetracks), and horseback riding lessons.

Stop-Work Order

A written document issued by an enforcement official, which requires the cessation of an activity, usually construction.

Stormwater Management, (on-site)

The systems necessary to control stormwater within an individual development project and located within the project boundaries.

Stormwater Runoff

That portion of the stormwater that flows from the land surface of a site either naturally, in man-made ditches, or in a closed drainage system.

Stream Bank, (Top of)

The land area immediately above a water body having a notably steeper slope than the surrounding landscape.



The top of the bank refers to the stage or elevation at which water overflows the natural banks or streams or other waters of this state and begins to inundate the upland.



Street (Road)

A right-of-way for vehicular traffic.

Street, Private

A private right-of-way allowing access to private property that is owned and maintained by the people who use it.

Street, Public

A public right-of-way for vehicular traffic allowing access to abutting properties accepted and maintained by the North Carolina Department of Transportation.



Public Rights-of-way are identified by a state route number.

Street Vendor

Any cart, table, equipment or apparatus of a temporary design, which is not a structure, used for the retail display and sale of merchandise. This term shall not include farmers markets or wayside produce stands or mobile food trucks.

Street Wall

Exterior wall of a building that is adjacent to, or fronts on, a public street, park, or plaza.

Structure

Anything constructed or erected which requires a rigid location on the ground, or attachment to a permanent location on the ground. (Examples) including but not limited to mobile homes, buildings, signs, towers, accessory buildings, gazebos, docks, metal carports and swimming pools



However, a fence, utility pole, flag pole, light post, mailbox, screening wall or retaining wall shall not be considered a structure.

Structure, (non-conforming)

A structure that legally existed prior to the adoption date of this ordinance, but which is not in compliance with the requirements of this ordinance for the district in which the structure is located.

Structural Alteration

Any change in the structural support of a building, or in the dimensions or configurations of the roof or exterior walls. (Examples) Including bearing walls, columns, beams, and girders.

Subdivision (Minor)

The division of a tract of land into six (6) or less defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed.



The process often includes setting aside land for rights-of-way for ingress and egress and other infrastructure needs, including the designation of the location of utilities.



Subdivision (Major)

The division of a tract of land into seven (7) or more defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed.



The process often includes setting aside land for streets, sidewalks, parks, public areas, and other infrastructure needs, including the designation of the location of utilities.

Superior Court

For the purpose of this ordinance Superior Court shall mean the Superior Court of Burke County, North Carolina.

Surface Water

Water on the earth’s surface exposed to the atmosphere such as rivers, lakes, and creeks.

Survey Map

A document on which property lines are depicted to the most accurate scale available.

Taxidermy

The process of cleaning and preserving the skins of dead animals, fish, and birds; filling them with a special material to make them look as if they are alive.

Temporary Homeless Shelter

Any facility providing temporary emergency housing to persons displaced from their home for a short period of time usually in a church or school.

Temporary Permit

An official document issued by the Zoning Administrator or their designee authorizing a land use activity for a limited period of time.

Temporary Structure

A structure that is erected without any foundation or footings and is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Theater

A specialized building for showing motion pictures or stage performances consisting of audience seating, one (1) or more screens and auditoriums, restroom facilities, and a lobby that may include a refreshment stand.

Theater, Drive-in

An open lot, or part thereof, with facilities devoted primarily to the showing of motion pictures to patrons seated in automobiles.



Townhouse (See graphic below)

A multi-family residential unit constructed of three (3) or more single-family attached dwellings separated by common interior side walls with no openings.



Townhouse Lot

A lot upon which a townhouse is constructed and which the structure and lot are owned by an individual.

Traffic Impact Study (TIS)

An analysis of the effect of traffic generated by a development on the capacity, operations, safety, and other specified concerns on the public street and highway system.

Transient

A person who is staying or working in a place for only a short time.

Transient Guest

The person who, rents a residential dwelling unit on a nightly basis for stays not to exceed thirty (30) consecutive days.

Treatment and Recovery Facility

Establishment licensed by the NC Department of Health and Human Services to provide residential care and treatment for patients with mental health and substance abuse illnesses.



Although medical services may be available at these establishments, they are incidental to the counseling, mental rehabilitation, and support services offered.

Trucking Terminal

A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck.

Turbidity

The cloudiness or haziness of a fluid caused by large numbers of individual particles that are generally invisible to the naked eye, similar to smoke in air.

Turf Grass

Normal yard grasses. (Examples) Including sod and fescue.

Understory (Vegetation)

Small trees and shrubs (Examples) Including mountain laurel, dogwood.

Urban

Of, relating to, characteristic of, or constituting a city.

Use

The principal purpose for which a parcel or the principal building thereon is designed, arranged, or intended and/or which it is or may be used, occupied, or maintained.

Use-by-Right

A use of land that is automatically allowed within a use district provided the proper permits have been obtained.

Vacant

Land or property that is undeveloped and unused.

Variance

A reasonable deviation from the requirements of this ordinance.



All variances are subject to review by the Board of Adjustment.

Variance. Minor

An administrative deviation from the numerical requirement of twenty (20) percent or less that may be granted by the Zoning Administrator or their designee.

Vested Rights

The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan for a specified time, regardless of changes in the ordinance.

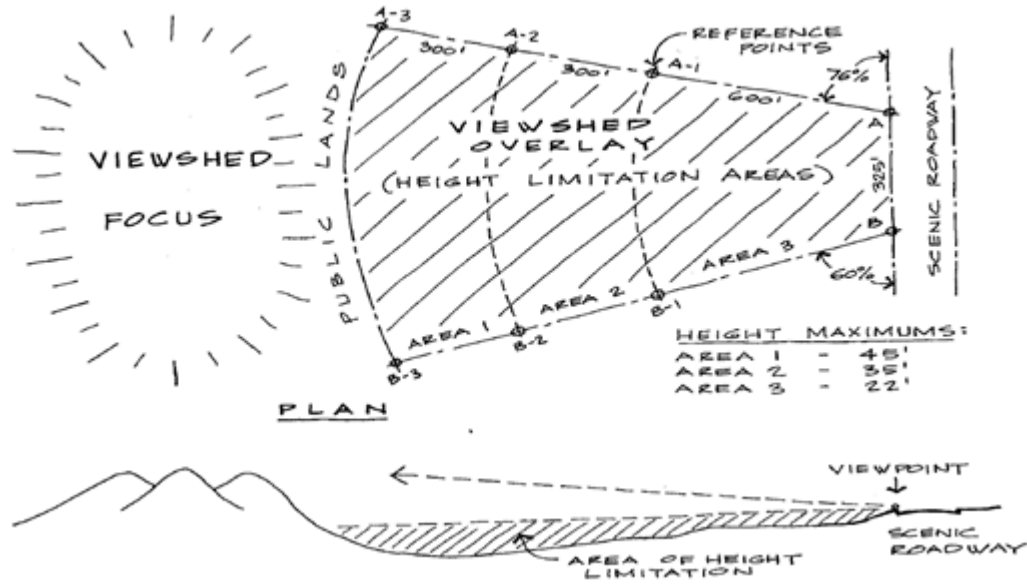
View Corridor

The line of sight, identified as height, width, and distance, of an observer looking toward an object of significance; the route that directs the viewer’s attention. (Side Bar) Examples include ridgelines, rivers, lakes, and historic buildings.



Viewshed (See graphic below)

An elevated or unobstructed location, position, or area that permits an unhindered panoramic vista of interest or pleasure or unique view to or from a certain point.



Warehouse

A facility designed for the primary uses of storage and/or distribution of manufactured products (excluding hazardous materials).



and may have frequent heavy truck activity, open storage of material, dust, noise, and odors, but is not involved in the manufacturing process.

Warehouse. (Hazardous Materials)

Identical to the standard definition of warehouse except allows storage of materials and chemicals that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming in contact with such material or substance.

Water Dependent Structure

Any structure for which the use requires access to, proximity to, or siting within a body of water to fulfill its basic purpose, such as boat ramps, docks, piers, and bulkheads.



Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

Watershed

The entire land area contributing surface drainage to a specific stream, creek, lake, or other body of water.

Watershed (Critical Area)

Extending either one-half mile from the normal pool elevation of the reservoir in which the



intake is located or to the ridge line of the watershed (whichever comes first); or one-half (1/2) mile upstream from the intake located directly in the stream or river, or the ridge line of the watershed (whichever comes first).

Watershed (Protected Area)

A protected area is defined as land within five miles and draining to the normal pool elevation of water supplies/reservoirs or within ten miles upstream and draining to a river or stream.



Protected areas are only located within WS-IV watersheds.

Wayside Stand

A building or structure for the purpose of selling agricultural or horticultural or related products. (Example) produce stand.



A wayside stand is exempt on property designated as a “Bona Fide Farm”

Wetlands

Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water.

Winery/Brewery

A commercial location where beer, cider, mead, malt liquors, or unfortified wines are produced as dictated by NC General Statutes.

Wireless Services

Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

Wireless Services Provider

An entity who provides wireless services.

Yard

An open space that lies between the principal building or buildings and the nearest lot line.

Yard, Front (See graphic yard side on next page)

A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

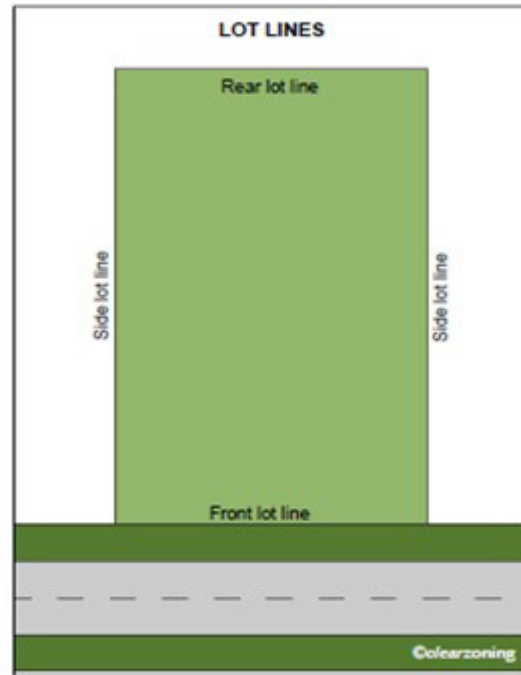
Yard, Rear (See graphic yard side on next page)

A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.



Yard, Side (See graphic below)

A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building

**Zero Lot Line**

A common lot line on which a wall of a structure may be constructed.

Zero Lot Line Development

An arrangement of buildings on a lot in such a manner that one or more of the building's sides rest directly on a side lot line.

Zoning

The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

Zoning Administrator

A planning department staff member responsible for the review and issuance of zoning permits.



The decision may be appealed to the local Board of Adjustment.

Zoning Amendment

An amendment to make a change in the zoning ordinance or to the application of zoning to a certain parcel or area. (Examples) Including zoning map amendment, zoning text amendment.

Zoning Board of Adjustment

A Quasi-Judicial Board appointed by the local legislative body to consider minor zoning adjustments such as conditional use permits and variances.



Its decision may be appealed to the Superior Court of jurisdiction.

Zoning District

A designated section of the county for which prescribed land use requirements and building and development standards are uniform.



Zoning districts are defined in [Article 3](#).

Zoning Map

The map or maps that are a part of the zoning ordinance and delineate the boundaries of zone districts.

Zoning Permit

A permit issued by the Zoning Administrator or their designee to conduct an approved activity, function or operation on a site or in a building or facility. A use permit may be issued with various conditions of approval. (Examples) zoning permit, conditional use permit, shoreline permit etc.

Zoo

Any area, building, or structure which contains wild animals on exhibition for the viewing public.



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 3.0 Zoning Districts



3.0 Zoning Districts

3.1 Districts Established

For the purpose of this ordinance, Burke County is divided into the following districts:

R-1 Residential District

R-2 Residential District

R-3 Residential District

R-MU Rural Mixed-Use District

PRMU Planned Residential Mixed-Use District

CON Conservation District

O-I Office & Institutional District

N-B Neighborhood Business

G-B General Business District

LI Light Industrial District

IND Industrial District



Digital User Note:
Click on a district heading to go directly to corresponding district regulations.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



R-1 Residential District

The R-1 Residential District is intended to be limited exclusively to single-family site built and modular dwelling units. The characteristics of the district, and the uses allowed there, are primarily residential in nature. The regulations of this district are intended to discourage any use that, because of its character, would substantially interfere with the development of single-family residences, and which would be detrimental to the quality of life that appeals to the average resident of this county.



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



R-2 Residential District

The R-2 Residential District is intended to be similar to the R-1 district in its residential nature. However, R-2 district also allows Class A manufactured homes and multi-family housing options as well. Allowed uses in this district are sensitive to the residential character of the area and non-residential uses are limited.



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

R-3 Residential District

The R-3 Residential District is a less restrictive residential district that allows a broader range of residential uses including Class A and Class B manufactured homes. A variety of compatible non-residential uses are allowed in areas that may be less suburban in nature.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



R-MU Rural Mixed-Use District

The Rural Mixed-Use District (R-MU) district is intended to allow residential and non-residential development to occur with fewer restrictions in less urbanized areas of the county. The intended result is less conflict between adjacent property owners while maintaining the rural appearance of the area.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



PRMU Planned Residential Mixed-Use District

The Planned Residential Mixed-Use (PRMU) District is intended to allow developments composed of a mix of residential, retail, and office uses to occur in harmony with surrounding land uses which result in well planned and aesthetically pleasing neighborhoods that promote innovative arrangements of buildings and open space uses throughout the project site.



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



CON Conservation District

1 Purpose and Introduction

The Conservation (CON) District allows low density residential development and associated uses in order to provide adequate protection for environmental areas and wildlife habitats, protect viable working farms, maintain the integrity or rural viewsheds, and limit the amount of potential property damage associated with existing natural hazards.

2 Definitions

The Conservation District (CON) is primarily designed to prevent large numbers of housing units from impacting rural landscapes. Developers shall locate structures on appropriate portions of the landscape utilizing a maximum density calculation of one unit per three (3) acres of total project area. Clustering of units is encouraged where feasible.

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

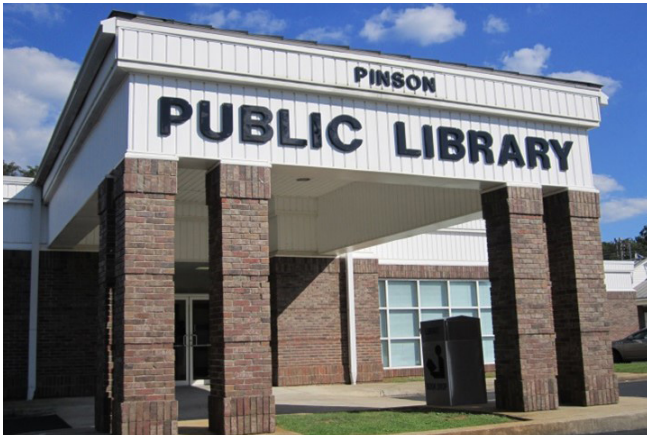
7 Development Procedures

8 Admin & Enforcement



O-I Office & Institutional District

The Office and Institutional District (O-I) is designed to provide a wide range of civic, institutional, retail, service, and office uses. The regulations are intended to provide for adequate traffic access and parking facilities in addition to prohibiting any use which, because of its character, would interfere with the office/institutional nature of this district.



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



The Neighborhood Business District (N-B) is intended for the use of businesses and other uses which are properly located near established rural neighborhoods.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



The General Business District (G-B) is established to provide suitable locations for commercial activities which serve the general public, including those which function independently of each other.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

The Light Industrial District (L-I) is established for uses that would not have a significant negative environmental or land use impact on surrounding residential or business districts. Permitted uses will not create any substantial noise, smoke, vibration, odor, or traffic that may endanger the health and safety of the surrounding area.



This district shall have the following restrictions in order to have minimal impact on the surrounding area and properties:

1. All uses must be conducted within an enclosed structure with no open storage of raw, in process, or waste material. Finished products must be stored in an enclosed building.
2. The property will be screened in accordance to Section 1106 of the Zoning Ordinance.



- 3. Signs are allowed in accordance to **Article 4, Advertising Signs and Structures** of this Ordinance.
- 4. Service drives for off-street loading and unloading must comply with **Article 5, Section 5.20, Loading/Unloading Area** of this ordinance. NCDOT must approve of commercial driveway cuts occurring on a state maintained road.
- 5. Deliveries and pick-ups are restricted and shall not occur between the hours of 9:00 p.m. and 7:00 a.m.
- 6. No outdoor lighting shall be allowed between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots, and security. Exterior lighting shall be fully shielded and directed in a downward direction to avoid illuminating the night sky. Lighting shall not illuminate neighboring residential properties or be directed in a manner that would distract or harm the traveling public.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

The Industrial District (IND) is established as a district in which the principal use of land is for manufacturing, warehousing, transportation, and utility uses. These uses generally occupy large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.



3.2 Lot Area Requirements By District

1. Maximum Lot Coverage – (Residential Uses) The maximum lot coverage for single family residential uses shall adhere to the Watershed Protection Ordinance. Impervious coverage for lots that are located in the Lake Overlay District on Lake James shall be located within specific building envelopes and recorded on subdivision plats. The total impervious coverage shall not exceed, in the aggregate, a maximum of 10% of the total project area in both Conservation Districts.
2. Maximum Lot Coverage – (Commercial, Industrial, and Other Uses) There is no maximum lot coverage for multi-family, commercial, industrial and other non-single family uses, except as provided herein in special circumstances and/or as may be required by the Board of Commissioners, Planning Board and/or Board of Adjustment as determined by the Burke County Watershed Protection Ordinance.
3. Maximum Height Restrictions - No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein for the district in which it is located.
4. Maximum Height Restrictions – (Residential) Except as provided herein, the maximum height restriction for residential uses within the zoning district shall be as follows:

<u>District</u>	<u>Maximum Height at Grade Level</u>
R-1	35'
R-2	35'
R-3	35'
R-MU	35'
PRMU	35'
CON	35'

3.3 Application of Regulations

Territorial Application

The provisions of this ordinance shall apply to all land in Burke County except the municipalities of Connelly Springs, Drexel, Glen Alpine, Hickory, Hildebran, Long View, Morganton, Rhodhiss, Rutherford College, Valdese and their extraterritorial planning jurisdictions (ETJ), where applicable.

Any territory that may be included within the planning jurisdiction of Burke County shall remain in the County's existing planning jurisdiction until it has been adopted by the municipality.

3.4 Uniform Application of Regulations

The regulations established in this ordinance shall be minimum regulations applied uniformly unless otherwise indicated.

3.5 Uses

No building or parcel shall be used or occupied that is not in conformity with the regulations of this ordinance. Also, no building or part of a building shall be erected, constructed, moved, or structurally altered except in conformity with the regulations of this ordinance.

Non-Conforming Uses of Land

Non-conforming uses may be found in all use districts, therefore, any non-conforming use of land existing prior to the zoning ordinance may be continued subject to the following provisions:

1. No non-conforming use shall increase or enlarge the area, occupied by the non-conforming use unless approved by the Board of Adjustment as a Special Use Permit.
2. In the event that a non-conforming use ceases for any reason for a period of twelve (12) months any further use shall be brought into conformity with this ordinance.
3. All legally-operating non-conforming scrapyards and automobile parts recycling businesses located in Burke County's zoning jurisdiction shall be screened as specified in [Article 5, Screening Requirements](#).

Non-Conforming Uses of Structures

Where a lawful use of an individual structure, or structures on premises in combination, exists in any zoning district that would not be permitted in that zoning district, the use may be continued as long as it remains lawful, subject to the following provisions:

1. When a non-conforming structure is destroyed by natural causes or fire, the use of the land shall be allowed to continue. Any new or reconstructed structure must be brought into conformity with this ordinance.



Examples of natural causes include, but are not limited to, wind or flooding. Time related deterioration, or damage caused by animal or insect infestation does not constitute accidental damage or destruction by natural causes.

2. In the event that a non-conforming use of a structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure and premises shall not be continued unless it is brought into conformity with this ordinance.

Replacement of Non-Conforming Manufactured Homes

1. A non-conforming singlewide manufactured home on an individual lot can be replaced with a Class A or Class B manufactured home, a modular home, or a stick-built home.
2. Any replacement manufactured home within the R-1 and R-2 zoning districts must have masonry underpinning
3. A non-conforming doublewide manufactured home on an individual lot can be replaced with a Class A (doublewide) manufactured home.

3.6 Buildings

No building shall be erected, constructed, or altered that:

1. Exceeds the height limit,
2. Occupies a greater percentage of the lot area than is required or specified in the regulations of this ordinance.
3. Shelters or houses a greater number of families than the structure was intended to accommodate,

3.7 Reduction of Lots and Yards

No lot or yard shall be created or altered except in compliance with this ordinance.

3.8 Additional Dwellings on a Single Lot

Additional dwellings shall not be permitted on the same lot or parcel of land as another primary dwelling. However, a detached accessory dwelling unit may be permitted as an accessory use on lots with an existing primary dwelling (see **Article 4.1 Accessory Dwelling Units**).

3.9 Manufactured Home Park

Three (3) or more manufactured homes on the same parcel constitute a manufactured home park and must be permitted as a manufactured home park.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



3.10 Compliance with Other Laws and Regulations

This ordinance may reference other applicable laws and regulations that must be adhered to in addition to the requirements of this ordinance. Compliance with any other laws or regulations for any project subject to this ordinance, whether referenced within or not, shall be the responsibility of the applicant or his agent.

3.11 Uses Not Delineated in This Ordinance

When a use is not specifically delineated in this ordinance as a use-by-right or a special use, a property owner, or his appointed agent, may submit an application for a special use permit. If the use applied for is approved by the Board of Adjustment, this ordinance shall be automatically amended to include the use as a special use in the district in which it is located.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Table of Uses

Below is the Table of Uses that summarizes all of the uses listed in the Ordinance.

X = Use by Right
 A = Accessory Use
 S = Special Use



Digital User Note

Click on the district heading below to go directly to the corresponding district regulations.

If there the space for a use is blank, that use is not allowed.

Residential Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Accessory dwelling unit	A	A	A	A	A						A
Dwelling units, Single family	X	X	X	X	X						X
Dwelling units, Duplex		X	X	X	X						X
Dwelling units: <u>Multiple-family</u>		S	X	S	S						
Bed & breakfast				X	X		S				S
Family care home	X	X	X	X	X						X
Family <u>child care</u> home	S	X	X	X	S						S
Home occupations	A	A	A	A	A						A
Manufactured home: Class A		X	X	X							
Manufactured home: Class B			X	X							
Manufactured home: Class C				X							
Manufactured home: Class D				X							
Mobile home: Class E											
Mixed-use development				X	X	S	S	X			S
Mobile home park			S	S							
Short-term rental (Dedicated)	X	X	X	X	X						X
Short-term rental (Owner Occupied)	X	X	X	X	X						X



Dedicated short-term rentals are considered a “Special Use” in the Lake Overlay District.

Table of Uses Cotinued

Below is the Table of Uses that summarizes all of the uses listed in the Ordinance.

X = Use by Right
 A = Accessory Use
 S = Special Use



Digital User Note
 Click on the district heading below to go directly to the corresponding district regulations.

If there the space for a use is blank, that use is not allowed.

Residential Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Stable (private)	X	X	X	X	X			X			X
Agricultural Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Agricultural use (bona fide farm)	X	X	X	X	X	X	X	X	X	X	X
Farm Brewery	E	E	E	E	E	E	E	E	E	E	E
Farm Winery	E	E	E	E	E	E	E	E	E	E	E
Farmers markets / produce stands			X	X			X	X	X	X	
Greenhouse (commercial)				X				X			
Hobby farm				X							
Plant nurseries			X	X					X	X	
Industrial Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Airport / airstrip				S						X	
Asphalt and concrete plants				S						X	
Automobile parts recycling				X				X		X	
Barge loading area	X	X	X	X	X			X		X	C

Table of Uses Cotinued

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 Click on the district heading below to go directly to the corresponding district regulations.

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Industrial Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Bottling plants				S					X	X	
Brewery				X	S		S	X	X	X	
Cabinet / upholstery / woodworking shops (more than 10 employees)				X					X	X	
Distillery				X	S		S	X	X	X	
Flour and feed mills				S						X	
Garbage disposal services				S						X	
Industrial supplies and equipment (sales and service)				S					X	X	
Land clearing and inert debris landfill	S	S	S	X		S	S	X	X	X	
Landfill (sanitary)				S						S	
Manufacturing / processing facilities				S					X	X	
Mines and quarries				S						S	
Mini warehouses				X			X	X	X	X	
Scrapyards				S				S		X	
Trucking terminals				S					X	X	
Warehouse: enclosed storage				S					X	X	
Warehouse (open storage)				S						X	

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Industrial Uses	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Warehouse (volatile materials)				S						X	
Winery				X	S		S	X	X	X	
Retail	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
ABC Store				X	S		S	X			
Auto, truck, boat, recreation vehicle, and motorcycle sales				X				X			
Bldg. materials storage and sales yard				X				X		X	
Convenience stores (gas sales included)				X	X	S	X	X			
Flea markets				X				X			
Grocery stores / supermarkets				X	S		X	X			
Manufactured home sales				X				X			
Restaurant with drive-thru				X			S	X			
Restaurants excluding drive-thru				X	X		X	X			S
Retail sales (3,000 square feet and less)				X	X	S	X	X	A	A	S
Retail sales, shopping centers (3,000– 10,000 square feet)				X	S	S	X	X	A	A	

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Retail	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Retail sales, shopping centers (10,000 - 100,000 square feet)				X	S		S	X			
Retail sales, shopping centers (greater than 100,000 square feet)				S				S			
Wholesale establishments				S					X	X	
Entertainment/Recreation	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Adult Entertainment Establishment								S		X	
Adult Gaming Establishment				S			S	S			
Auditoriums				X		X	X	X			
Bar / Nightclub				S	S		S	X			
Country clubs	S	S	X	X	X	X	X	X			S
Fishing lakes			X	X							
Go-cart track				S				S		S	
Golf courses	S	S	X	X	X	X	X	X			S
Movie theatres				S	S		S	X			

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Entertainment/Recreation	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Parks, playgrounds, and swimming pools (public and commercial)	S	S	X	X	X	X	X	X			S
Racetrack				S						S	
Recreation vehicle parks / commercial campgrounds			S	S	S		S	X			S
Recreational facility (commercial – indoor)				X	X	X	X	X			S
Recreational facility (commercial – outdoor)				X	S	X	X	X			
Shooting Range (Outdoor)				S							
Special Events Grounds				S	S			S	S	S	S
Stable (public)				X	X			X			S
Zoo				S							
Services	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Auto repair garages and body shops				S				X		X	
Barber shops and beauty shops				X	X		X	X			
Boat Storage & maintenance facility				X	X			X	X	X	S
Cabinet / upholstery / woodworking shops (10 employees or less)				X				X	X	X	
Car washes				X			X	X			

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Services	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Drug stores / pharmacies				X	X	A	X	X			
Dry cleaning and laundry pick-ups				X	X		X	X			
Exterminators								S	X	X	
Homeless shelter			S	X	S		X	X			S
Kennels				S			S	S			
Landscapers				X				X			
Laundromats / automatic laundries				X	X		X	X	X		
Marina			S	S	S			S			S
Parking lots and parking garages				X		X	X	X	X	X	
Printing / engraving / publishing establishments				S					X	X	
Radio and TV repair shops				X		X	X	X			
Service stations				X	S	S	S	X			
Shoe repair shops				X	X		X	X	X		
Small engine sales and repair shops				X				X	X		
Street vendors				X			S	X			
Tailor and dress making shops				X	S		X	X	X		
Taxidermy				X				X			X

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Services	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Television and radio stations				X		X		X	X		
Temporary Homeless Shelter	A	A	A	A	A	A	A	A	A	A	A
Tire recapping shops				X				X	X		
Treatment and Recovery Facility				S		X		X			
Utilities	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Communication towers			S	S		S	S	S	S	S	
Communication tower (alternate structure)	S	X	X	X	X	X	X	X	X	X	S
Public service facilities	S	S	X	X	S	S	X	X	X	X	S
Public utility facilities	S	S	X	X	S	S	X	X	X	X	S
Public works facilities (storage and service yards)				S						X	
Government	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Public use facilities	S	S	X	X	S	X	X	X	X	X	S
Institutional/Office	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Adult care facility				X	X	A	X	X			
Adult care home	X	X	X	X	X						X

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Institutional/Office	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Adult day care facility				X	X	A	X	X			
Animal Hospitals				S			S	S			
Armories				X		X		X			
Banks, loan offices, and financial institutions				X	X	X	X	X			
Child Care facility				X	X	A	X	X			
Churches and cemeteries	X	X	X	X	X	X	X	X	X	X	X
Colleges, universities, and technical college				X		X					
Community centers	S	S	X	X	X	X	X	X			S
Contractor's office and storage yards				S				X		X	
Correctional facilities and jails				X		X		X	X	X	
Crematory				S		A		A	X	X	
Elementary and secondary schools	S	S	X	X	X	X	X	X	S	S	S
Funeral Home				X		X	X	X			
Hospitals				X		X		X			
Libraries				X		X	X	X			
Motels and hotels				X	X			X			S
Museums				X	S	X	X	X			S

Table of Uses Continued

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If there the space for a use is blank, that use is not allowed.

Institutional/Office	R-1	R-2	R-3	R-MU	PRMU	OI	N-B	G-B	L-I	IND	CON
Music and dance institutions				X	S	X	X	X			
Office / professional space (3,000 square feet or less)				X	S	X	X	X	A	A	
Office / professional space (3,000 – 30,000 square feet)				X	S	X	S	X	A	A	
Office / professional space (greater than 30,000 square feet)				X		X		X	A	A	
Recreation centers				X	X	X	X	X			
Rest Home			X	X	S	X	X	X			

Setbacks

Building setback distances shall apply to all structures in the County. Setbacks shall be measured at the shortest distance between the structure and the boundary. If a public road does not have an official right-of-way the distance to the road shall be measured from the centerline of the ditch line. In the event that no ditch line exists the distance to the road will be measured from a point five feet from the edge of the pavement or the edge of the gravel.



Except when adjacent to a road designated as a minor arterial, major collector, or urban major thoroughfare on the approved Burke County Thoroughfare Plan, in which case the required front setback shall be 45 feet.

Structures built within developments in a parallel conditional use zoning district may have lesser setback requirements provided that:

1. There is a degree of uniformity in the location of similar structures on lots in the immediate vicinity.
2. The overall design enhances the character of the original development concept.

These setbacks must be identified in the application, preliminary plats, and final plats by denoting specific building envelopes. In no case shall any building envelope be located within buffer areas or within 10 feet of any public or private right-of-way. No building envelope may be located within 50 feet of a trail or recreational easement dedicated for public use.

Setbacks / Non-conforming Structures

Non-conforming structures must meet the minimum required building setbacks.



An existing non-conforming commercial structure that does not meet the required setbacks may receive a 30% administrative variance from the minimum required setback at the approval of the Zoning Administrator.



An existing non-conforming residential structure that does not meet the required setbacks may receive a 20% administrative variance from the minimum required setback at the approval of the Zoning Administrator.

Purpose and Introduction
1

Definitions
2

Zoning Districts
3

Overlay Districts
4

Use Standards
5

Commercial Design
6

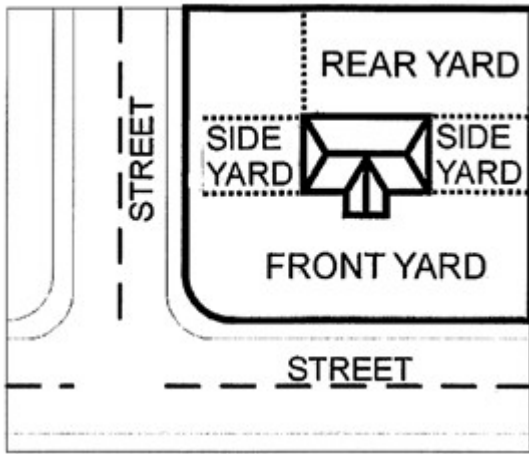
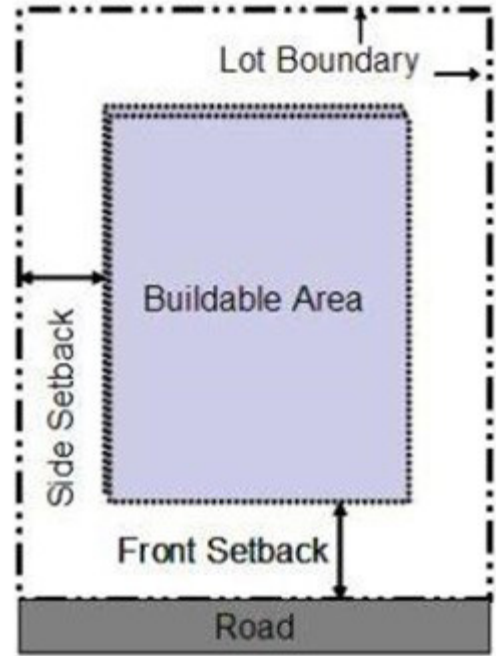
Development Procedures
7

Admin & Enforcement
8



- Front yard 30 Feet
- Side yard 15 Feet
- Rear yard 20 Feet

Front yard exception:
 (When adjacent to a minor arterial, major collector, or urban major thoroughfare the required setback shall be 45 feet)



- Front yard 30 Feet
- Side yard 20 Feet
- Rear yard 20 Feet

Minimum required setbacks
 (on corner lots with streets
 abutting 2 sides)



The front setback is determined by the street to which the parcel is addressed. However, a single family home may face any direction on a lot. All other lot lines shall adhere to the setback requirements for side and rear lot lines.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Setbacks (Commercial)

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

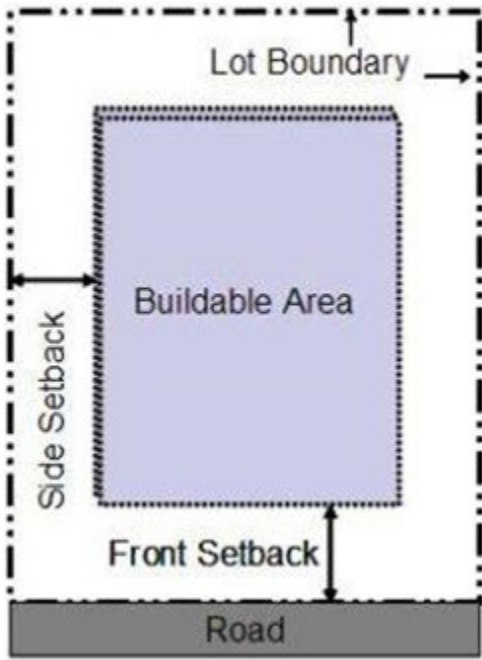
4 Overlay Districts

5 Use Standards

6 Commercial Design

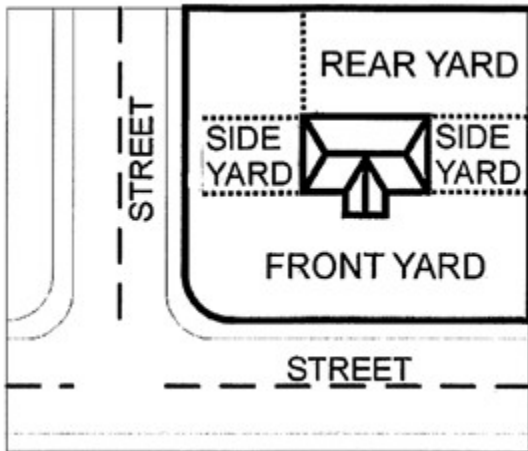
7 Development Procedures

8 Admin & Enforcement



- Front yard 40 Feet
- Side yard 30 Feet
- Rear yard 30 Feet

Front yard exception:
 (When adjacent to a minor arterial, major collector, or urban major thoroughfare the required setback shall be 45 feet)



- Front yard 40 Feet
- Side yard 35 Feet
- Rear yard 30 Feet

Minimum required setbacks
 (on corner lots with streets abutting 2 sides)



The front setback is determined by the street to which the parcel is addressed. However, a single family home may face any direction on a lot. All other lot lines shall adhere to the setback requirements for side and rear lot lines.



Minimum Lot Area

See [Article 3 Zoning Districts](#) for additional requirements

Minimum Residential Lot Size

Zoning District	NO Public Utility	Public Water OR Sewer	Public Water & Sewer
R-1	0.69 Acre (30,000 sq. ft)	0.58 Acre (25,000 sq. ft)	0.50 Acre (21,780 sq. ft)
R-2	0.69 Acre (30,000 sq. ft)	0.58 Acre (25,000 sq. ft)	0.50 Acre (21,780 sq. ft)
R-3	0.92 Acre (40,000 sq. ft)	0.69 Acre (30,000 sq. ft)	0.58 Acre 25,000 sq. ft)
R-MU	1.15 Acre (50,000 sq. ft)	0.92 Acre (40,000 sq. ft)	0.69 (30,000 sq. ft)
PRMU	0.92 Acre (40,000 sq. ft)	0.69 Acre (30,000 sq. ft)	0.58 Acre (25,000 sq. ft)

Minimum Residential Lot Size for Duplexes

Zoning District	NO Public Utility	Public Water OR Sewer	Public Water & Sewer
R-1	0.85 Acre (37,026 sq. ft)	0.85 Acre (37,026 sq. ft)	0.50 Acre (21,780 sq. ft)
R-2	0.85 Acre (37,026 sq. ft)	0.85 Acre (37,026 sq. ft)	0.50 Acre (21,780 sq. ft)
R-3	0.92 Acre (40,000 sq. ft)	0.92 Acre (40,000 sq. ft)	0.58 Acre (25,000 sq. ft)
R-MU	1.15 Acre (50,000 sq. ft)	1.15 Acre (50,000 sq. ft)	0.69 Acre (30,000 sq. ft)
PRMU	0.92 Acre (40,000 sq. ft)	0.92 Acre (40,000 sq. ft)	0.58 Acre (25,000 sq. ft)

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Minimum Lot Area

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Minimum Non-Residential Lot Size			
Zoning District	NO Public Utility	Public Water OR Sewer	Public Water & Sewer
G-B	1.15 Acre (50,000 sq. ft)	0.92 Acre (40,000 sq. ft)	0.69 Acre (30,000 sq. ft)
N-B	0.92 Acre (40,000 sq. ft)	0.69 Acre (30,000 sq. ft)	0.58 Acre (25,000 sq. ft)
O-I	2.50 Acre (108,900 sq. ft)	2.25 Acre (98,010 sq. ft)	2 Acre (87,120 sq. ft)
L-I	5.00 Acre (217,800 sq ft)	4.50 Acre (196,020 sq. ft)	4.00 Acre (174,240 sq ft)
IND	6.00 acre (261,360 sq. ft)	5.50 Acre (239,580 sq. ft)	5.00 Acre (217,800 sq ft)
Minimum Lot Size in Lake Overlay			
Zoning District	NO Public Utility	Public Water OR Sewer	Public Water & Sewer
R-1, R-2	2.00 Acre	1.50 Acre	1.00 Acre
R-3, PRMU	(87,120 sq. ft)	(65,340 sq. ft)	(43,560 sq. ft)
Conservation I District Lot Sizes			Average Density Per Unit
CON Conservation District			3.0 Acres (130,680 sq ft)



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 4.0 Overlay Districts



4.1 Scenic Overlay District

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Intent

The Scenic Overlay District encourages reasonable and appropriate development that is sensitive to aesthetic, environmental, and economic concerns. Development in this district should be compatible with the area's natural resources, cultural history, wildlife habitat, and scenic landscapes while promoting tourism and recreational activities for both residents and visitors to the area.

Jurisdiction

The jurisdiction of the Scenic Overlay District shall be established on the Official Zoning Map of Burke County.

Amendments to the Scenic Overlay District

Any amendment to the jurisdiction of the Scenic Overlay District shall be in the form of a zoning map amendment and such changes shall be in accordance with the process and requirements set forth in **Article 8, Administration, Appeals, and Enforcement** of this ordinance.

Applicability of the Scenic Overlay District

1. The development of property of any size, type, or density within the boundaries of the Scenic Overlay District shall comply with the standards in this section. More specifically, no building or structure, or use of land shall be **erected or altered for any purpose** that does not comply with this section and the requirements in **Article 4.5., Uses Not Applicable to Requirements**.
2. The following activities shall comply with the requirements of the Scenic Overlay District:
 - a. The development of vacant tracts that occur after the effective date of this Article;
 - b. The division of land for non-residential use or a residential use that is classified as a subdivision by the North Carolina General Statutes and the Burke County Subdivision Ordinance.
 - c. Any change of use to a non-residential use, mixed use, or multi-family use of an existing property or structure
 - d. It is recommended that public schools, public service, public use, and pub



lic use, and public utility facilities, should meet the requirements of this Article to the extent possible to ensure consistent application of the requirements for development within the Scenic Overlay District.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Uses Not Applicable to Requirements

The requirements of the Scenic Overlay District do not apply to existing single-family dwellings, manufactured homes, and duplexes.

Conformity with the Underlying Zoning District

Permitted and special uses within the Scenic Overlay District shall be consistent with the underlying general zoning district except as prohibited under **Article 4.7, Prohibited Uses** and special uses permitted in **Article 4.8, Special Uses** of this ordinance.

Prohibited Uses

The following uses shall not be permitted within the Scenic Overlay District:

- Adult entertainment establishments
- Airport / airstrip
- Armories
- Asphalt and concrete plants
- Auto repair garages and body shops
- Automobile parts recycling
- Off-site advertising not located on County logo signs
- Bottling plants
- Building materials storage and sales yards
- Cabinet / upholstery / woodworking shops (more than 10 employees)
- Correctional facilities and jails
- Exterminators
- Flea markets
- Flour and feed mills
- Fruit or vegetable packing shed
- Garbage disposal service
- Go-cart track
- Hospitals
- Industrial supplies and equipment (sales and service)
- Land clearing and inert debris landfill
- Landfill (sanitary)
- Manufactured home sales
- Mobile home (Class E)
- Manufacturing / processing facilities
- Mines and quarries
- Manufactured home park
- Office / professional space (greater than 30,000 square feet)



Printing / engraving / publishing establishments
 Public works facilities (storage and service yards)
 Racetrack
 Retail sales, shopping centers (greater than 100,000 square feet)
 Scrapyards
 Street vendors
 Television and radio stations
 Theater, Drive-in
 Tire recapping shops
 Trucking terminals
 Warehouse
 Warehouse: hazardous materials
 Wholesale establishment

Special Uses

The following uses shall be allowed within the Scenic Overlay District with a special use permit:

Auto, truck, boat, recreation vehicle, and motorcycle sales
 Boat storage and maintenance facility
 Colleges, universities, and technical college
 Communication tower
 Contractor’s office and storage yards
 Dwelling units: multi-family
 Elementary and secondary schools
 Funeral home
 Grocery stores / supermarkets
 Golf courses
 Hobby farm
 Mini warehouses
 Motels and hotels
 Office / professional space (3,000 – 30,000 square feet)
 Parking lots and parking garages
 Planned unit developments and group residential projects
 Public service facilities
 Retail sales, shopping centers (10,000 – 100,000 square feet)
 Structures greater than fifty (50) feet in height
 Zoos

Site Plan

All applicable development subject to the provisions of this article is required to submit a complete site plan consistent with the requirements of [Article 7, Development Procedures](#) of this Ordinance. In addition to the minimum requirements found in [Article 7](#), the site plan shall include and meet the requirements of the Scenic Overlay District.



Building Design Standards

All non-residential structures shall be designed to visually complement the natural features within the site and to minimize the obstruction of scenic views to and from the natural features in the area.

The following design standards shall apply to all commercial structures within the scenic overlay to maintain the rustic aesthetic characteristics of the area:

1. Dominant exterior building colors should be chosen to blend in with the natural surroundings and should not stand out when seen through wooded areas. All shades of white, cream, or beige are prohibited from being used as the primary exterior color on any structure.
2. Exterior building materials shall primarily consist of natural elements such as brick, stone, masonry, logs, wood shake, wood lapped siding, vertical board and batten, glass, or rough textured stucco. Roofing materials shall be chosen to blend in harmoniously with the natural tree canopy.

Access Management

Access management for non-residential and mixed-use structures and buildings locating in the Scenic Overlay District may be found in [Article 6, Commercial Design Standards](#). All lots in major residential subdivisions shall be accessed through interior roads. Direct driveway access is not permitted unless it is not topographically feasible or when the Planning Board determines that the installation of the road would result in a design that is not within the intent of the Scenic Overlay District.

Parking Requirements

Parking requirements for non-residential and mixed-use structures and buildings locating in the Scenic Overlay District may be found in [Article 5, Commercial Design Standards](#).

Landscaping, Buffering and Screening Requirements

Landscaping, buffering, and screening requirements for non-residential and mixed-use structures and buildings locating in the Scenic Overlay District may be found in [Article 6, Commercial Design Standards](#).

Protection of Water Bodies and Natural Areas

Buffering and Screening

1. Residential buffers
A thirty (30) foot vegetative buffer is required when non-residential developments in the Scenic Overlay District are adjacent to a residential zoning dis



tract. The screening, fences, and retaining walls shall comply with the planting requirements in [Article 5, Use Standards](#).

Signs

Signage within the Scenic Overlay District should be consistent with the design features of the primary structure. Signage on commercial buildings must be made of natural materials, may not be internally illuminated, and must comply with all other relevant portions of [Article 5, Use Standards](#).

On-Site Signs

1. Permitted signs shall include the following designs: free-standing, wall, name plate, and canopy.
2. Prohibited signs shall include the following designs: billboard, flashing light, rotating, and portable.
3. Setbacks - Signage shall be setback a minimum of ten (10) feet from all road rights-of-way.
4. Visibility – Signs shall not block or impair visibility to ensure proper line-of-sight for all motorists and pedestrians. Signs shall not block visibility from three-to-eight (3-8) vertical feet within twenty (20) feet of any road intersection.
5. Signage on commercial buildings shall be made of natural materials, may not be internally illuminated, and must comply with all other relevant portions of [Article 5, Use Standards](#).

Off-Site Signs

New off-site outdoor advertising signs are not permitted in the Scenic Overlay District, except for the use of logo signage as outlined below. The continued use of existing off-site outdoor advertising signs shall be allowed consistent with non-conforming structures as referenced in [Article 8, Administrative, Appeals, and Enforcement](#) of this ordinance.

Use of Logo Signage Encouraged

The use of logo signage is encouraged for the promotion of travel and tourism-based business within the Scenic Overlay District. These signs shall be permitted in conjunction with approval from the NC Department of Transportation (NC DOT). These logo signs should be made of natural materials.



Examples of Logo Signs Made of Natural materials

Utilities and Lighting Requirements

Exterior lighting on individual lots shall be muted, fully shielded, and directed to avoid illuminating entire structures, creating glare on the night sky, and attracting attention to particular areas for reasons other than security. Utilities and lighting requirements for non-residential and mixed-use structures and buildings locating in the Scenic Overlay District may be found in [Article 6, Commercial Design Standards](#).

Pedestrian & Bicycle Design

1. To provide a safe, comfortable, and convenient environment for visitors and employees, developments shall be designed in a manner to provide a unified and well organized arrangement of buildings, parking areas, pedestrian, and landscaped common areas to permit the pedestrian to conduct business with a minimum of conflict with vehicles.

2. Developments that qualify for major site plan review shall include provisions for pedestrian scale amenities such as benches, picnic tables, courtyards, plazas, water attractions, trash receptacles, bicycle parking, and other such elements that promote an efficient and functional pedestrian environment and maintain a sense of place.
3. Loading zones and maintenance areas shall be located and arranged to prevent the interference with pedestrian movement within the development.
4. Linkages for pedestrian and bicycle movement, such as sidewalks, bikeways, and paths, shall be provided between buildings or building clusters within a development and should connect adjacent uses when feasible or consistent with adopted land use recommendations or transportation plans.
5. Pedestrian ways shall be located and designed in a manner that reduces congestion and hazards with vehicular traffic.
6. For convenience and security, bicycle parking facilities
 - a. shall be located near building entrances,
 - b. shall be visible from the land uses they serve, and
 - c. shall not be in remote automobile parking areas.

Such facilities shall not impede pedestrian or automobile traffic flow or cause damage to plant material from bicycle traffic.

Preservation of Natural, Cultural and Historical Sites

To promote environmental integrity, tourism, and economic development through the preservation of Burke County's unique natural, cultural, and historical heritage, developments within the Scenic Overlay District shall meet the following requirements:

1. All cultural, historical, or naturally significant sites shall be identified on the development site plan.
 - a. Developments shall be designed to preserve and minimize the impact of development on the historic, cultural, and naturally significant sites when feasible.
 - b. Projects shall be designed to preserve significant existing trees and other significant existing vegetation on the site.
 - c. The project shall be designed to integrate with and otherwise preserve existing site topography, including but not limited to such characteristics as steepness of slopes, existing drainage features, rock outcroppings, river and stream terraces, valley walls, ridgelines, and scenic topographic features.



- d. The project shall be designed to preserve or enhance the ecological character or function and wildlife use of the natural habitat or features and to minimize or adequately mitigate the foreseeable impacts of development.

Compatibility with Public Natural Areas or Conserved Land

If the project contains or abuts a publicly owned natural area or conserved land, the development plan shall be designed so that it will be compatible with the management of such natural area or conserved land. In order to achieve this, the development plan shall include measures such as barriers or landscaping to minimize wildlife contacts, setbacks or open space to provide a transition between the development and the publicly owned natural area or conserved land, and educational signage or printed information regarding the natural values, management needs and potential conflicts associated with living in close proximity to such natural area or conserved land.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Lake and River Overlay District

4-2 Catawba River, Lake James, Lake Rhodhiss & Lake Hickory Overlay District

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Intent

The intent of this article is to protect water quality, fish and wildlife habitat, and recreational use of the Catawba River, Lake James, Lake Rhodhiss, and Lake Hickory. This article seeks to:

1. Minimize erosion
2. Prevent siltation and turbidity
3. Stabilize soils
4. Prevent excess nutrients and chemical pollution
5. Maintain a healthy tree canopy and understory
6. Preserve fish, bird, and wildlife habitat
7. Respect the overall natural condition of the shoreline

It is also the intent of this article to encourage development of this district in compliance with this ordinance.

Jurisdiction

This article shall apply to all navigable water and/or lands in Burke County's zoning jurisdiction within two hundred fifty (250) feet, (measured horizontally) of the reference line of Lake James, Lake Rhodhiss, Lake Hickory, and the main stem and old channel of the Catawba River that flows between Lake James to the mouth of Lake Rhodhiss. The reference line is the:

Lake James - Duke Energy project boundary of 1,200 feet above sea level,

Lake Rhodhiss – Duke Energy project boundary of 1,000 feet above sea level,

Lake Hickory – Duke Energy project boundary of 935 feet above sea level.

Old Stem of the Catawba River - The reference line shall be considered the top edge of the bank.

All applicable floodplain regulations shall also apply to these areas.

Applicability

Applicability of the Lake and River Overlay District.

1. The development of property of any size, type, or density within the boundaries of the Lake and River Overlay District shall comply with the standards in this section. More specifically, no building or structure, or use of land shall be erected or altered for any purpose that does not comply with this section.



2. The following activities shall comply with the requirements of the Lake and River Overlay District:
 - a. The development of vacant tracts that occur after the effective date of this Article
 - b. The division of land for non-residential use or a residential use that is classified as a subdivision by the North Carolina General Statutes and the Burke County Subdivision Ordinance
 - c. Any change of use to a non-residential use, mixed use, or multi-family use of an existing property or structure
 - d. It is recommended that public schools, public service, public use, and public utility facilities, should meet the requirements of this Article to the extent possible to ensure consistent application of the requirements for development within the Lake and River Overlay District.

Severability

Should any section or provision of this article be declared invalid or unconstitutional by any court, the declaration shall not affect the validity of this article that is not specifically declared to be invalid or unconstitutional.

Conflict with Other Laws

Where any other law, ordinance, or regulation impose higher standards than are required by this article, the provisions of the higher law, ordinance, or regulation shall govern.

Duties of the Zoning Administrator

The Zoning Administrator or their designee shall issue Shoreline Protection Permits, Zoning Permits, and conduct all required inspections as prescribed within this ordinance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.

Shoreline Protection Permit

- A. No building, structure, or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any clearing or grading commence, nor shall any building permit be issued until a Shoreline Protection Permit has been issued by the Zoning Administrator or their designee. No Shoreline Protection Permit shall be issued that does not conform with the provisions of this ordinance.
- B. Shoreline Protection Permit applications shall be filed with the Zoning Administrator. The application shall include a complete application form and a sedimentation and erosion control plan and/or revegetation plan if applicable



- C. Prior to issuance of a Shoreline Protection Permit, the Zoning Administrator may consult with qualified personnel to determine if the application meets the requirements of this ordinance.
- D. A Shoreline Protection Permit shall expire if a Building Permit has not been obtained by the applicant within twelve (12) months from the date of issuance, unless an extension is approved by the Zoning Administrator.
- E. The cost of a Shoreline Protection Permit is established in the Schedule of Fees and is payable to Burke County when the application for Shoreline Protection Permit is submitted.
- F. A Minor Shoreline Protection Permit shall consist of projects that require two (2) or fewer site inspections. The impact of disturbance and duration of such projects is short in nature.
- G. A Major Shoreline Protection Permit shall include projects that require more than two (2) site visits. The impact of disturbance and duration of these projects is greater than minor shoreline projects. These projects will require ongoing or regular site inspections to ensure proper maintenance, compliance, and installation of erosion control measures and revegetation.

Building Permit Required

No permit or certificate of occupancy required under the North Carolina State Building Code shall be issued for any construction activity for which a Shoreline Protection Permit and final inspection is required until the applicable authorization has been approved.

Final Inspection

- A. The Zoning Administrator or their designee shall perform a final inspection certifying that all requirements of this ordinance have been met prior to the issuance of a certificate of occupancy.
- B. A final inspection for any permit shall be performed within ten (10) days after the completion of the project.
- C. If the inspection fails to pass, the Zoning Administrator shall notify the applicant in writing stating the reasons for failure.

No building or structure which has been erected, moved, or structurally altered may be occupied until the Zoning Administrator or their designee has issued a final approval.

Protected Shoreline Limit

The following sections shall apply within two hundred fifty (250) feet of the reference line:

- 1. Plantings that are beneficial to wildlife are encouraged.



- 2 Trees that fall into the water, and do not pose a navigational hazard or other safety concern, shall be left in place to benefit fish habitat. No trees that have fallen into the water shall be removed, but those that have fallen within a designated pier zone may be moved to a location in the water adjacent to the pier zone.
- 3 Foot paths for individual lots shall be four (4) feet or less in width and designed in a winding manner to prevent surface runoff and erosion. Foot paths serving common areas or multiple lots shall be six (6) feet or less in width. Plant root systems adjacent to the foot path shall be protected by a layer of wood chips or other organic material.
- 4 Buildings shall be incorporated within the natural topography to avoid extensive grading that would alter drainage patterns or create steep slopes; minimize the potential for erosion; and maintain existing vegetation. Other than docks and footpaths, all new development must be entirely within defined building envelopes as described in this section, **Determining Building Envelopes**.
- 5 Impervious surfaces including building footprint, impervious roads, or other impervious cover shall not exceed twenty-four (24) percent of the parcel.
- 6 Activities conducted by state regulated public utilities (i.e. utility right-of-way construction and maintenance, and communications) are not subject to the provisions of this section.
- 7 Activities conducted on forest land for the production or harvesting of timber and conducted in accordance with an approved NCFS “Forest Management Plan” are not subject to the provisions of this section. However, these activities shall be conducted in a manner that is consistent with and meet all other applicable federal, state, or local regulations.
- 8 The provisions of this section shall not apply to activities which have unexpired permits issued by Burke County prior to the adoption of these requirements.
- 9 In all new developments:
 - a. New utility lines (except new three-phase power lines) are to be installed underground.
 - b. Streetlights shall utilize fully shielded fixtures to direct light down away from adjacent properties and water surfaces. No overhead streetlights shall be allowed in developments approved after adoption of this ordinance. Small fully shielded walkway lights, not to exceed three (3) feet in height, shall be allowed in order to provide public safety for pedestrian areas.
 - c. All plants and trees located outside of designated building envelopes are considered protected unless otherwise specified in this article and shall not be removed or destroyed in any manner.
- 10 Natural undisturbed woodland buffers of thirty (30) feet in width shall be maintained on both sides of all perennial streams and creeks identified as solid blue lines on current

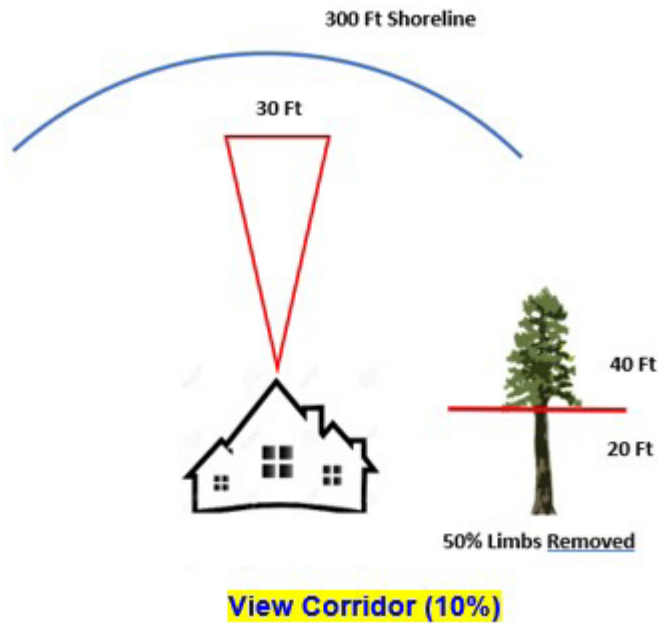


Natural Woodland Buffer

In order to protect the water quality of Burke County's three (3) lakes and the Catawba River, a Natural Woodland Buffer has been established. Vegetation and root systems within the woodland buffer stabilize the bank, prevent soil from eroding, and act as a filter to remove pollutants from entering the water.

All activities, within the Natural Woodland Buffer are subject to the provisions of this ordinance and must receive pre-approval from the Zoning Administrator or their designee. The following provisions shall apply within the Natural Woodland Buffer:

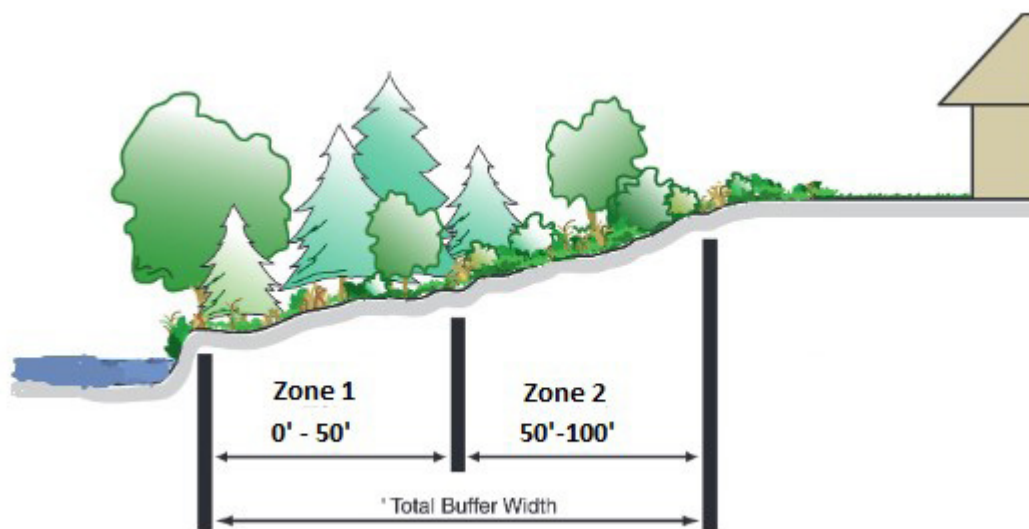
1. All trees, shrubs, and ground cover are considered protected vegetation. No clearing, trimming, thinning, pruning, or vegetation removal shall take place within one hundred (100) feet (measured horizontally) of the reference line without prior approval and permit.
2. Individual trees may be selectively pruned for the purpose of creating a "view corridor". The view corridor must be approved and permitted prior to its creation. Only the lateral limbs from the lower fifty (50) percent of the tree's total height may be removed. In no case shall more than ten (10) percent (10%) of the trees in the buffer be skirted up in this manner in order to screen the structure and maintain the natural appearance of the property from the lakeshore.



3. The replacement of vegetation shall comply with the following requirements:
 - a. Submittal of a revegetation plan approved by the Zoning Administrator. The plan shall identify:
 1. The type, size, and location of vegetation to be removed and
 2. The type, size, and location of vegetation to be planted.

- 1 Purpose and Introduction
- 2 Definitions
- 3 Zoning Districts
- 4 Overlay Districts
- 5 Use Standards
- 6 Commercial Design
- 7 Development Procedures
- 8 Admin & Enforcement

- b. Replacement vegetation is protected vegetation and shall be maintained.
- c. Placement of vegetation shall not impair the health of the natural woodland buffer.
- d. Replacement of trees shall be subject to the following provisions:
 - i. Trees shall be replaced with a quantity of trees totaling the diameter of the tree removed. Replacement trees shall not to be less than two (2) inches in diameter.
 - ii. The Zoning Administrator may vary the requirement above if they determine that compliance with the requirement will adversely impact the health of the natural woodland buffer (i.e. overcrowding) or if the replanting will create a hazardous situation for existing structures (i.e. dense planting within twenty-five (25) feet of structures may increase forest fire hazards or the potential of future fall hazards that may damage life or property).
 - iii. The Zoning Administrator shall require evidence of any hardship described above from a certified tree specialist, arborist, or landscape architect licensed in the State of North Carolina. The evidence shall be provided at the expense of the property owner or developer.
 - iv. Diameter shall be measured at a height of three (3) feet from the base of the tree.
- e. Each shrub removed shall require the replanting of a replacement shrub that will be of equal size caliper at maturation.
- f. The replacement of ground cover shall require one (1) square-foot of ground cover to be planted for each square-foot removed. The Zoning Administrator may accept an approximation of the ground cover area to be removed and replaced. The Zoning Administrator may conduct a site visit prior to accepting an approximation and prior to permitting the removal of the ground cover.



The Natural Woodland Buffer is composed of two (2) zones. Zone 1 is a state mandated buffer of (0-50) feet of the reference line. Zone 2 is (50-100) feet of the reference line (see example below).

Zone 1 Restrictions

The following activities are permitted within Zone 1 (*within 50' of the reference line*).

1. Dead, diseased, hazardous, poisonous, or unsafe trees, shrubs, or groundcover may be removed provided they are replaced per this section, **Natural Woodland Buffer**. The replacement trees shall be placed anywhere within fifty (50) feet of the reference line and shall remain undisturbed except for any pruning per this section, **Natural Woodland Buffer**.
2. Fallen trees may be removed in the buffer area, however, they shall be replaced per this section, **Natural Woodland Buffer**. Trees that fall into the water shall remain undisturbed unless they pose a navigational hazard in the pier zone. These trees may be relocated to an area in the water adjacent to the pier zone, but they may not, under any circumstances, be removed entirely from the water.
3. Vines, shrubs, groundcover, and small trees are protected vegetation and shall not be removed except as per (#1) of this section. The only exception is for areas of extremely dense pines that are four (4) inches or less in diameter. These trees shall be selectively removed, and the area replanted at the discretion of the Zoning Administrator and in accordance with an approved revegetation plan utilizing native species of hardwoods and selected softwoods. The construction of a four (4) foot footpath to the mooring shall be permitted.
4. Groundcover other than permanent turf grasses may be planted (i.e mulch, pine straw
5. Shoreline stabilization requirements:
 - a. The required form of shoreline stabilization shall be rip rap. The rip rap may be composed of natural or quarried stone and should be similar in color to the natural rock outcroppings found in the area.

Bulkheads and seawalls are not permitted except for the following exceptions:

- b. Seawalls and bulkheads may be considered only for portions of the shoreline where the bank height equals or exceeds four (4) feet in height, and when the slope equals or exceeds 2:1 for at least four (4) vertical feet. For such requests, the applicant shall provide a site plan designed by a licensed professional engineer.
- c. In situations where the natural shoreline has been severely eroded, creating



extremely steep banked shorelines (≥ 10 feet above the reference line), re-shaping or “rolling back” the slope of the bank is permitted in order to prevent further excessive undercutting and erosion. This form of shoreline stabilization is allowed provided the work is designed and installed under the supervision of a licensed professional engineer. When slope reshaping is permitted, the required setback must still be maintained to ensure that an adequate building site remains. In such cases, the rear/lake setback shall be measured from the top of the bank rather than the reference line. The reshaped bank must then be replanted to replace all protected trees and other vegetation that was removed during the reshaping activity. All variances from this requirement must be approved by the Burke County Board of Adjustment.

- d. To minimize disturbance to the protected buffer, all shoreline stabilization activities shall take place either from the water using a barge to transport and place stabilization materials or by truck when using land-based stabilization methods. One (1) twelve (12) foot wide corridor may be cleared for equipment access and to allow slopes to be laid back to create a safe and stable condition. The access corridor shall be created in a winding manner to reduce erosion and protect viewsheds. Protected trees removed to accommodate permitted projects shall be replaced per this section, **Natural Woodland Buffer**. Any disturbance to the ground cover within the buffer shall also be restored. To assure suitable re-forestation of the buffer, the re-planting plan must be designed and installed under the supervision of a licensed landscape architect. Prior to issuance of a certificate of occupancy all work shall be inspected for compliance with the submitted re-planting plan if applicable.
 - e. Trees growing along the shoreline on a bank that has been undercut by wave action and are leaning past a vertical position may be removed to accommodate shoreline stabilization provided that they are replaced, per Section ?, Natural Woodland Buffer.
6. Permanent grasses (other than turf grasses) and other vegetation shall be permitted in conjunction with shoreline stabilization projects where slopes will not support a natural mulch groundcover.
 7. Structures that support water-dependent uses (i.e. docks, and piers, but not storage sheds or parking areas) are permitted within fifty (50) feet of the reference line if they comply with all applicable Duke Energy, local, state, and federal regulations.

Activities Not Permitted Within Fifty (50) Feet of the Reference Line

The following provisions are not permitted within fifty (50) feet (measured horizontally) of the reference line:

1. Topping of trees.
2. Grubbing or grinding of stumps.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



3. Chemicals shall not be used to kill stumps and other vegetation.
4. Mechanical clearing shall not be used unless it is used in conjunction with a shoreline stabilization project.
5. Removal of understory plants with the exceptions of plants removed in accordance with **Article 6.2, Section, Natural Woodland Buffer** and in areas of dense pine. These pines may be removed when replaced with plantings on an approved revegetation plan.

Zone 2 Restrictions

1. Within zone 2 the following restrictions shall apply (between fifty (50) and one hundred (100) feet (measured horizontally) from the reference line:
 - a. Existing natural vegetation and all required replacement trees must be maintained.
 - b. Dead, diseased, hazardous or unsafe trees, saplings, shrubs, or groundcover may be removed if approved and permitted by the Zoning Administrator. Fallen trees may also be removed.
 - c. The removal of lateral limbs from no more than the lower fifty (50) percent of the tree's total height will be permitted.
 - d. Removal of trees for building construction, accessory structures, septic systems, driveways, and parking areas must be confined within a defined building envelope per this section, **Determining Building Envelopes** of this ordinance and meet the applicable setbacks.

Any tree removed must be replaced in accordance with this section, **Natural Woodland Buffer**. The replacement trees may be replaced anywhere within one hundred (100) feet of the reference line.

Unpermitted Vegetation Removal

Valuations of Protected Vegetation

Any vegetation removed from the Natural Woodland Buffer shall subject the parcel owner to the following civil penalties. Each tree constitutes a separate violation and penalty.

1. For each a bush or shrub \$50.00.
2. Trees no more than four (4) inches in stump diameter = \$50.00
3. If a tree is more than four (4) inches but less than eight (8) inches in stump diameter = \$100.00
4. If a tree is more than eight (8) inches but less than fourteen (14) inches in stump diameter = \$300.00
5. If a tree is more than fourteen (14) inches and not but less than eighteen (18) inches in stump diameter = \$750.00
6. If a tree is more than eighteen (18) inches but less than twenty-two (22) inches in stump diameter = \$1,500.00
7. If tree is greater than twenty-two (22) inches in stump diameter = \$2,000.00



The calculation of the stump diameter will be measured from its widest extent.

Exceptions

1. The cutting of a tree for the harvesting of timber providing the harvesting is part of a Forest Management Plan prepared by the NC Department of Forestry. Timber harvesting shall not take place within fifty (50) feet of the reference line.

Replacement of Illegally Removed Vegetation

1. Replacement of vegetation must take place as per this section, **Natural Woodland Buffer** of this ordinance.
2. Failure to pay the penalty within seventy-two (72) hours of citation shall result in a civil action by the County.
3. If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal to the Board of Adjustment.

Penalties

Violation with any provision of this article shall subject the offender to a civil penalty in accordance the Valuation of Trees Schedule within this section. After notification of the violation is provided, the activity in violation shall cease immediately. Each day that the violation continues shall constitute a separate offense without multiple citations being issued. Initial citations shall be in writing and signed by the Zoning Administrator and shall be delivered or mailed by certified mail to the offender either at his residence, place of business, or at the location where the violation occurred.

Setback Provisions

All structures shall be setback at least one hundred and twenty-five (125) feet from the reference line. No construction disturbance shall be allowed within one hundred (100) feet of the reference line except mulch or slatted deck access trails less than four (4) feet across to piers. The remaining twenty-five (25) feet abutting the building footprint may be used for construction activities provided it is replanted or stabilized with mulch and native plant species prior to a final occupancy permit being issued.

Roads and driveways shall be setback at least one hundred and twenty-five (125) feet from the reference line and shall be designed to minimize disturbance to natural vegetation and topography, except bridges and bridge approaches and access ways for emergency vehicles.

Setback	Prior to 2004 Lake James	Prior to 2005 Catawba River	New Construction
Rear	65"	65"	125"
Rear Slope > 2.1	75"	75"	N/A
Roads & Driveways	75"	75"	125"



Determining Building Envelopes

On lots that lie in whole or in part within two hundred fifty (250) feet of the reference line of Lake James, Lake Rhodhiss, Lake Hickory, and the Catawba River, building envelopes shall be established in accordance with this ordinance. The following areas shall **not** be considered buildable area and shall **not** be located inside of designated building envelopes. Lands meeting the criteria listed below shall **not** be used for construction activity other than shoreline stabilization, pier construction, and access paths or walkways:

1. Slopes over 25% must have a letter from a licensed engineer. No slope or building envelope shall exceed 30%
2. Wetlands
3. Floodways as designated by the Federal Emergency Management Agency
4. Utility flood easements to the 1210' elevation line
5. Land under permanent easement for utility transmission lines.
6. Land within required buffer areas.

Additionally, these areas should **not** be used for road right-of-ways unless no other feasible alternative exists and as part of an approved preliminary plan. These areas can, however, be included in platted lots in addition to the required building envelopes, used for access to private or public piers and recreation facilities.

Storm Water Management and Erosion Control

The following provisions shall apply to all land disturbing activities within two hundred fifty (250) feet of the reference line.

1. A Storm water management and erosion control plan drawn by a registered surveyor, engineer, architect, or landscape architect shall be submitted for any clearing, grading, construction, and/or development activities which disturb soil.
2. The following standards shall be applied in designing Stormwater management and erosion control measures:
 - a. All measures in the stormwater management and erosion control plan shall meet Best Management Practices set forth in the North Carolina Erosion and Sediment Control Planning and Design Manual and the North Carolina Department of Environmental Quality (NCDEQ) Surface Waters and Wetlands Standards "Redbook".
 - b. Whenever practical, natural vegetation shall be retained, protected, or supplemented. The removal of vegetation shall be done in a manner to minimize soil erosion.
 - c. All erosion control and stormwater management measures shall be installed according to the approved plan prior to removal of vegetation.
 - d. The area of disturbance and the duration of exposure shall be kept to a minimum. Disturbed areas remaining idle for more than twenty-one (21) days shall be

stabilized

- e. Measures shall be taken to control sediment and retain it within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Approved measures shall protect very poorly drained soils and surface waters within the project area as identified by the United States Department of Agriculture's Soil Survey of Burke County.
- f. Off-site surface water and runoff from undisturbed areas shall be carried non-erosively through the project area or diverted away from the disturbed areas where feasible. All storm water leaving individual home sites, community areas, and roadways must enter buffer areas as sheet flow. Under no circumstances will piped discharge of stormwater into or out of buffer areas be allowed. Acceptable means of treating stormwater shall include, but not be limited to, the following: wet detention ponds, dry detention ponds, level spreaders, curb cuts, and vegetated conveyances such as swales, as well as other methods described in NC DEQ's Stormwater Best Management Practices. Such controls, or combination of controls where required, shall be designed to remove a minimum of eighty-five (85%) percent of total suspended solids associated with treating run-off resulting from the first one (1) inch of precipitation.
- g. Priority shall be given to protecting natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area. The County may approve innovative and/or proprietary Best Management Practices (BMPs) provided the BMP or combination of BMPs meet minimum required design standards for treating runoff. Such plans must be certified by a professional engineer.
- h. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within twenty-one (21) days.
- i. Disturbance of one acre or more requires a permit from the NC Division of Land Quality under the North Carolina Sedimentation Control Act.
- j. No streets utilizing curb and gutter design shall be approved for use in the Conservation District.

Special Design Standards

The Burke County Strategic Land Use Plan is the guiding document for land use development in Special Planning Areas such as the lake and river overlay district. These areas have unique characteristics and/or special environmental, scenic, or historic significance which require special consideration in land use matters. In order to preserve and protect the natural aesthetic beauty and quality of these areas, certain design standards were incorporated into this section.

General

Non-residential development within the Lake and River Overlay District shall meet high-quality

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



design standards and enhance the natural and architectural characteristics of the surrounding area. The flexibility in design seeks to promote innovative and well-planned development that protects and is consistent with the surrounding natural, cultural, and historical resources. Corporate identity and trademark architecture must be designed and constructed in such a way as to be compatible with the local vision of rusticity and modest scale.

Building Design Standards

Type of Construction

1. The following design standards shall apply to all non-residential and mixed-use structures and buildings located in the Lake and River Overlay District or when retrofitting such existing structures for additions and changes of use.
2. All non-residential, shall be designed to complement the visual character of natural features within the site and to minimize the obstruction of scenic views to and from the natural features in the area.

Building Materials

1. Exterior non-residential building materials should consist of decorative natural elements such as:
 1. brick,
 2. stone,
 3. logs,
 4. wood shingle,
 5. wood lapped siding,
 6. vertical board and batten,
 7. glass,
 8. or rough textured stucco.

Roofing materials shall be chosen to blend in harmoniously with the natural tree canopy. Similar alternative building materials are permissible and subject to approval by the Zoning Administrator.

2. The use of unpainted cinder-block walls or metal paneling shall be prohibited except when used on exterior walls not facing or visible from public thoroughfares or access ways. When permitted, such uses shall be screened from adjacent uses and properties.
3. Accessory structures shall be consistent in design with the primary structure and be constructed of compatible materials.
4. Dominant exterior building colors should be chosen to blend in with the natural surroundings and should not stand out when seen through wooded areas. All shades of white, cream, or beige are prohibited from being used as the primary exterior color on any structure unless such shades are used in a manner consistent with surrounding historic structures and structure design.
5. Any fencing visible to the public shall be constructed of natural materials and designed



to enhance the architectural elements of the primary structure.

6. The use of decorative elements such as fountains, outdoor seating and benches, works of art, and statues are encouraged in pedestrian and open space areas.

Loading and Service Areas

Loading and service areas should not be visible from public roads. Loading and service areas shall be designed to ensure the safety of pedestrians and private property. These areas shall have sufficient space to be properly accessed and the use of these areas shall not block public road rights-of-way nor hinder access nor traffic flow.

Landscaping Requirements

1. Entranceways

Medians, when required, shall be grassed and landscaped. Landscaping and plantings shall not affect visibility within site triangles and entrance drives.

2. Interior streets

For all developments with multiple tenants, parcels, or buildings subject to major site plan review, shade trees shall be planted along both sides of all interior streets, excluding those not typically used by the public.

Typical plantings must include a minimum of fourteen (14) shade trees per 1,000 linear feet which are at least eight (8) feet tall at planting and will be a minimum of twenty (20) feet tall at maturation.

3. Parking areas

Within parking areas, tree planting areas shall be provided for every 10 parking spaces. Tree planting areas shall be at least eight (8) feet wide, a minimum of 200 square feet in area, include at least one (1) shade tree, and be designed to minimize damage to trees by parking or moving vehicles. The remaining area shall be landscaped with plantings (bushes, shrubs, flower beds). Pedestrian ways are permitted within parking landscaped areas but do not count towards the area requirement.

Lighting of Buildings and Pedestrian Areas

On-site lighting may be used to accent architectural elements and provide safety and security on pedestrian walkways, at building entrances, and public areas between buildings, but shall not be used to illuminate entire portions of building(s). Neon and laser lighting shall not be utilized in signage or building ornamentation in the Lake and River Overlay District.

Entranceway, Street, and Parking Area Lighting

In order to promote safety and security in developments, lighting may be used at intersections, development entrances, and in parking areas.

Residential Pier, Dock, and Gazebo Provisions

1. The following definitions apply to this section on residential piers, docks, and gazebos:

Residential Pier

A fixed uncovered deck attached to land and extending over water to allow dry access to watercraft or to provide other recreational access to the water. The maximum square footage for any pier shall not exceed two-hundred fifty (250) square feet. Piers may be no higher than three feet (3') above full pond.

Gangway

A walkway that may be attached to land that extending over water to allow dry access to watercraft or to provide other recreational access to the lake. A gangway may be fixed or floating. The maximum width of a gangway is six feet (6'). Gangways may be no higher than three feet (3') above full pond.

Residential Dock

An object or structure secured in the water which is intended or used for securing one or more watercraft in the water or to be used for recreation. Docks must be floating. If there is a circumstance which prohibits the dock from being a floating structure, then the property owner may submit a written request to the zoning administrator for the dock to be a fixed structure. The written request must include justification from an engineer as to the need for the fixed structure and why a floating structure is not feasible. If there is no other option but to utilize a fixed structure then, the zoning administrator may permit the structure. If a fixed structure is used it may be no more than 3' above full pond. Dock is synonymous with boat slip.

Gazebo

A roofed structure opened on all sides with places for sitting. Gazebos are not allowed in the woodland buffer and are only allowed on piers.

Hipped Roof

A roof where all sides slope downwards from a center ridge. There are no gables or other vertical sides to the roof.

2. Lighting is intended as a safety feature of the pier **and not for decoration** or to illuminate the water. Lighting on the exteriors of piers, docks and gazebos shall be fitted with opaque shades or shields to prevent the direct visibility of the lamp to persons on the lake or adjacent lands more than one hundred twenty (120) feet beyond the structure. Overhead "streetlight" and "flood light" fixtures are prohibited.
3. All lights must be turned off when the pier, dock and/or gazebo is not in use.
4. Flashing or rotating lights attached to piers, docks and gazebos are prohibited.
5. Toxic chemicals shall not be used to stain or clean piers, docks or gazebos.

Purpose and
Introduction
1

Definitions
2

Zoning
Districts
3

Overlay
Districts
4

Use
Standards
5

Commercial
Design
6

Development
Procedures
7

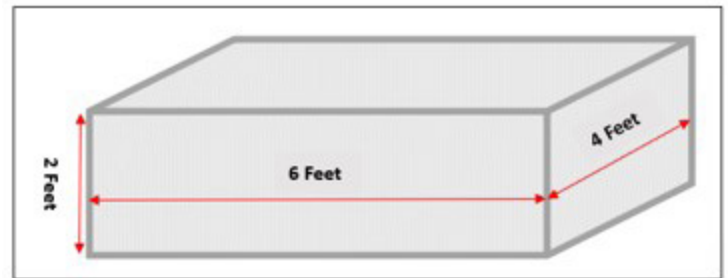
Admin &
Enforcement
8



6. Permitted materials for piers, docks and gazebos include disease and rot-resistant wood, wood treated with non-toxic chemicals and composite products. Aluminum “framing” may be considered; however, no exposed aluminum is permitted. The framing must be clad in wood, a composite material, or painted. Any composite material must receive pre-approval. Permitted material colors are wood-tones and dark-toned brown. Materials for flotation must be manufactured for marine use and adhere to the guidelines established by Duke Energy Lake Management.
7. In order to protect the natural viewshed; piers, docks and gazebos must comply with the following:

Residential pier zones shall be located to limit their impact on the environment and the natural viewshed and shown on all new property plats.

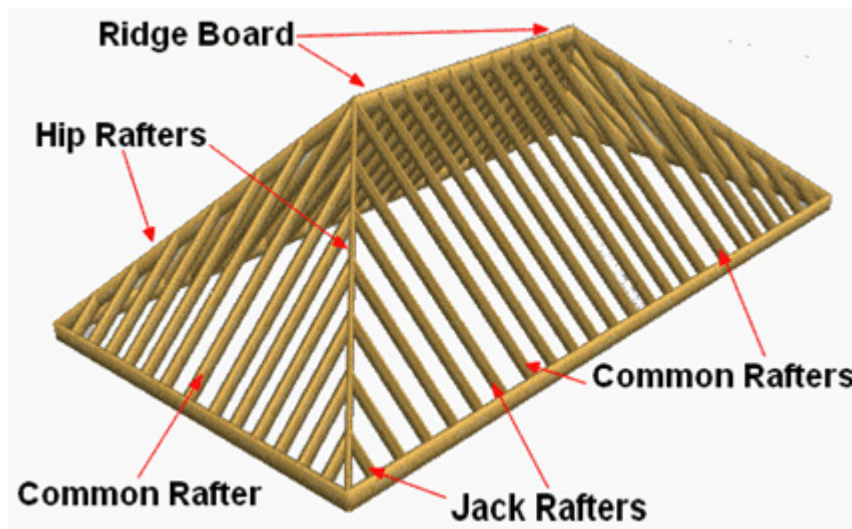
- The maximum allowed square footage for the combined water dependent structure is one thousand (1,000) sq. ft. plus no more than two PWC (Personal Watercraft) per the Duke Energy Shoreline Management Guidelines.
- Gazebos may not be enclosed, though rails and pickets around the bottom portion are permitted. Rails and pickets may not be higher than forty (40) inches. The maximum square footage for a gazebo is two-hundred fifty (250) square feet.
- Piers may not have sides but may have handrails. Docks may not have sides or handrails.
- One 2' (h) x 4' (d) x 6' (w) or smaller enclosed storage bench is permitted on the edge of the dock closest to shore or within the gazebo area.



- Roofs

Roofs may be permitted on individual residential moorings that do not lie within a “Viewshed Corridor”. A Viewshed Corridor Overlay has been established within the open channels of Lake James to protect the natural scenic vistas seen from the lake.

- Either the dock or the gazebo may have a roof. Piers may not have a roof.
- The roof for either the dock or gazebo must be hipped with a minimum 4:12 pitch (4 inches of rise over 12 inches of run). The maximum pitch is 5.5:12 (5.5 inches of rise over 12 inches of run).



3. The highest point of the roof for a gazebo on a pier may be no greater than fifteen (15) feet above the decking of the pier. If a dock serves a gazebo or a single boat slip then the highest point of the roof may be no greater than sixteen (16) feet above the decking of the dock. If the dock serves a double boat slip, then the highest point of the roof may be no greater than eighteen (18) feet above the decking of the mooring.
4. Permitted roof materials include dark-toned wood shakes; dark-toned brown, grey or black shingles with a minimum wind rating of eighty (80) mph; and dark-toned brown, grey or black synthetic products that mimic natural materials. Roofing material for moorings or gazebos may include metal roofing material in earth-tone colors. Roof colors must be pre-approved by the Zoning Administrator prior to permitting.
5. Second story uses are not permitted.
6. No **tents**, canopies, **or tarps** of any kind are permitted on piers or moorings.
7. One Cupola may be added to the roof as an option. The cupola shall not exceed twenty-seven (27) ft³.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Example of a Covered dock



- f. Docks must be secured in the water by telescopic poles, cables, lines, chains or anchors or be attached to a pier. If there is a circumstance which prohibits the dock from being secured by one of the previous means, then the property owner may submit a written request to the zoning administrator to secure the mooring with fixed pilings. The written request must include justification from an engineer as to the need for fixed pilings. If there is no other option but to utilize fixed pilings, the zoning administrator may permit the structure. Docks with existing fixed pilings may continue to use existing pilings if/when the “dock” is replaced. Replacement of fixed pilings must meet current standards.
 - g. Covers for watercraft should be neutral in color.
8. Existing non-conforming water dependent structures are subject to the following:
- a. If the existing structure becomes in such a state of disrepair that a total replacement is required, then the new structure must comply with all current regulations of this ordinance.
 - b. Routine maintenance of existing structures is encouraged. However, as individual components of the structure are replaced, they must comply with all current regulations of this ordinance. For example:
 - 1. When an existing roof structure needs to be replaced, the new roof must comply with current regulations regarding roofs.
 - 2. Replacement of piers must comply with current regulations.
 - c. Maintenance/repair of roofs must be conducted in a manner which prevents materials from being disposed of in the water.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Residential Community Dock Facilities

Standards for Residential Community Dock facilities shall mimic those for residential piers, docks, or individual lots. However, individual slips within residential community facilities shall not have roofs or gazebos.

Commercial Marina and Dock Provisions

The purpose of this section is to regulate non-residential marinas and dock areas on Lake James, Lake Hickory, Lake Rhodhiss, and the Catawba River between Lake James and the mouth of Lake Rhodhiss. North Carolina. General Statutes do not allow the discharge of any pollutant or untreated wastes into the waters of North Carolina.

1. All marinas and dock areas permitting overnight use of water craft shall have pump-out stations, gray water disposal facilities, on shore trash disposal facilities and containment materials for oil and gas spills.
2. All watercraft operating or docked on Lake James, Lake Hickory, Lake Rhodhiss, or the Catawba River that have sleeping, kitchen, and/or bathing facilities shall have a fixed or portable holding tank or other approved marine sanitation device for the collection of waste water.
3. Engineered construction plans shall be required for all new marinas and expansions of existing marinas. Plans shall meet the applicable sections of the NC Building Code and ICC/A 117.1-2017.
4. All marinas shall be permitted by Duke Energy Lake Services

Design and Construction Standards for Commercial Marinas and Dock areas

MOORINGS	MATERIALS	PRIOR APPROVAL REQUIRED
	Aluminum, Hot Dipped Galvanized, or Wooden Truss Structure	
	No Storage Closets permitted	
	Metal surfaces above water shall be painted using marine grade epoxy paint in earth tone colors	X
	Reflectors required on outside edge of mooring.	
	Utility pads – (optional) Max. every other slip	

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



PIERS/RAMPS	Hinged wood or <u>pre-fab</u> metal frame.	
	Wood, aluminum, or composite materials	
	Metal surfaces shall be painted using marine grade epoxy paint in earth tone colors	
LIGHTING	Approved on case-by-case basis. Must be for safety purposes only. No overhead lighting.	X
LIFTS	(Optional) - Floating lift only with guide arms.	X
DECKING	Wood, concrete, composite material, or aluminum	
	Colors must resemble natural wood tones.	
GUIDE POLES	Wooden – (may use minimum 3” steel <i>if</i> conditions prevent use of wooden poles)	
FLOATATION	Must meet Duke Energy and Building Code	
ROOF FRAMING	Aluminum, galvanized steel, or wood. Metal must be painted using marine grade epoxy paint.	
	Minimum 3:12 roof pitch.	
ROOF SURFACE	Wood shake, aluminum, or synthetic products.	
	Metal or synthetic roofs must be pre-approved for compliance.	X
	Metal surfaces shall be painted using marine grade epoxy paint.	
	Roof colors shall be dark-toned brown, black, or grey.	
	Designed with a minimum wind rating of 80 mph.	

Existing Development

1. All property within the jurisdiction of this Article is subject to the provisions of this ordinance unless otherwise exempt.
2. All lots, uses, construction, structures, and clearing prior to the adoption of this ordi-



nance that do not comply with the requirements of this Ordinance are considered non-conforming and subject to **Article 8, Administration, Appeals and Enforcement (Non-conforming Uses)** of this ordinance with the following exceptions:

- a. Non-conforming clearing of protected vegetation within the natural woodland buffer, which occurred prior to February 20, 2002, may not be expanded except as specifically permitted within the Natural Woodland Buffer. Such removal of vegetation is subject to the replanting requirements of the Natural Woodland Buffer
- b. Non-conforming structures which exist within fifty (50) feet of the reference line may be maintained. However, these structures shall not be expanded in any manner. If these structures are destroyed by natural causes, fire, or the structure falls into disrepair the structure may not be rebuilt if the cost of repair is equal to or greater than fifty (50%) percent of the current tax value.
- c. The provisions of this article shall not make a vacant lot which is part of an approved subdivision, a plat. unbuildable. However, all new development that does not comply with these regulations, shall follow the variance procedures outlined in **Article 8 Administration, Appeals, and Enforcement of this Ordinance.**

Violations

- A. If the Zoning Administrator finds that any of the provisions of this article are being violated, he or she shall notify the person responsible for the violation in writing. The Notice of Violation letter shall indicate the nature of the violation, and the action necessary to correct it. Any one of the following methods shall constitute delivery of notification; certified mail return receipt, first class mail, email by return receipt, hand delivery, and posting violation notification on the property where the offense occurred.
- B. Within the notice of violation, the Zoning Administrator shall order any or all of the following:
 1. Discontinuance of the illegal activity, use of land and/or structure(s),
 2. The removal of illegal structure(s), or any additions, alterations, or structural changes to the structure(s),
 3. Discontinuance of any illegal work being done,
 4. Replacement of vegetation or humus layers,
 5. Or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- C. A Notice of Violation shall be issued and the activity causing the violation shall cease immediately upon receipt of the notice. Measures to correct the problem shall begin

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



within ten (10) days unless the person involved can show just cause. The Zoning Administrator shall determine if just cause is valid, and if so, provide an extension of time long enough to repair the damage. The Zoning Administrator may require immediate corrective measures to be taken in cases detrimental to health, safety, or environmental impact.

Penalties

Violation of any project that requires a permit shall subject the offender to a civil penalty of twenty-five hundred dollars (\$2,500) payable to Burke County within seventy-two (72) hours after citation. Citations shall be in writing and signed by the Zoning Administrator or their designee. If the violation is not corrected within thirty (30) days after the citation has been received, judicial action may be taken. Each day that the violation continues past the thirty (30) day period constitutes a separate offense without multiple citations issued.

Floating Vessels



Intent

The intent of this section is to establish minimum guidelines and safety standards for the use of floating vessels on Lakes James, Rhodhiss, Hickory, and the Catawba River. This section does not apply to other types of watercraft such as canoes, kayaks, and jet skis etc.

General Requirements



The term floating vessels shall include houseboats (with or without motors), Yachts, cabin cruisers, catamarans, barge boats, and sailboats.

Floating Vessels must meet the following requirements:

- a) For the purpose of this ordinance only “Factory-Made” vessels constructed to the American Boat and Yacht Council (ABYC) standards are permitted. “Handmade” or altered design vessels not factory assembled are not permitted.
- b) All floating vessels shall be registered with the North Carolina Wildlife Resources Commission (NCWRC). Failure to register with the NCWRC and maintain a valid registration shall be a violation of this ordinance.
- c) No floating vessel shall be occupied as permanent living quarters.
- d) Floating vessels shall not be used as short-term rentals.
- e) Floating vessels used as Dedicated STRs must meet ABYC standards.
- f) Dedicated Short-Term Rentals are considered a “special use” within the following overlay zoning district: Lake Overlay.
- g) All floating vessels equipped with the capability for habitation shall be located within a commercial marina.



Examples of Homemade/Altered floating vessels



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

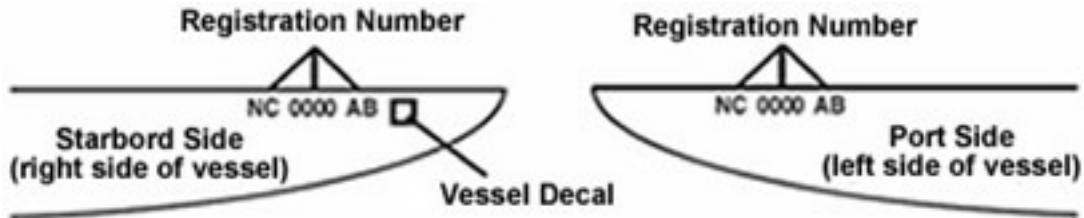
8 Admin & Enforcement



Existing floating vessels that do not have the proper title and registration from NCWRC shall have one (1) year after the adoption of this ordinance to acquire a valid registration.



Example of boat lettering



Example of boat lettering placement

- h) The owner shall keep the vessel in good operational and visual/cosmetic repair at all times. Failure to do so shall be a violation of this ordinance.
- i) All exterior visual/cosmetic repairs shall be done on land in order to protect the integrity of lake/river waters.
- j) In the event a vessel is wrecked or sunk within the marina, it shall be the owner's responsibility to mark its position immediately and raise or dispose of the vessel within fourteen (14) days.
- k) All floating vessels must quick connect for electrical and plumbing services. No permanent hard wired connections for electric and plumbing services shall be permitted.
- l) Each floating vessel shall have a wastewater system that meets local codes for the containment or disposal of sewage and gray water. No discharge of sewage, gray water, or other pollutants into lake or river waters shall be permitted.

Existing Non-Conforming Structures

- 1. When a non-conforming floating vessel is destroyed by natural causes or fire, any new structure must be in conformity with this ordinance.



*Examples of natural causes include, but are not limited to, wind or flooding. **Time related deterioration**, or damage caused by animal or insect infestation does not constitute accidental damage or destruction by natural causes.*

- 2. Existing non-conforming floating vessels shall meet the regulations of this section within



one (1) year of the adoption of this ordinance.

Violations & Penalties

If the Zoning Administrator finds that any of the provisions of this article are being violated, he/she shall notify in writing the person responsible for the violation, indicating the nature of the violation, and ordering the action necessary to correct it. He/She shall order discontinuance of the illegal use the floating vessel, removal of the illegal floating vessel, or of additions, alterations, or structural changes to the vessel, discontinuance of any illegal work being done, or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal the ruling to the Board of Adjustment.

1. Prior to the issuance of a citation, an optional warning may be issued and the activity causing the problem shall cease immediately upon receipt of the warning. Action to correct the problem shall begin within ten (10) days unless the person involved can show just cause, in which case an extension of time long enough to repair the damage may be granted by the Zoning Administrator.
2. Violation of any provision of this article shall subject the offender to a civil penalty in the amount of five-hundred dollars (\$500.00) payable seventy-two (72) hours after being cited. Failure to pay the citation may result in a civil action by the County if the offender does not pay the penalty within seventy-two (72) hours after being cited. Citations shall be in writing, signed by the Zoning Administrator, and delivered or mailed by certified mail to the offender either at his residence, his place of business, or at the place where the violation occurred. Each day that the violation continues shall constitute a separate offense without multiple citations issued.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



4.3 Morganton-Lenoir Airport Overlay

Intent

The purpose of this Overlay District is to establish height regulations within the Morganton-Lenoir Airport approach zones located within Burke County's jurisdiction. The Overlay District is also designed to prohibit obstructions that may endanger the lives and property of users of the Morganton-Lenoir Airport and property or occupants of land within the district.

Administration of the Requirements of This Article

Applications for any development within this overlay district shall be as for any development regulated by this ordinance.

Airport Zones

Zones, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces have been established for the Morganton-Lenoir Airport. These zones are shown on the Burke County Zoning Map and are defined as follows:

1. Runway Larger than Utility with a Visibility Minimum as Low as $\frac{3}{4}$ Mile Non-Precision Instrument Approach Zone

The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outwards uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.

2. Precision Instrument Runway Approach Zone

The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

3. Runway Larger than Utility with a Visibility Minimum Greater than $\frac{3}{4}$ Mile Non-Precision Instrument Approach Zone

The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its center line is the continuation of the center line of the runway.

4. Transitional Zones

The transitional zones are the areas beneath the transitional surfaces.

5. Horizontal Zone

The horizontal zone is established by a swinging arc of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. Conical Zone

The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

Airport Zone Height Limitations

No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this article to a height taller than the established height limitations. The height limitations established for each zone are as follows:

1. Runway Larger than Utility with a Visibility Minimum as Low as 3/4 Mile Non-Precision Instrument Approach Zone

Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.

2. Precision Instrument Runway Approach Zone

Slopes upward fifty (50) feet for each foot vertically beginning at the end of and the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line, then at a slope of 40:1 for an additional 40,000 feet.

3. Transitional Zones

Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1270' above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

4. Horizontal Surface

Established at 150' above the airport elevation.

5. Conical Zone

Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the



of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

6. Excepted Height Limitations

The airport overlay regulations shall not prohibit the construction or maintenance of any structure, or growth of any tree that does not exceed 50 feet in height.

Use Restriction

No use within any zone established by the Morganton-Lenoir Airport may;

1. Create electrical interference with navigational signals or radio communication between the airport and aircraft;
2. Make it difficult for pilots to distinguish between airport lights and others;
3. Result in glare in the eyes of pilots using the airport;
4. Impair visibility in the vicinity of the airport;
5. Create bird strike hazards;
6. Or otherwise in any way endanger, or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

Non-Conforming Uses

1. Regulations Not Retroactive

The Morganton-Lenoir Airport Overlay shall not require the removal, lowering, change or alteration of any structure or tree that does not conform to this amendment, or interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, to which construction or alteration began prior to the adoption of this ordinance and completed within one year thereof.

2. Obstructive Marking and Lighting

The owner of any existing nonconforming structure or tree is required to permit the installation, operation, and maintenance of markers and lights as deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of airport obstruction. The markers and lights shall be installed, operated, and maintained at the expense of the Morganton-Lenoir Airport.

Permits

The applicant must supply the Zoning Administrator with all information, including specific locational reference points, to determine compliance with these regulations before a zoning permit is issued for any development within the Airport Overlay District. The regulations of the

Airport Overlay contradict the actual airport overlay as digitized on the Official Burke County Zoning Map. No permit shall be issued that would allow the establishment of an obstruction, or permit a nonconforming use or structure to become a greater hazard to air navigation than it was prior to the submission of an application for a permit.

Variances

Requests for variances from these overlay regulations will follow the process per [Article 8, Administration, Appeals, and Enforcement](#) of this ordinance. In addition to the materials specified in that section, the applicant must also provide the Zoning Administrator with a determination by the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigation airspace. The variance shall be allowed where it is found that an application or enforcement will result in unnecessary hardship and relief granted will not create a hazard to air navigation.

Conflict with Other Laws

Where any other law, ordinance, or regulation impose higher standards than this article, the rules of that law, ordinance, or regulation shall govern.

4.4 Water Supply Watershed Protection Overlay

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Jurisdiction

The provisions of this Ordinance shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Burke County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Clerk of Burke County

Establishment of Watershed Areas

Within the Burke County Planning Jurisdiction, the following watershed overlay districts shall be established:

Warrior Fork WS-III-CA	(Critical Area)	(150 acres)
Warrior Fork WS-III-BW	(Balance of Watershed)	(53,144 acres)
Jacob Fork WS-III	(Balance of Watershed)	(29,833 acres)
Catawba River WS-IV-CA	(Critical Area)	(190 acres)
Catawba River WS-IV-PA	(Protected Area)	(8,677 acres)
Lake Hickory WS-IV-CA	(Critical Area) (two intakes)	(1,619 acres)
Lake Hickory WS-IV-PA	(Protected Area)	(11,501 acres)
Lake Rhodhiss WS-IV-CA	(Critical Area) (three intakes)	(12,161 acres)
Lake Rhodhiss WS-IV-PA	(Protected Area)	(56,601 acres)
Lake James WS-IV-CA	(Critical Area)	(988 acres)
Lake James WS-IV-PA	(Protected Area)	(1,532 acres)

Intent

The purpose of the Water Supply Watershed Protection Overlay District (WSWP) is to define the area of water supply watersheds within the County. The intent of the overlay district is to manage the uses of land and structures encompassed by water supply watersheds within the County in order to maintain a high quality of surface water in these watersheds. This will be accomplished by enforcing standards that limit the impact from existing or potential sources of contamination through the regulation of average lot size, development intensity, and built upon area.

Scope

Land use within the WSWP overlay district must comply with all the requirements of both the underlying general use district and the applicable Water Supply Watershed overlay district classification. If a use or class of use is not specifically indicated as being permitted in a watershed area, the use or class of use is prohibited.



Establishment of Boundaries

The Official Water Supply Watershed Map shall be maintained by the Planning Director and kept in the Planning Department. The Official Water Supply Watershed Map shall also be shown as an overlay district on and become part of the Official Zoning Map for the County. The rules of interpretation for the boundaries of the map (see Article 8, Sec. 16(3) Rules for Determining Boundaries) apply. In addition, where any WSWP overlay district boundaries lie at a scaled distance of more than twenty (25) feet from any parallel lot line, the location of these map boundaries shall be determined by using the scale of the map.

If a property owner can demonstrate his or her land drains into another watershed or into the receiving stream below the intake in the same watershed, the Zoning Administrator can exempt that specific area from the watershed regulations. Minor boundary interpretations must be sent to NCDWQ for verification and final approval.

Impact on Water Quality and Public Health

No activity, situation, structure or land use shall be allowed within a WSWP overlay sub-district that poses a threat to water quality and/or the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality. The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality. Where such activities are found, the Zoning Administrator shall take any appropriate action to restrain, correct or abate the condition and/or violation.

General

- (a) Watershed Protection Permit shall be part of the Burke County Zoning Permit.
- (b) Prior to issuance of a Watershed Protection Permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

Existing Development

Any existing development as defined in this ordinance may be continued and subject to the provisions provided within this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance.

WS-III Watershed Areas - Critical Area (WS-III-CA).

Applicable to Warrior Fork WS-III-CA

In order to maintain a low to moderate land use intensity pattern, single family residential

uses shall be allowed at a maximum of one (1) dwelling unit per acre. All other residential and non-residential development shall be allowed at a maximum twelve percent (12%) built-upon area. New residuals application sites and landfills are specifically prohibited.

(1) Allowed Uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- (c) Residential development.
- (d) Non-residential development, excluding: 1) landfills and 2) sites for land application residuals or petroleum contaminated soils.

(2) Density and Built-upon Limits:

- (a) All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.
- (b) All development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

WS-III Watershed Areas - Balance of Watershed (WS-III-BW).

Applicable to Warrior Fork WS-III and Jacob Fork WS-III-BW

In order to maintain a low to moderate land use intensity pattern, all residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development. All development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

In addition, new development and expansions to existing development may occupy ten percent (10%) of the balance of the watershed area in the county with up to seventy Percent (70%) built upon area when approved as a special intensity allocation (SIA). The Zoning Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices (BMPs) to minimize water quality impacts.

Projects applying for an SIA will be considered on a case-by-case basis and in a first come first serve order. When ten percent (10%) of the balance of the watershed has received SIAs no further SIAs will be allowed. *Warrior Fork WS-III shall have 5,314 acres for SIA; Jacob Fork WS-III shall have 2,983 acres for SIA.*



(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (**15 NCAC 11.0101-.0209**).
- (c) Residential development.
- (d) Non-residential development excluding discharging landfills.

(2) Density and Built-upon Limits:

- (a) All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.
- (b) All development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

WS-IV Watershed Areas - Critical Area (WS-IV-CA)

Applicable to Lake James WS-IV-CA, Catawba River WS-IV-CA, Lake Hickory WS-IV-CA, Lake Rhodhiss WS-IV-CA

In order to address a moderate to high land use intensity pattern, the following development standards shall apply: All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.

All development shall be allowed twenty-four percent (24%) built-upon area. New residuals application sites and landfills are specifically prohibited.

(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (**15 NCAC 11.-0101-.0209**).
- (c) Residential development.
- (d) Non-residential development, excluding:
 - 1. Landfills, and
 - 2. Sites for land application of residuals or petroleum contaminated soils.



(2) Density and Built-upon Limits:

- (a) All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.
- (b) All development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

WS-IV Watershed Areas - Protected Area (WS-IV-PA).

Applicable to Lake James WS-IV-CA, Catawba River WS-IV, Lake Hickory WS-IV-PA, Lake Rhodhiss WS-IV-PA

In order to address a moderate to high land use intensity pattern, the following development standards shall apply: All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.

All development shall be allowed twenty-four percent (24%) built-upon area. A maximum of thirty-six (36%) percent built-upon area is allowed for project without a curb and gutter street system.

(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines related to Water Quality (**15 NCAC 11-.0101-.0209**).
- (c) Residential development.
- (d) Non-residential development.

(2) Density and Built-upon Limits:

- (a) All residential development shall adhere to the minimum lot size and density requirements, except within an approved cluster subdivision development.
- (b) All development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. A maximum of thirty-six percent (36%) built-upon area is allowed for projects without a curb and gutter street system. For the purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
- (c) In addition to the development allowed under paragraphs (a) and (b) above, other



development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA).

The Zoning Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. *Catawba River WS-IV-PA shall have 868 acres for SIA; Lake Hickory WS-IV-PA shall have 1,150 acres for SIA; and Lake Rhodhiss WS-IV-PA shall have 5,660 acres for SIA.* Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices (BMPs) to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

Cluster Development

Clustering of development is allowed in all Watershed Areas under the following conditions:

- (a) Minimum lot sizes are not applicable to single-family cluster development projects. However, the total number of lots shall not exceed the number of lots allowed for residential developments. Density or built-upon area of the project shall not exceed that allowed for the critical area or balance of watershed or protected area, whichever applies.
- (b) All built-upon area shall be designed and located to minimize stormwater runoff, impact to the receiving waters, and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (c) Areas of concentrated density development shall be located in an upland area and away, to the maximum extent practicable, from surface waters and drainageways.
- (d) The remainder of the tract shall remain in a vegetated or natural state (Open Space). The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- (e) Cluster developments that meet the applicable low-density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

Buffer Areas Required

- (a) minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low-density option (utilize the 10/70 provi-

sion); otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters or as determined by local government studies. Desirable artificial streambank or shoreline stabilization may be permitted in conjunction with the Burke County Flood Damage Prevention Ordinance.

- (b) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices (BMPs).

Rules Governing the Interpretation of Watershed Area Boundaries

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the Zoning Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Burke County Board of Adjustment.

Existing Development

Existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, the built-upon area of the existing development shall be included in the built-upon area calculations.

- (a) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, in accordance with the Non-Conformities section of this ordinance:
 - (1) Repair or reconstruction shall be initiated within twelve (12) months and completed within two (2) years of such damage.
 - (2) The total amount of space devoted to built-upon area may not exceed the maximum percentage for the watershed unless a stormwater control plan designed by a licensed professional is provided.

Administration

Recordkeeping

The Zoning Administrator or their designee shall administer and enforce the provisions of the zoning chapter as specified in **Article 8, Administration, Appeals, and Enforcement**. Within the watershed overlay districts, he or she shall have the following additional duties:

- (1) Submit copies of all amendments upon adoption to the NC Division of Water Quality;
- (2) Maintain list of all variances, including a description of each project receiving a variance and the reasons for granting the variance, and submit a copy each calendar year to the NC Division of Water Quality by January 1 of each calendar year;

year;

- (3) Keep records of the jurisdiction's utilization of the provision that a maximum of 10% of the non-critical area of the *Warrior Fork WS-III (5,314 acres SIA)*; *Jacob Fork WS-III (2,983 acres SIA)*, *Catawba River WS-IV-PA (868 acres SIA)*, *Lake Hickory WS-IV-PA (1,150 acres SIA)* and *Lake Rhodhiss WS-IV-PA (5,660 acres SIA)* may be developed to a maximum of 70% built-upon area;
- (4) Monitor land-use activities in the watershed to identify situations that may threaten water quality. He or she shall report these situations to the agency with direct regulatory responsible for these activities;
- (5) Ensure that a certificate of approval is included on all plats subject to the Burke County Subdivision Regulations as follows:

I certify that the plat shown hereon complies with the Burke County Watershed Protection Overlay District and is approved for recording in the Register of Deeds office.

Date Zoning Administrator

Watershed Protection Permit

- (a) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Zoning Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.
- (b) Watershed Protection Permit applications shall be filed with the Zoning Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.
- (c) Prior to issuance of a Watershed Protection Permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- (d) A Watershed Protection Permit shall be issued in conjunction with a Zoning Permit. Both permits will expire if within twelve (12) months from the date of issuance if the approved land use and/or structure has not been acted upon.

Appeals

All appeals from the decision of the zoning enforcement officer shall be submitted to the Board of Adjustment (see **Article 8, Administration, Appeals, and Enforcement**). Further, any appeals from the board of adjustment shall be to the Superior Court within 30 days (see **Article 8, Administration, Appeals, and Enforcement**), not to the County Board of Commissioners.

Amendments

All amendments to the watershed regulations shall be handled as specified (**Article 8, Administration, Appeals, and Enforcement**). Under no circumstances shall the county amend,



supplement, or change the watershed regulations that would cause the regulations to violate the watershed protection rules the N.C. Environmental Management Commission. All amendments shall be filed with NCDWQ.

Watershed Variances

- (1) The Board of Adjustment shall handle minor variances.
- (2) *Major variance.*
 - (a) If a **MAJOR VARIANCE** (see definition) is requested, Board of Adjustment after making a favorable decision in granting the request, shall prepare a preliminary record of the hearing. The preliminary record of the hearing shall include:
 1. The variance application;
 2. The hearing notices;
 3. The evidence presented;
 4. Motions, offers of proof, objections to evidence, and rulings on them;
 5. Proposed findings and exceptions;
 6. The proposed decision, including all conditions proposed to be added to the permit.
 - (b) The information shall be sent to the NCEMC for its review.
 - (c) North Carolina Environmental Management Commission.
 1. The NCEMC shall review the preliminary record and determine whether or not:
 - a. The request qualifies as a major variance;
 - b. The property owner can secure no reasonable return from, nor make any practical use of, the property, unless the proposed variance is granted; and
 - c. The variance, if granted, will result in a serious threat to the water supply. Based on its findings the NCEMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations, or disapprove it. The NCEMC shall prepare a decision and send it to the County Board of Adjustment. This Board shall prepare a final decision, based on the determination of the NCEMC.
- (3) In designated drinking water supply watersheds, the Zoning Administrator shall notify and allow a reasonable comment period for any jurisdictions within the watershed and the entity using the water supply for consumption of a proposed variance to the watershed regulations. Local governments may submit any comments to the Zoning Administrator before the public hearing by the County Board of Adjustment.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 5.0 Use Standards



5.0 Use Standards

5.1 Accessory Dwelling Units



A detached accessory dwelling unit may be permitted as an accessory use on lots with an existing primary dwelling and shall comply with the following requirements:

- (a) The accessory dwelling unit and the primary dwelling must be owned by the same person.
- (b) No more than one accessory dwelling unit shall be permitted on a single deeded lot in conjunction with the primary dwelling unit.
- (c) Accessory dwellings shall be connected to the same electrical, water, and waste water disposal system as the primary dwelling if practical.



Approval from the Burke County Environmental Health Department is required.

- (d) Accessory dwellings are limited to one thousand (1,000) square feet of total square footage.
- (e) Accessory dwellings must be constructed to current NC State Residential Building Code standards and must receive a Certificate of Occupancy prior to being habited.
- (f) Accessory dwelling units must be located to the side or rear of the primary dwelling and meet all applicable setbacks.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



Garage Apartment (detached)

- (g) Accessory dwellings are to be constructed of like materials and must resemble the primary structure in appearance to the greatest extent possible.
- (h) The accessory dwelling unit must share a driveway with the primary dwelling.
- (i) No on-street parking is permitted for accessory dwellings.
- (j) Accessory Dwellings shall not use used as Short-Term Rentals.

5.2 Accessory Structures (Residential)

For the purpose of this section of the ordinance the calculation of an accessory structure includes any section of the structure that is under roof. Accessory structures may be permitted if the unit complies with the following requirements:

- (a) Accessory structures may be located in the side or rear yards at least fifteen (15) feet from the property line. No accessory structure shall be located in the front yard of a residential lot less than one (1) acre in size.





Examples of Accessory Structures

- (b) Accessory structures on corner lots shall meet the front setback of the primary dwelling for the side street on which it is located. However, as the size of the accessory structure increases the required setback increases also. The following table gives the required setbacks:

Size in Sq. Feet	Required Setback
1,200 or Less	Fifteen (15) Feet
1,201 to 2,000	Twenty (20) Feet

The setback shall increase fifteen (15) feet for every additional one thousand (1,000) square feet above 2,000 square feet. For all structures greater than two thousand (2,000) square feet the setback shall increase fifteen (15) feet for every additional one thousand (1,000) square feet.



In no event shall the front yard setback for an accessory structure be less than the required setback for a residential structure.

- (c) On lots that are less than one (1) acre in size, the total maximum square footage of all accessory structure(s) shall be one thousand two hundred (1,200) square feet. On lots greater than one acre in size, the maximum square footage allowed shall be one thousand five hundred (1,500) square feet. Any lot greater than three (3) acres in size may be approved for additional square footage from the Board of Adjustment. Additional setbacks and screening requirements may apply.
- (d) No accessory structure shall be rented or occupied for financial gain nor used for human habitation.
- (e) Under no circumstances may a vehicle, tractor trailer, manufactured home, recreational vehicle, POD, or similar container be used as an accessory structure.



POD



Shipping Container

- (f) Mailboxes, newspaper boxes, may be placed in any yard. No zoning permit is needed for these structures.
- (g) Accessory structures will not be permitted on vacant lots without a primary structure unless the lot is two (2) acres or larger. The maximum combined square footage allowed for all accessory structures in this case is one thousand five hundred (1,500) square feet. All other applicable regulations will apply. In such cases the accessory structure shall have a minimum setback of eighty (80) feet from the front right-of-way or edge of pavement where no right-of-way exists. Screening shall be required between the structure and adjacent properties where existing vegetation or distance is insufficient to provide adequate screening. Screening shall consist of a ten (10) foot opaque evergreen hedge row. Accessory structures on vacant residential lots may be used for storage purposes only. Only electric service may be provided to the accessory storage structure. Water and septic shall not be permitted.



Temporary structures may be permitted in any zoning district when used in conjunction with construction work or when permitted for a temporary event.


5.3 Home Occupations

A home occupation in a residential structure is subject to the following guidelines:

- (a) An application must be submitted with a sketch of the dwelling and or accessory structure, showing square footage and indicating the area to be used for the home occupation.
- (b) Only one (1) person other than those residing in the home shall be engaged in the occupation.
- (c) The total combined floor area used for the Home Occupation shall, in a primary dwelling or accessory structure, shall not exceed eight hundred (800) square feet.




- (d) There shall be no exterior evidence of the presence of a home occupation nor does the presence of the home occupation change the exterior character of the property.
- (e) There shall be no salesrooms or display windows. Any materials, supplies, storage, or equipment are entirely contained within the dwelling/accessory structure of the home occupation. There is no outside storage or use of materials and/or equipment, including, but not limited to, construction equipment, heavy equipment, or construction materials.
- (f) Any identification sign does not exceed four (4) square feet and is unlighted. No off-premises or directional sign is allowed.
- (g) In addition to personal vehicles, one (1) vehicle or trailer for the home occupation use with a gross weight rating (GVWR) of twenty-six thousand (26,000) pounds or less and labeled to identify the business, may be parked on site.
- (h) Client visits and deliveries may be limited as a condition of approval based on site-specific considerations, and road classification as determined by the North Carolina Department of Transportation. In no case shall business activities occur between the hours of 9:00 p.m. and 9:00 a.m. which would disrupt the residential nature of the zoning district. Such activities may include, but not be limited to, client visits, deliveries and departure, or the arrival of vehicles for the business.
- (i) No use shall create noise, glare, fumes, odors, or electrical interference detectable to the normal senses from property in the general vicinity.

A home occupation in an accessory structure is subject to the following guidelines:

1. The accessory structure is located on a lot with an existing primary dwelling
 2. No more than one accessory structure used as a home occupation shall be permitted on a single deeded lot in conjunction with the primary dwelling unit
 3. Accessory structures used for home occupations are limited to eight hundred (800) square feet of total square footage.
 4. Accessory structures to be used for home occupations shall be connected to the same electrical, water, and wastewater disposal system as the primary dwelling if practical.
-  Approval from the Burke County Environmental Health Department is required.
5. Accessory structures to be used for home occupations must be located to the side or rear of the primary dwelling and meet all applicable setbacks.

- 6. Accessory structures to be used for home occupations are to be constructed of like materials and must resemble the primary structure in appearance to the greatest extent possible.
- 7. Accessory structures used as home occupations must share a driveway with the primary dwelling.
- 8. No on-street parking is permitted for accessory structures use for home occupations.

(j) A Home Occupation may include, but is not limited to:

- (1) Architects
- (2) Computer programming
- (3) Catering, cooking, and baking
- (4) Direct marketing enterprises (Internet Sales, Telemarketing, Face to Face Sales)
- (5) Dressmaking, sewing and tailoring
- (6) Engineers
- (7) Home crafts, such as weaving, jewelry making, or pottery
- (8) Internet gun sales (no ammunition);
- (9) Management of companies and enterprises
- (10) Painting and sculpting
- (11) Real estate office
- (12) Specialty trade offices, where services are provided off site
- (13) Surveyors
- (14) Telephone answering service
- (15) Tutoring or instruction of no more that (4) students at a time.
- (16) Hair salons/barber shops:
 -  Approval from the State of NC is required.
- (17) Health Care Professionals (Massage Therapists, Chiropractors, etc.)
 -  Approval from the State of NC is required.
- (18) Tattoo Parlors:
 -  Approval from the Burke County Environmental Health Department is required.
- (19) Gunsmith (including assembling and repair of firearms):
- (20) Taxidermy

(k) A Home Occupation shall not include any of the following:

- (1) Ammunition sales:
- (2) Sales of autos, recreational vehicles, or heavy equipment:
- (3) Repair of autos, recreational vehicles, or heavy equipment:
- (4) Kennels:
- (5) Other uses determined in to be inconsistent with the spirit and intent of this

ordinance.

- (l) When an applicant applies for a home occupation permit for a use not specifically listed above, a special use application will be required for the home occupation use.
- (m) If the Zoning Administrator determines that an application for a home occupation is inconsistent with the spirit and intent of this Ordinance, the applicant may appeal the administrator's decision to the Board of Adjustment.
- (n) The granting of a permit under the provisions of this section shall in no way affect any other type of approval required by any other statute or ordinance of the local, state, or federal government, but shall be construed as an added requirement.

5.4 Short-Term Rentals

The intent of this article is to establish minimum operational and safety standards for the use of residential dwelling units as Owner Occupied and Dedicated STRs.

Unless otherwise specified, the requirements and provisions of this section shall apply to Owner Occupied and Dedicated STRs. This article does not apply to other types of lodging uses defined within this ordinance such as hotels, motels, or bed & breakfast establishments.

STR Permit

The property owner/operator is required to obtain a permit, issued from the Zoning Administrator or their designee before a residential dwelling may be advertised or used as an Owner Occupied or Dedicated STR.

Permit Fee

The property owner/operator shall pay a one hundred (\$100) dollar permit fee. Renewable once per calendar year.

Zoning Compliance Permit Regulations

A STR in a residential structure is subject to the following compliance permit regulations:

1. Owner Occupied STRs are allowed within the following zoning districts: R-1, R-2, R-3, R-MU, PRMU, CON.
2. Dedicated STRs are allowed within the following zoning districts: R-1, R-2, R-3, R-MU, PRMU, CON.
3. Dedicated STRs are hereby considered a "special use" within the following overlay zoning district: Lake Overlay.
4. A STR permit shall be assigned to each residential dwelling unit as Owner Occupied or Dedicated STRs.

5. If an Owner Occupied STR ceases to pay occupancy taxes within a calendar year they must acquire a new permit.
6. Upon the adoption of this ordinance, it shall be a violation of the Burke County Zoning Ordinance to operate an Owner Occupied or Dedicated STRs without a valid zoning permit.
7. All STRs existing before the adoption of this ordinance shall have one (1) year to come into compliance and obtain the proper permits.
8. Grounds for Denial: Burke County may deny an application for a STR permit if any of the following has occurred:
 - A. The property owner submits an incomplete application; or
 - B. The proposed STR fails to meet a specified standard set forth in this ordinance.

A property owner may appeal the denial of a STR permit to the Board of Adjustment pursuant to the [Article 8, Administration & Appeals](#) of this Ordinance.

Dedicated STR Operational Requirements

The following operational requirements shall apply to all Dedicated STRs in Burke County:

1. **Maximum Overnight Occupancy.** The overnight occupancy shall not exceed two (2) persons per bedroom. The occupancy limit shall be posted prominently within the STR Unit and be included in property listings on the hosting platforms.
2. **Designated Responsible Party.** Operators of a permitted Dedicated STR shall designate a local responsible party who is available to respond to complaints or other issues arising from the use of the STR. The responsible party shall be available 24-hours during all times that the property is rented.
3. **Contact Information.** The name, telephone number, and email address of the designee shall be available to the renter. The designee shall reside within twenty-five (25) miles of the STR property and be available to respond to complaints within sixty (60) minutes of the receipt of said complaint. A designee's repeated failure to timely respond to complaints may result in the revocation of the STR permit. The designee may be the property owner if he/she satisfies these requirements.
4. **Parking.** A minimum of one (1) off-street parking space for each bedroom is required. No on-street parking shall be allowed.
5. **Noise.** The noise regulations set forth within the Burke County Code of Ordinances shall apply as enforced by the Burke County Sheriff's Department.
6. **Trash and Recycle Disposal.** The dates and instructions for trash and recycling



collection shall be posted prominently within the STR. Waste may not be placed in trash bags at the curb, or within a designated right-of-way. All trash is required to fit into trash receptacles as maintained at the property.

7. **Signs.** No sign advertising a STR shall be posted on the property.
8. **Taxes.** STR owners are responsible for paying all necessary state sales tax, personal property taxes, and the transient occupancy tax as established by state law.
9. **Maximum Rental Duration.** The maximum rental duration shall be eighty-nine (89) consecutive days.
10. **Safety Requirements.** The following safety requirements shall be the responsibility of the property owner. An initial inspection to ensure compliance with these requirements shall be performed by the Zoning Administrator or their designee prior to the issuance of a permit. An annual inspection by the Zoning Administrator or their designee shall be performed to ensure that the rental remains in compliance with these requirements:
 - a. Property owners shall install at minimum of one (1) smoke detector on each floor within the dwelling unit and in each bedroom. Property owners are responsible for changing the batteries annually or when put on notice that a detector needs replacement batteries.
 - b. Property owners shall provide one (1) wall-mounted fire extinguisher, visible from the kitchen area.
 - c. Property owners shall install a minimum of one (1) operable carbon monoxide detector located on each floor of the dwelling unit. The property owner shall inspect the carbon monoxide detector every six (6) months to ensure it is functioning properly.
 - d. Property owners shall remove all double-keyed deadbolt locks. A double-keyed deadbolt lock is a lock that can be locked with a key from the interior of the dwelling unit.
 - e. Property owners should ensure that all exit doors and windows within the dwelling unit can easily be opened in the event of an emergency.
 - f. Property owners shall ensure that the property address is easily visible from the street by using reflective address numbers.
 - g. The address of the STR, with all contact data for the Designated Responsible Party, shall be posted conspicuously within the STR unit.

Owner Occupied STR Operational Requirements

The following operational requirements shall apply to all Owner Occupied STRs in Burke County:

1. **Maximum Overnight Occupancy.** The overnight occupancy shall not exceed two (2)

persons per bedroom. The occupancy limit shall be posted prominently within the STR Unit and be included in property listings on the hosting platforms.

2. **Parking.** A minimum of one (1) off-street parking space for each bedroom that is to be rented is required. No on-street parking shall be allowed.
3. **Signs.** No sign advertising a STR shall be posted on the property.
4. **Taxes.** STR owners are responsible for paying all necessary state sales tax, personal property taxes, and the transient occupancy tax as established by state law.
5. **Maximum Rental Duration.** The maximum rental duration shall be eighty nine (89) consecutive days.
6. **Safety Requirements.** The following safety requirements shall be the responsibility of the property owner. An initial inspection to ensure compliance with these requirements shall be performed by the Zoning Administrator or their designee prior to the issuance of a permit. An annual inspection by the Zoning Administrator or their designee shall be performed to ensure that the rental remains in compliance with these requirements:
 - a. Property owners shall install at minimum of one (1) smoke detector on each floor within the dwelling unit and in each bedroom. Property owners are responsible for changing the batteries annually or when put on notice that a detector needs replacement batteries.
 - b. Property owners shall provide one (1) wall-mounted fire extinguisher, visible from the kitchen area.
 - c. Property owners shall install a minimum of one (1) operable carbon monoxide detector located on each floor of the dwelling unit. The property owner shall inspect the carbon monoxide detector every six (6) months to ensure it is functioning properly.
 - d. Property owners shall remove all double-keyed deadbolt locks. A double-keyed deadbolt lock is a lock that can be locked with a key from the interior of the dwelling unit.
 - e. Property owners should ensure that all exit doors and windows within the dwelling unit can easily be opened in the event of an emergency.
 - f. Property owners shall ensure that the property address is easily visible from the street by using reflective address numbers.

Events. Short-term rentals shall not be used to hold events. This includes parties, weddings, reunions and large gatherings that exceed the occupancy limits of the dwelling or permit.

Enforcement. Refer to **Article 8, Administration, Appeals, and Enforcement.** In addition to the enforcement regulations of Article 8 the following shall apply:



If a property owner receives three (3) verified complaints, relating to the use of the property as a STR within a twelve (12) month period, the STR permit may be revoked. If the permit is revoked the owner may not apply for a new permit for one (1) calendar year.

Verified Complaints. Short-term rental complaints shall be accompanied by a complaint form and submitted in person, via mail, or online on the County's website. Short-term rental complaints shall be verified by the Zoning Administrator or their designee. All STR complaints will be investigated within seventy-two (72) hours or within three business days of receipt.



The outside appearance of a short-term-rental shall be that of residential dwelling. No evidence of its rental nature shall be apparent. **(Example)** no advertising materials or signs.

5.5 Manufactured Home Parks

Watershed Protection Ordinance

All manufactured homes as well as regular homes must comply with the Burke County Watershed Protection Ordinance. Manufactured home parks are urged to consider cluster or planned unit development.

Permit for Manufactured Home Parks Required

It shall be in violation of this ordinance for any person to establish or make on-site improvements for any manufactured home park before a plan has been approved by the Board of Adjustment and the proper permits have been obtained. A manufactured home park permit may be revoked by the Board of Adjustment upon violation of the requirements of this ordinance exists; provided that:

1. the owner, lessee, or other responsible person is notified in writing of the violation and,
2. five (5) days has passed since the written notice was received by the owner/developer.

It shall be unlawful for any person, firm, or corporation to continue the use of a manufactured home park or manufactured home lot after a permit has been revoked.

(For penalties refer to [Article 8, Administration, Appeals and Enforcement](#))

Manufactured Home Spaces

All manufactured homes within the park shall be located in designated manufactured home spaces. There must be at least three (3) manufactured home spaces available at first occupancy

To qualify as a manufactured home park. All manufactured home parks must meet the minimum lot size requirements.

Setback Requirements

Setbacks within manufactured home parks shall be twenty (20) feet from front yard, ten (10) feet side yard, twenty (20) feet corner side yard and ten (10) feet rear yard.



All porches and decks must meet setbacks.

Manufactured Home Placement

Each manufactured home shall be set up and installed within the park in accordance with the State of North Carolina regulations for the installation of manufactured homes adopted and published by the North Carolina Department of Insurance. Each manufactured home space shall contain at least five thousand (5,000) square feet of ground area and be clearly defined by concrete or iron pipe markers placed at all corners or by establishing concrete patios. Each manufactured home space shall be graded to prevent any water from ponding or accumulating on the premises. All drainage of the park must be confined or piped in such a way that it will not endanger any water supply. Each manufactured home space shall have a site number, and permanent lettering two and one-half (2 1/2) inches high attached or painted on the electrical service.

Responsibility

It shall be the responsibility of the manufactured home park owner on which a manufactured home park is located to ensure that each manufactured home setup meets all local, state, and federal regulations.

Off-Street Parking Requirements

Each manufactured home space shall have two (2) off-street parking spaces with a stone or gravel base on top of a well compacted sub-base. These parking areas shall be provided and maintained by the owner or operator of the park. Alternatively, community off-street parking areas may be provided within the manufactured home park.

Public Street Access

No manufactured home space within a manufactured home park shall directly access a public road. A driveway permit must be obtained from the North Carolina Department of Transportation for access to a public road. Access to all manufactured homes and accessory structures within the manufactured home park shall be made using internal streets.

Internal Street Standards

Internal streets shall be a minimum width of twenty (20) feet wide constructed of asphalt, concrete, pavement, or gravel/stone, and be maintained to provide access. Permanent dead-end streets shall have a cul-de-sac forty (40) feet in diameter. The park developer must have an engineer licensed in the State of North Carolina to certify that these minimum road standards have been met. Traffic control signs and street name signs shall be installed where necessary. Street lighting shall be required throughout the park.



Underpinning

All manufactured homes in the park shall have continuous underpinning of wood, masonry, or some other similar exterior grade material which is non-combustible in nature, unpierced except for required ventilation. If the tongue, axles, transporting lights, and removable towing apparatus are not removed, it shall be screened from view from any adjoining public street right-of-way. Such screening shall be in the form of natural plantings or opaque walls or fences.

Screening

All proposed manufactured home parks shall provide a screen or buffer between the park and any property adjacent to the park. Compliance with this section shall constitute either planting a double row of evergreens staggered a maximum of six (6) feet apart and being a minimum of three (3) feet in height, or erection of a fence, or screen, a minimum of seven (7) feet in height to block visual access.

Steps

All manufactured home spaces in proposed parks shall have a solid, well-constructed set of steps for use by tenants. Loosely stacked brick, block, and the like, do not meet the requirements of this section. It shall be the responsibility of the park owner to furnish the steps.

Ground Maintenance

The grounds of a manufactured home park shall be kept free of trash, liter, and debris. Grounds, buildings, and storage areas shall be properly maintained to prevent the infestation of rodents, vermin, and insects. It shall be the responsibility of the manufactured home park owner to maintain the manufactured home park in accordance with these standards at all times.

Site Plan Requirements

A plat at a scale no greater than on hundred (100) feet to one (1) inch should be completed by a registered surveyor and submitted to the Zoning Administrator and shall include the following information:

- 1) The proposed name of the park
- 2) The name of the owner/owners of the parcel
- 3) The name of the designer/surveyor of the park
- 4) The tax identification number of the parcel
- 5) The deed book and page of the parcel
- 6) Boundaries of the tract shown with bearings and distances
- 7) Streets, driveways, open areas, parking spaces, service buildings, water courses, easements, flood plains, setbacks, the right-of-way of the interior driveway, man



ufactured home spaces and all existing structures

- 8) Vicinity map showing the location of the park and the surrounding land usage
- 9) Date, graphic scale, and approximate north arrow
- 10) Location of public water and sewer if available
- 11) Acreage in total tract, acreage in park for other land usage and site calculations for each manufactured home space
- 12) Total number of manufactured home spaces

In addition to the above site-specific requirements the following general site plan requirements apply:

General Requirements

- 1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
- 2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
- 3. Parcel Identification Number (PIN) and 911 address for the property
- 4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
- 5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
- 6. Location, number, and type of parking spaces
- 7. Location and size of buffer and landscape areas
- 8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
- 9. Location of adjacent properties and the zoning of adjacent properties
- 10. The zoning district overlay district (if applicable), and water supply watershed (if applicable), of the property
- 11. Number of stories and overall height from grade of all structures existing and proposed



12. Location of proposed stormwater facilities

13. Phasing schedule (if applicable)

14. Location of fire hydrants

15. Erosion control measures

16. Water and/or sewer locations and

17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator.

Issuance of a Zoning Permit.

After the park plan has been approved, the Zoning Administrator shall issue a Compliance Permit. If the construction of the park has not begun within twelve (12) months from the date of issuance, the Compliance Permit will become null and void. However, the Zoning Administrator may grant an extension of the Zoning Permit if the developer shows cause.

Effects on Existing Manufactured Home Parks.

Manufactured home parks that are operating as existing approved parks may continue to operate and remain unaffected by this ordinance. However, any expansion, addition, or alteration of these parks must conform to the regulations established in this ordinance.

- a) If such parks should cease operation for a period of twelve (12) consecutive months then the park shall not reopen until it complies with the regulations contained in this ordinance, as well as all other applicable state and local laws.
- b) If such parks have a manufactured home space(s) that becomes vacant or ceases to have electrical service for a period of twelve (12) consecutive months, then the space shall cease to exist as a usable space within the park. If the loss of a space reduces the number of spaces required to constitute a manufactured home park, then the park shall cease to exist.



Having an existing septic does not guarantee a space.

Other Applicable Statutes and Requirements.

Class A, B, C, & D manufactured homes may be placed in properly permitted manufactured home parks. Issuing a permit under the provisions of this section shall in no way affect any other type of approval required by any other statute or ordinance of the local, state, or federal government, but shall be construed as an added requirement.

5.6 Multi-Family, Townhouse, and Condominium

Multi-family, townhouse, and condominium developments shall be subject to the following



requirements:

General/Specific Requirements

- (a) Minimum lot or overall project area shall be two (2) acres.
- (b) Minimum lot area per building is fifteen thousand (15,000) square feet for the first unit and three thousand (3,000) square feet for each additional unit.
- (c) Minimum front yard depth for each building is thirty-five (35) feet.
- (d) Minimum rear yard depth for each building is thirty (30) feet.
- (e) Minimum side yard depth for each building when adjacent to street is thirty (30) feet.
- (f) Minimum side yard depth for each building when adjacent to a private drive or side lot line is fifteen (15) feet.
- (g) Minimum side yard depth for each building when adjacent to another building in the project area is twenty (20) feet.
- (h) Minimum distance between buildings is forty (40) feet.
- (i) Maximum area covered by all buildings is thirty (30%) percent, unless utilization of the 10/70 option as allowed per the Burke County Watershed Protection Ordinance is permitted.
- (j) Minimum of five (5%) percent of the project area, excluding swimming pool and all related facilities, is to be designated and developed as a recreation open space

Site Plan Requirements

A site plan prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina is required. At a minimum, all site plans shall contain the following material:

- 1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
- 2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
- 3. Parcel Identification Number (PIN) and 911 address for the property
- 4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
- 5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
- 6. Location, number, and type of parking spaces

7. Location and size of buffer and landscape areas
8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
9. Location of adjacent properties and the zoning of adjacent properties
10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property
11. Number of stories and overall height from grade of all structures existing and proposed
12. Location of proposed stormwater facilities
13. Phasing schedule (if applicable)
14. Location of fire hydrants
15. Erosion control measures,
16. Water and/or sewer locations and
17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator.

Off Street Parking Requirements

There shall be two (2) parking spaces for each dwelling unit.

Dedicated & Private Street Design

- (a) Major and collector streets shall conform to the Burke County Thoroughfare Plan.
- (b) Local and minor access streets: Fifty (50) foot right of way
- (c) Marginal access streets: Fifty (50) foot right of way
- (d) Cul-de-sacs: Fifty (50) foot right of way w/ turnaround of eighty (80) feet.
- (e) Private streets: Fifty (50) foot right of way
- (f) All public and private streets shall be paved to a minimum width of twenty (20) feet and shall be dedicated as an easement for utility purposes. They shall be laid out so that use by through traffic will be discouraged.

Dead End Streets

- (a) Dead-end dedicated streets shall be no longer than eight hundred (800) feet unless necessitated by topography and shall end with a paved turnaround having an outside road diameter of at least eighty (80) feet.



- (b) Dead-end private streets shall be no longer than eight hundred (800) feet and shall end with a paved turnaround having an outside diameter of at least eighty (80) feet.

Intersections

- (a) Streets shall intersect as close to right angles as topography and other limiting factors permit. No street shall intersect at less than sixty (60) degrees.
- (b) There shall be at least one hundred fifty (150) feet between all street intersections.
- (c) Pavement lines at street intersections shall be rounded with a radius of twenty-five (25) feet. Where a street intersects a highway, the design standards of the North Carolina Department of Transportation shall apply.

5.7 Planned Unit Development

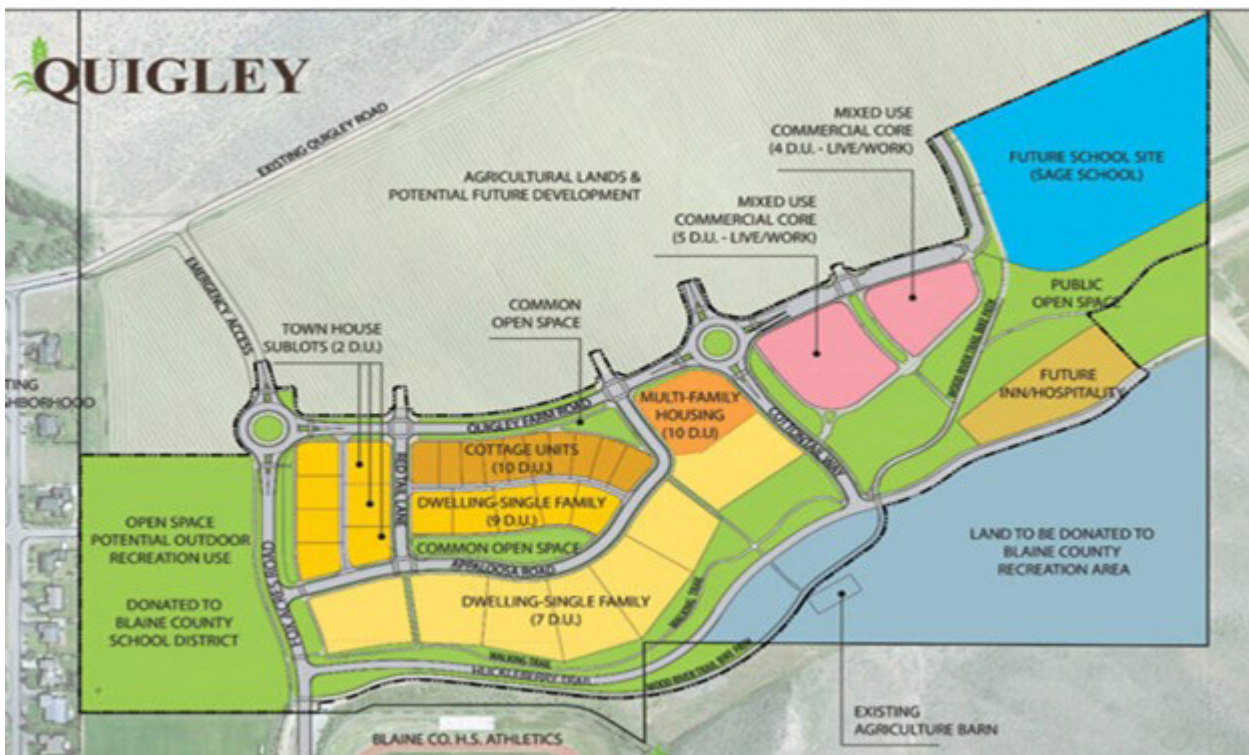


Intent

The Planned Unit Development (PUD) District encourages the master planning of multiple and/or mixed uses with flexibility in development of land and creative designs that are not possible under conventional zoning regulations. A PUD allows for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following:

1. Encourages well planned development that promotes economical and efficient land uses

2. To provide for recreation and/or open space opportunities for public use
3. Allows a planned and coordinated mix of land uses that are compatible but were previously discouraged by conventional zoning
4. Promotes clustering of structures and others uses in order to preserve natural amenities and environmental assets such as woodlands, wetlands, floodplains, view corridors and scenic areas
5. To protect or preserve existing historical buildings, structures, features or places
6. To provide an appropriate balance between the intensity of development and the ability to provide adequate public facilities and services; or
7. To provide appropriate housing, employment, service and shopping opportunities to suit the needs of the residents



Exampe of Planned Unit Development Site Plan

Criteria for Qualifications

In order for a lot to qualify as a Planned Unit Development it must meet the following criteria:

- a) This option may not be used for the purpose of avoiding the applicable zoning requirements.

b) The PUD shall provide a public improvement that would protect existing and future uses from the impact of the proposed use or alleviate an existing or potential problem relating to public facilities. The Planned unit Development shall also meet one or more of the following objectives:

1. To provide open spaces, such as parks, and market or festival spaces for public use.
2. To provide infrastructure, such as streets, sidewalks, and lighting consistent with the Master Plan.
3. To promote the goals and objectives of the Master Plan.

Planned Development Unit Site Plan

A site plan shall be required. The term “Planned Unit Development” shall be placed in the title block. At a minimum, all site plans shall contain the following material:

1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
3. Parcel Identification Number (PIN) and 911 address for the property
4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
6. Location, number, and type of parking spaces
7. Location and size of buffer and landscape areas
8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
9. Location of adjacent properties and the zoning of adjacent properties
10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property
11. Number of stories and overall height from grade of all structures existing and proposed



- 12. Location of proposed stormwater facilities;
- 13. Phasing schedule (if applicable),
- 14. Location of fire hydrants,
- 15. Erosion control measures,
- 16. Water and/or sewer locations and;
- 17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator.

Density

A Planned Unit Development may permit densities or lot sizes that are different from the applicable zoning district. This may be achieved through clustering of lots. A PUD may also permit the mixing of land uses that would not otherwise be permitted.



A Cluster Subdivision shall not contain more lots than a conventional subdivision would allow.

Utilities

Planned Unit Developments must have access to public water and sewer connections. All electric, cable, and other utilities shall be underground in a planned development. In proposed cluster subdivisions where public water and/or sewer are not available and some or all of the proposed lots are smaller than the minimum lot size, each proposed lot shall be provided safe and adequate water and sewer service.

Minimum Lot Area

The minimum lot area required to establish a Planned Unit Development shall be 2 acres.

- The area of individual lots for building sites may be reduced by up to 60 % provided:
- (a) Common areas for preservation, recreation and/or open space are provided in an amount equivalent to the total reduction in lot size. Common areas shall not be less than 20% of the development's total acreage.
 - (b) The common area can be used for a well and septic system.

Open/Recreational Space

Open space for recreation is required in a Planned Unit Development for residential uses. The amount of open space shall be based on the number of units in the development.

Commercial Building Design Requirements

All commercial construction shall meet the minimum standards set forth in **Article 5, Commercial Design Standards** for building, off-street parking, landscaping, screening, and outdoor lighting.

5.8 Commercial Recreation Vehicle Parks and Campgrounds

The special provisions for recreation vehicle parks are designed to encourage the compatibility of these parks with surrounding land uses, maintain a safe and healthy atmosphere, minimize adverse environmental impacts, promote quality design for the traveling public, and stabilize demand on local public services in the County. Group Campgrounds and Recreational Vehicle Parks must meet the following guidelines.

- (a) Recreation vehicle parks shall be used only by travel trailers, park models, pick-up coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. In addition, cabins and bunkhouses constructed to International Building Code are permitted.
- (b) In order to provide for public safety, the use of recreation vehicle parks and campgrounds for permanent habitation is deemed unlawful. Recreation vehicles and tents are not designed nor constructed for such purpose.
- (c) Campground and recreation vehicle park operators shall provide proof of the temporary nature of users upon regular review by the Zoning Administrator or his/her designee.



A site-built dwelling constructed to International Building Code standards may be used as a permanent dwelling for the campground operator.

Site Plan Approval

In addition to any general site plan requirements, the site plan shall include the following information:

- 1. location and dimension of each recreation vehicle site or group camp site
- 2. designation of primitive camping areas and number of sites
- 3. location and use of all service and recreational facilities

4. all interior access ways
5. location of all proposed facilities for sanitation and solid waste
6. fire prevention measures

Area and Site Requirements

- (a) The park area shall be no less than three (3) acres.
- (b) There shall be no more than twelve (12) sites per acre.
- (c) Each recreation vehicle site shall be at least three thousand (3,000) square feet in area.
- (d) Each site shall contain a stabilized recreational vehicular parking pad. The pad must consist of packed gravel, asphalt paving, concrete, or other suitable material. The pad shall not exceed ten (10) feet in width and 40-45 feet in length.
- (e) A single wooden patio/deck is allowed on individual sites and shall be built to NC State Building Code and the ADA Accessibility Code. The size of deck shall be as follows:
 1. Decks shall have a maximum overall size of four hundred fifty (450) square feet.
 2. The overall size shall include any ramps and/or steps. No deck shall exceed fifteen (15) feet in width.
 3. Deck height should be as close to the ground as feasibly possible. If a portion of a deck must be raised to accommodate an uneven grade, lattice must be utilized in all open areas below floor level which exceed 18 inches in height.



Example of Horizontal Slats

Rails may only be allowed if the Building Code and/or Accessibility Code require them. All portions of a deck must meet the required interior yard setbacks. Carports are not an allowed use on individual RV sites and shall not be used as covers for RVs (see examples below)



Minimum Setback and Yard Requirements

- (a) Permanent facilities and structures shall be setback forty-five (45) feet from a public right-of-way or external property line.
- (b) Recreation vehicle sites, campsites, and common outdoor recreation areas shall be setback one hundred (100) feet from any external property line.
- (c) All other interior yard setback requirements shall be ten (10) feet.

Screening

- (a) Recreation vehicle parks shall be enclosed by a solid opaque fence, wall, landscape screening, earth mounds, or other approved designs. The park shall be screened from all surrounding residential areas in a manner that will complement the landscape and assure compatibility with the adjacent environment.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

- (b) Large trash receptacles, pump-out facilities, dumping stations, and maintenance areas shall be screened from public view.

Public Street Access

- (a) No recreation vehicle space within a recreational vehicle park site shall directly access a public road.
- (b) Access to all recreation vehicle and accessory structures within the park shall be made using internal streets.
- (c) A driveway permit must be obtained from the North Carolina Department of Transportation.

Internal Streets

- (a) Internal streets shall be twenty (20) feet wide and contain a minimum depth of six (6) inches of stone or gravel base with proper ditching, drainage, and seeding of slopes.
- (b) One-way street design is permitted but shall be approved by the Fire Marshall.
- (c) Permanent dead-end streets shall have a cul-de-sac forty (40) feet in diameter or provide a turn-around designed for emergency vehicles within one hundred (100) feet of the end of the street.
- (d) The owner/operator shall have the roads designed by a practicing engineer licensed in the State of North Carolina.
- (e) The owner/operator shall be responsible for the maintenance of the internal roads to an all-weather surface condition.

Parking

Adequate off-street parking and maneuvering space shall be provided on-site. The use of internal streets, sidewalks, rights-of-way, or any other private grounds for parking or maneuvering of recreational vehicle parks is prohibited.

Accessory Uses

Management headquarters, manager’s residence, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park are permitted as accessory uses to the park, subject to the following restrictions:

- (a) Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than ten (10) percent of the gross area of the park.
- (b) The structures housing such facilities shall not be located closer than one hundred (100) feet of any public street and shall not be directly accessible from any public street but shall be accessible only from a street within the park.
- (c) Such structures containing toilets, bathhouses and other plumbing fixtures shall adhere to all International Building Code and Environmental Health requirements.

Special Events Grounds shall be subject to the following requirements:

General requirements

A site plan shall be required. At a minimum, all site plans shall contain the following material:

- 1 Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer,
- 2 Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
- 3 Parcel Identification Number (PIN) and 911 address for the property
- 4 Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
- 5 Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated,
- 6 Location, number, and type of parking spaces
- 7 Location and size of buffer and landscape areas
- 8 Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
- 9 Location of adjacent properties and the zoning of adjacent properties
- 10 The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property.
- 11 Number of stories and overall height from grade of all structures existing and proposed
- 12 Location of proposed stormwater facilities
- 13 Phasing schedule (if applicable)
- 14 Location of fire hydrants
- 15 Erosion control measures



16 Water and/or sewer locations and

17 Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator.

As well as all information deemed necessary by the Zoning Administrator or Health Director in order to determine compliance with Burke County Ordinances and to protect health, welfare, and safety of the public using the facility, the environment, and neighboring properties.

1. The special events grounds shall comply with specific requirements of the proposed uses established in this ordinance. Where a conflict exists between uses, the stricter requirement shall apply.
2. The Board of Adjustment may require additional conditions of approval during the conditional use permit process.

Specific Requirements for Special Events Grounds

A Plan of Operation shall be submitted containing the following information as applicable for each scheduled event. The Plan of Operation shall be submitted at least fifteen (15) days prior to the event.

1. The proposed use of the land, building, and/or structures.
2. Activities to occur both inside and outside all principle and accessory structures.
3. The frequency and duration of all activities, including the season, days, and hours of operation.
4. The total number of employees and number of employees in the largest shift.
5. The total number of customers.
6. The total number of vendors.
7. Signage (temporary, directional, and permanent)
8. The number, size, and type of all vehicles associated with the use.
9. Number of vehicle trips or Traffic Impact Analysis.
10. The expected starting and completion dates of construction.

5.10 Shooting Range

The purpose of this section is to protect human health, safety, and general welfare by regulating the establishment and operation of outdoor shooting range facilities. Such uses, due to their potential noise impacts and safety concerns, merit careful review to minimize adverse effects on adjoining properties.

1. The use of firearms shall be limited to the hours of 9:00 am and 5:00 pm or as determined by the Board of Adjustment through the special use process.
2. The use must not be located within 1,350 feet of any residence. However, the residence of the owner may be located within 1,350 feet of the shooting range.
3. A development plan shall identify the Safety Fan for each firing range. The Safety Fan shall include the area necessary to contain all projectiles, including direct fire and ricochet. The Safety Fan configuration shall be based upon qualified expert documentation regarding the trajectory of the bullet and the design effectiveness of berms or other safety barriers to contain projectiles to the Safety Fan.
4. The firing range, including the entire Safety Fan, shall be enclosed with a six foot (6') high non-climbable fence to prevent unauthorized entry into the area.
5. The firing range must meet all applicable State and Federal regulations.

Site Plan Requirements

A site plan shall be required. At a minimum, all site plans shall contain the following material:

1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
3. Parcel Identification Number (PIN) and 911 address for the property
4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
6. Location, number, and type of parking spaces

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



7. Location and size of buffer and landscape areas
8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
9. Location of adjacent properties and the zoning of adjacent properties
10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property
11. Number of stories and overall height from grade of all structures existing and proposed
12. Location of proposed stormwater facilities
13. Phasing schedule (if applicable)
14. Location of fire hydrants
15. Erosion control measures
16. Water and/or sewer locations and
17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator

In addition to any general site plan requirements, the site plan shall include the following information:

1. Complete layout of each range, including shooting stations or firing lines, target areas, safety fans, backstops, berms and baffles
2. Setback of one thousand three hundred fifty (1,350) feet from any residence

5.11 Race Tracks (Commercial)

Racetracks (shall also include Go-Cart Tracks) shall be subject to the following requirements:

1. Minimum lot size shall be fifty (50) acres.
2. Hours of operation shall be between sunrise and 11:00 p.m.
3. All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots, and security. In these cases, fully shielded lights must be used. Lighting should not shine into the sky or onto neighboring properties.



4. The lot will have access to an arterial street.
5. The property shall be screened in accordance with (**Article 5, Buffer/Screening Requirements**) of this zoning ordinance.
6. The track surface shall be maintained so as not to create dust.
7. A fence with a minimum height of eight (8) feet shall be maintained around the track to keep spectators from entering the track.

5.12 Kennel

The purpose of the following Kennel requirements is to ensure the humane care and treatment of animals and protect public health and safety. All “commercial” Kennels shall be subject to the following requirements:

1. Kennels must be approved and permitted as outlined in this ordinance prior to being established.
2. A site plan shall be required. At a minimum, all site plans shall contain the following material:
 1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
 2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
 3. Parcel Identification Number (PIN) and 911 address for the property
 4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
 5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
 6. Location, number, and type of parking spaces
 7. Location and size of buffer and landscape areas
 8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
 9. Location of adjacent properties and the zoning of adjacent properties
 10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property
 11. Number of stories and overall height from grade of all structures existing and proposed

12. Location of proposed stormwater facilities

13. Phasing schedule (if applicable)

14. Location of fire hydrants

15. Erosion control measures

16. Water and/or sewer locations and

17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Planning Administrator

3. All buildings, and shelters housing animals must be fully enclosed and shall be located at least one hundred (100) feet from property lines. Within the R-MU zoning district Kennels with outdoor exercise runs shall be located at least one hundred fifty (150) feet from property lines. All outdoor exercise runs shall be enclosed by a fence. Fencing shall consist of durable materials with a minimum height that shall deter all contained animals from escaping over, under, or through the fence.

4. In addition to the standards set forth in this section, all kennels must be compliant with the North Carolina General Statutes, the Burke County Animal Control Ordinance, and all applicable Burke County Zoning, Code Enforcement, and Environmental Health regulations.

5. Kennels are subject to inspection during normal county operating hours by officers or representatives of Burke County Animal Control, Zoning, Code Enforcement and Environmental Health or as determined by the Special Use Permit process.

5.13 Crematory

Crematories and crematoriums shall be subject to the following requirements:

1. All crematories shall have a licensed crematory manager on staff and obtain and keep in affect all other licenses required under the North Carolina Crematory Act.
2. The crematory must comply and remain in compliance with all applicable public health and environmental laws and rules.
3. A crematory must contain and properly maintain all equipment and meet the standards established by the North Carolina Crematory Act and any additional rules and regulations issued by the North Carolina Board of Funeral Services.
4. Shall be operated entirely within a structure built to the North Carolina Building Code.
5. Crematories shall have a buffer or privacy fence to visually screen material and equipment storage areas from adjoining residential property.



A buffer strip shall consist of a solid continuous planted strip at least fifteen (15) feet in width composed of dense evergreen trees at a minimum height of five (5) feet at initial planting. Where fences and/or retaining walls are required, or allowed in lieu of a buffer strip, the fence/wall shall be at least seven (7) feet in height at the original elevation of the property line. (For more information see [Article 5, Buffering/screening Requirements](#)).

6. No noise, vibration, smoke, dust, odors, heat or glare should be noticeable at or beyond any property line.
7. When permitted as an accessory use, the primary use shall be a use commonly associated with the disposal of deceased humans and/or animals such as funeral homes, hospitals, animal hospitals, or animal shelters.

5.14 Barge Loading Area

A barge loading area is a temporary use during on-site or nearby shoreline construction activity. Barge loading areas shall be subject to the following requirements:

1. The maximum area of disturbance shall not exceed one (1) acre in size, or more than 125 linear feet of shoreline.
2. Shall be in compliance with Duke Energy's shoreline management plan.
3. Shall be sited and designed to minimize any environmental and wildlife impact. All buffer areas disturbed during time of use shall be completely replanted and restored at the end of construction activities. All buffer areas shall be replanted and restored to a natural densely vegetative state.
4. Shall not be used at any time for the mooring of watercraft not directly involved with shoreline stabilization activities.
5. Any erosion issues associated with the site are to be addressed immediately by the property owner
6. Shall not be located within a half shoreline mile of another barge loading area.
7. Barge loading areas shall have a buffer or privacy fence to visually screen material and equipment storage areas from adjacent properties.



A buffer strip shall consist of a solid continuous planted strip at least fifteen (15) feet in width composed of dense evergreen trees at a minimum height of five (5) feet at initial planting.

8. Inert debris material shall be properly disposed of and removed from sight with in fourteen (14) days.
9. The container/storage bin cannot exceed fifteen (15) feet in height and debris mater

ial shall not exceed the height of the container/storage bin.

Site Inspection and Permitting

A site plan shall be required. At a minimum, all site plans shall contain the following material:

1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer
2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage
3. Parcel Identification Number (PIN) and 911 address for the property
4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way
5. Dimensions of footprint and setbacks of the existing and proposed structures with gross floor area indicated
6. Location, number, and type of parking spaces
7. Location and size of buffer and landscape areas
8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps
9. Location of adjacent properties and the zoning of adjacent properties
10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property
11. Number of stories and overall height from grade of all structures existing and proposed
12. Location of proposed stormwater facilities
13. Phasing schedule (if applicable)
14. Location of fire hydrants
15. Erosion control measures
16. Water and/or sewer locations and
17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



5.15 Land Clearing and Inert Debris Land Fills

Land clearing and inert debris landfills shall be subject to the following requirements:

1. All land clearing and inert debris landfills shall be no more than two (2) acres in size. The land clearing inert debris land fill must be identified on a survey map drawn by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina.
2. If applicable the land clearing inert debris landfill must be properly permitted through the N.C. Department of Environment and Natural Resources and/or other applicable state and federal agencies and recorded in the Burke County Register of Deeds Office.
3. Shall pose no known public or environmental hazard.
4. Any permit issued for a land clearing inert debris land fill must be renewed annually and inspected for compliance.
5. If allowed by a special use permit, the land clearing and inert debris landfill must meet any other specific criteria deemed necessary by the Board of Adjustment to alleviate any incompatibility with surrounding land uses.

5.16 Winery, Brewery, and Distillery

Wineries, breweries, and distilleries shall be subject to the following requirements:

- a. These regulations apply to non-farm wineries, breweries, and distilleries.
- b. The winery, brewery, or distillery shall meet all other applicable standards for Industrial uses.
- c. The winery, brewery, or distillery building(s) is allowed as a principal structure.
- d. A winery or brewery may include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other uses incidental to the winery/brewery and open and accessible to the public upon the appropriate permit under general statutes.
- e. Storage of materials used in the manufacturing, processing and for distribution shall be located entirely within the building.
- f. Shall be designed so that all newly constructed loading and unloading facilities are internal to the site, in service alleys or at the back of the building.
- g. The sides and rear yard setback requirement shall be increased to thirty-five (35) feet.

Intent

The purpose of the following communication tower requirements is to promote and to protect public health, welfare, and safety by regulating existing and proposed communication towers. The requirements are intended to provide the community access to technology for wireless communication.

Alternative Structures/Co-Location

It is the policy of Burke County that the visual impact of telecommunications towers and/or antenna should be minimized through the use, where feasible, of alternative tower structures. If alternative tower structures are not available or it is technically or economically not feasible to use an alternative tower structure, then the joint or multiple use of a single tower in less objectionable locations by different communication companies (co-location) should be and is encouraged to minimize the need to construct new towers and to minimize the overall number of towers throughout the County. This section is intended to implement that policy.

1. The following alternative tower structures and uses may be approved by the Zoning Administrator after conducting an administrative review:
 - a. Installing an antenna on an existing structure other than a tower (such as a building, sign, utility pole, water tower or other free-standing, nonresidential structure) that is greater or less than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure.



Examples of Alternate Tower Structures

2. Any additional buildings or equipment shall be screened in accordance with the following buffering/screening requirements:
 1. The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. The site developer may have the option of:
 - a. providing a buffer around the tower base and associated items individually or;
 - b. providing a buffer around the perimeter of the entire site.
 2. A ten (10) foot buffer shall be provided between the tower and the property boundary except in residentially zoned properties. In all residential zones, the buffer shall be a minimum of twenty-five (25) feet in width.
 3. Plantings shall consist of deciduous or evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with a maximum spacing of twenty-five (25) feet on centers. The minimum height at planting for trees shall be six (6) feet, and they shall have an expected minimum maturity height of thirty-five (35) feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight (8) feet on centers. Shrubs shall be a minimum of two feet high at planting and shall have a minimum expected maturity height of eight feet under normal growing conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement.

Communication Towers

General Requirements

Communication towers shall be subject to the following general requirements:

1. Towers shall not interfere with normal radio and television reception in the vicinity.
2. Commercial messages shall not be displayed on any tower. Violations shall be considered zoning violations and shall be corrected under the enforcement provisions.
3. Lighting shall not exceed the Federal Aviation Administration (FAA) minimum if lighting is required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.
4. Towers or co-locations shall be constructed and maintained in conformance with a structural analysis report.

5. To protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation indicating that the power output levels do not exceed federally approved levels.
6. Towers seventy-five (75) feet or more in height require a Special Use Permit granted by the Board of Adjustment. The Board of Adjustment may consider variances up to ten (10 %) percent of the setback requirements for such towers as a part of the Special Use Permit approval.
7. To encourage shared use of towers:
 - a. No new tower shall be located within one (1) mile of an existing tower.
 - b. The Board of Adjustment may allow a tower to be placed within one (1) mile of an existing tower upon being presented written documentation that appropriate space on the tower is not available,
 - c. The new sponsor has made good faith efforts to negotiate an agreement with the owner of the current tower, or
 - d. Equipment currently on the tower is not compatible with the proposed equipment.

If the petitioner cannot locate on an existing tower and a new tower has to be constructed, the height of the tower cannot exceed two-hundred (200) feet. The new tower cannot be located closer than one (1) mile from an existing tower.

8. All new towers shall be constructed to be able to accommodate at least two (2) or more users so that future co-location will be available. In addition, reasonable accommodation for public service uses is also suggested.

Site Plan Requirements

A Site Plan shall be required. The following information must be supplied with the site plan or building permit application for towers that are seventy-five (75) feet in height or more prior to any approval:

1. Identification of the intended user(s) of the tower.
2. Documentation provided by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user.
3. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant.
4. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated.



Dimensional Requirements

Communication towers shall be subject to the following dimensional requirements:

1. On top of structures: Towers may not be located on top of residential structures in any residential district.
2. Setbacks: Towers located on the ground or top of a tower accessory structure:
 - a. If the tower is more than seventy-five (75) feet high and adjacent to, inside of, or separated by a public right of way from property that is residentially zoned or used, the setback shall be one (1) foot for every foot in height. If the tower is more than seventy-five (75) feet in height and adjacent to, inside of, or separated by a public right of way from nonresidential property, the setbacks shall be one (1) foot for every two (2) feet in height.
 - b. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may reduce setbacks from adjacent nonresidential property. The setback from adjacent nonresidential property may be reduced by twenty-five (25%) percent when two users commit to occupy the tower immediately upon its completion or reduced by fifty (50%) percent when three or more users commit to occupy the tower immediately upon its completion. However, the required setback distance may not be reduced to less than fifty (50) feet. The reductions do not apply if the tower adjoins a residential zone on any side.
 - c. No setbacks shall be required if the tower is to be located on an existing structure.

Residential Requirements

Towers (with the exception of concealed towers) in residential districts shall conform to the following setbacks:

1. Towers seventy-five (75) feet or more in height may be permitted subject to the issuance of a Conditional Use Permit. A tower shall have a setback from all property lines that is in compliance with dimensional requirements of this section.
2. To prevent a clear view of the base of the tower, the setback shall contain an established forested area with a depth of at least one hundred (100) feet. When the one hundred (100) foot forested area requirement cannot be met, a natural buffer shall be provided as required in the buffer requirements listed below. During the Special Use Permit process the Board of Adjustment may reduce the setback adjacent to nonresidential property upon consideration of circumstances which reduce the offsite effects of the tower such as topography, berms, the proximity of other existing or potential uses, and existing vegetation and improvements made to the site to obscure or reduce the visibility of the tower. The Board of Adjustment shall not reduce the required setback from adjacent property which has residential use.
3. No outdoor storage yards shall be allowed on tower sites.

Buffers

1. The base of the tower, any guy wires, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. The site developer may have the option of:
 - a. providing a buffer around the tower base and associated items individually or;
 - b. providing a buffer around the perimeter of the entire site.
2. A ten (10) foot buffer shall be provided between the tower and the property boundary except in residentially zoned properties. In all residential zones, the buffer shall be a minimum of twenty-five (25) feet in width.
3. Plantings shall consist of deciduous or evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with a maximum spacing of twenty-five (25) feet on centers. The minimum height at planting for trees shall be six feet, and they shall have an expected minimum maturity height of thirty-five (35) feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight feet on centers. Shrubs shall be a minimum of two feet high at planting and shall have a minimum expected maturity height of eight feet under normal growing conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement.

Requirements for Special Use Permits for Telecommunication Towers and Equipment

1. When considering a Special Use Permit request, the Board of Adjustment shall not be required to make a determination of the electromagnetic field (EMF) effects of the tower on the health of the public.
2. All property owners within a one thousand five hundred (1,500) foot radius and/or adjoining the property where the tower is proposed shall be notified, in writing, of the public meetings at which the application will be considered.
3. The tower owner shall inform the County when a tower exists to be used for six (6) months or more.
4. The tower shall meet all other applicable supplementary requirements.



Example of Monopole Tower

Communication Towers in the Scenic Overlay District

Communications towers locating in the Scenic Overlay District shall use stealth design alternatives in order to conceal the tower from views in and out of the site. In no case shall a tower utilizing “lattice” design, or a lighted tower be approved for construction within the Scenic Overlay District.



Example of Stealth Design



Example of Lattice Design

Expansion of Towers

All communication tower expansions must meet the following requirements:

- a. Site plan required identifying the leased property area.
- b. Must provide a structural analysis report certified by a licensed engineer.

- c. Installing an antenna on an existing tower including a pre-existing tower and further including the placement of additional buildings or other support equipment used in connection with said antenna, so long as the addition of said antenna not to exceed the 200 foot height of said existing tower.

Replacing Existing Towers

Replacement for all existing towers, including non-conforming towers, must meet the requirements of this article.

Removal of Towers

Towers that are not used for a period of six (6) months or more shall be removed by the owner within one hundred eighty (180) days after receiving notice from the County to remove the tower. To assure the removal of towers that do not meet requirements for use or maintenance, this section serves as notice that the County may remove said tower and may file a lien collectable as taxes against the property.

5.18 Public Utility Facilities

Public utility facilities in residential zoning districts shall be subject to the following requirements:

1. The facility shall be essential to the service of the immediate area and no vehicles shall be stored outside on the premises.
2. No offices shall be permitted.
3. All buildings shall meet the setback requirements and shall be designed and landscaped to blend in with the surrounding area.
4. All dangerous apparatus shall be enclosed by a chain link fence at least seven (7) feet in height.
5. Public Utility Facilities shall have a buffer or privacy fence to visually screen material and equipment storage areas from adjoining residential property.

A buffer strip shall consist of a solid continuous planted strip at least fifteen (15) feet in width composed of dense evergreen trees at a minimum height of five (5) feet at initial planting. Where fences and/or retaining walls are required, or allowed in lieu of a buffer strip, the fence/wall shall be at least seven (7) feet in height at the original elevation of the property line. (For more information see Article 5, Buffering/screening Requirements).



Exceptions to this section include serving terminal pedestals, D posts, and underground transformers.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



D Post



Underground Transformer

5.19 Advertising Signs and Structures

The following sign requirements are intended to protect property values, create a more attractive economic and business climate and enhance and protect the scenic and natural beauty of designated areas. It is also intended to reduce sign or advertising distractions and obstructions that may be caused by signs overhanging or projecting over public rights-of-way. These requirements are further intended to provide more open space, curb the deterioration of the natural environment, and enhance community development.

1. All signs, whether permanent or temporary, shall comply with the County Building Code; North Carolina General Statutes, and **Article 6, Scenic Overlay District (Signs)** of this ordinance; and any regulations established by the North Carolina Department of Transportation. In the event of conflicting laws or regulations, the most restrictive standard shall prevail.
2. For the purpose of computing sign area, only one side of a “V-Type” or double-faced sign shall be considered.
3. Front yard setback requirements shall not apply to any sign except off-site outdoor advertising signs. However, no sign shall be located in any way that would block the view of oncoming traffic.
4. All signs shall be subject to the same side yard and height limitations imposed upon other buildings or structures, unless otherwise stated within this ordinance.

5. Signs shall only be illuminated by indirect lighting (see example below).



6. No sign or sign structure shall be erected which is prohibited under North Carolina General Statutes.
7. In computing the sign area for shopping centers and complexes, each individual business or industrial operation shall be considered a separate calculation. Signs that identify shopping center complexes are not included in the computation.

Signs Exempt from a Zoning Permit

The following signs are allowed anywhere within the County and shall be exempt from zoning permits:

1. Real estate signs advertising sale, rental, or lease of the land or building upon which signs are located, provided that:
 - a. On a residential property, no sign shall be larger than four (4) square feet and no more than two (2) signs shall be located on any single lot.



- b. On commercial property, no sign shall be larger than thirty-two (32) square feet and no more than three (3) signs shall be located on any single lot.



- c. On industrial property, no sign shall be larger than ninety-six (96) square feet and no more than three (3) signs shall be located any single lot).



- 2. Signs located on the premises relating to active construction projects not exceeding sixty-four (64) square feet. Signs must be removed when construction stops;



- 1 Purpose and Introduction
- 2 Definitions
- 3 Zoning Districts
- 4 Overlay Districts
- 5 Use Standards
- 6 Commercial Design
- 7 Development Procedures
- 8 Admin & Enforcement

- The posting and removal of political signs shall comply with NC General Statutes and shall not exceed sixteen (16) square feet (see example below);



All other temporary signs such as yard sale and estate sale signs shall be erected no more than two (2) days prior to the event and removed no later than two (2) days after the event.



- Signs erected upon property warning the public against hunting, fishing or trespassing. The sign shall not exceed four (4) feet (see example below);



- Traffic or other public signs and notices posted or erected by or at the direction of a governmental agency, provided such signs and notices meet all applicable state and federal laws and regulations;



Signs erected on personal property that display personal expressions or opinions and that do not exceed the size limitation for exempt signs are not subject to enforcement from this ordinance.

Signs That Require a Zoning Permit

The following signs shall require a zoning permit in accordance with the following provisions:

1. As a use-by-right, the Zoning Administrator shall issue a zoning permit for the following signs:
 - a. On agricultural, commercial, and industrial properties advertising signs and structures exceeding the maximum requirements for **signs exempt from a zoning permit**, provided the sign does not exceed one hundred (100) square feet in sign area.
2. As a special use, a zoning permit may be issued for the following signs as approved by the Board of Adjustment:
 - a. All signs not exempt from a zoning permit and not allowed as a use-by-right; and
 - b. All on-site signs exceeding one hundred (100) square feet and all off-site signs exceeding five hundred (500) square feet
3. One (1) on-site or bulletin board indicating the name of a church, institution, or civic association not exceeding one hundred (100) square feet in area shall be allowed on the premises of public or semi-private facilities;



4. One identification sign shall be allowed at the main entrance or entrances to a residential subdivision or planned unit development project provided that the sign shall not exceed one hundred (100) square feet. The sign shall be designed to be in the public interest and shall make no reference

Purpose and Introduction
1

Definitions
2

Zoning Districts
3

Overlay Districts
4

Use Standards
5

Commercial Design
6

Development Procedures
7

Admin & Enforcement
8

to the sale or lease of the lots or houses located within the subdivision. Two signs may be allowed if the signs do not exceed one hundred (100) square feet in total area;



5. Directional signs for institutional uses shall not exceed four (4) square feet, shall be within one (1) mile of the institutional use, and shall meet all applicable state laws and regulations;



6. One (1) on-site sign relating to a home occupation is allowed provided that the sign shall not exceed four (4) square feet;



7. On-site signs erected on any farm by the owner or lessee of the farm, and relating solely to farm, produce, merchandise, services sold, produced, manufactured or furnished on the farm, provided the signs do not exceed a total of one hundred (100) square feet of sign area;



8. One (1) sign shall be allowed for each residential subdivision or planned unit development project relating to the sale of property within the subdivision or project, provided the sign shall not exceed thirty-two (32) square feet per sign area. The sign shall not be illuminated, and shall be maintained at the developer's expense. A second sign shall be permitted where there is another main entrance to the subdivision or planned unit development;



- 9. Signage for shopping centers shall not exceed a total of five hundred (500) square feet and the sign structure shall not exceed the height limitation of thirty-five (35) feet;



- 10. In multi-family developments, one (1) on-site sign for identifying the multi-family development is allowed, provided that the sign shall not exceed one hundred (100) square feet in area. The sign shall indicate nothing other than the name, address, and phone number of the premises and may only be illuminated by indirect illumination;

11. On-site commercial and industrial advertising signs securely attached to the place of business or industrial operation, and on-site commercial and industrial outdoor advertising sign structure(s), neither exceeding a total of two hundred (200) square feet of sign per business or industrial operation.

Off-Site Outdoor Advertising Signs

1. Commercial off-site outdoor advertising signs are only allowed on non-residential property within the general business and industrial use districts. The front yard setback shall be twenty-five (25) feet for signs that exceed twenty-four (24) square feet in size. Signs less than twenty-four (24) square feet shall not be located within the right-of-way.



2. Billboard off-site outdoor advertising signs shall not exceed five hundred (500) square feet in sign area.

Maintenance and Removal of Signs

1. All signs and sign structures shall be kept in good repair.
2. Signs which are no longer functional, or are abandoned, shall be repaired, removed, or relocated, at the land owner's expense, within sixty (60) days following a written notification from the Zoning Administrator.
3. Any non-conforming sign or sign structure shall be permitted to continue without alteration in size or location, provided that it meets the requirements for non-conforming structures as described in **Article 8, Section 8.24**.

Fences

A fence or retaining wall in any residential use district may be erected provided the wall or fence does not exceed eight (8) feet in height. For retaining walls, the height limitations specified in this ordinance shall apply only to the height above the top of the soil retained by the wall.

Fencing and retaining walls shall be maintained in a safe condition and shall be kept in good repair. All fences shall be uniform in construction and painted or stained with natural earth tone colors, or specially treated for protection from the weather.



Any retaining wall over 48 inches in height shall require a building permit (see example below).



Fences and retaining walls shall contain no writing, graffiti, murals or secondary Messages.

Zoning Requirements

Fences, or retaining walls are required whenever a non-residential use, abuts an established residential use or residential zoning.

Fences in Residential Use Districts.

Fences or retaining walls in any residential use district, may be erected provided the wall or fence does not exceed eight (8) feet in height. For retaining walls, the height limitations specified in this ordinance shall apply only to the height above the top of the soil retained by such wall.



Any fence or retaining wall placed in the front yard must be outside of any rights-of-way or easements.

Administrative Requirements.

Each application for a zoning permit or certificate of occupancy shall include the location and type of buffer strip, fence, or retaining wall to be erected.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 6.0 Non-Residential Design Standards



6.0 Non-Residential Design Standards

6.1 Non-Residential Building Design Standards

Intent

New development shall meet high-quality design standards while permitting diversity in style and ability to define a unique character based on the natural and architectural characteristics of the surrounding area. The flexibility in design seeks to promote innovative and well-planned development that protects and is consistent with the surrounding natural, cultural, and historical resources.

Massing and Scale of Buildings

There are techniques that can be used to reduce the perceived size of a building (see guidelines below):

1. The use of a large single building mass should be avoided. Use a variation of materials, textures, patterns, colors, and details to break down the mass and scale of the building.
2. The use of flat front facades is not permitted.
3. Use cornices, material changes, and pattern changes to reduce the apparent height of a large building



Building Setbacks and Height

Building Setbacks

Front yard	40 Feet
Side yard	30 Feet
Rear yard	30 Feet

Minimum required non-residential building setbacks

Front yard	40 Feet
Side yard	35 Feet
Rear yard	30 Feet

Minimum required setbacks on corner lots with streets abutting two (2) sides

Building Height

Non-residential buildings that exceed fifty (50) feet in height require a special use permit.

Building orientation

Building orientation refers to the direction of front facades and prominent entrances.

- a) When possible, buildings shall be sited so that their main entrances are facing the street on which they are located.
- b) Primary customer entrances shall be clearly defined by distinct architectural elements. Each primary entrance shall include at least two (2) of the following features:
 1. Raised cornice parapets over the entry
 2. Pitched roof forms
 3. Masonry, tile metal or glass inlays around the entrance
 4. Display windows
 5. Awnings or porticos

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement





Examples of Architectural Elements

Building Facade

Unadorned blank walls visible from streets are not allowed and shall have at least two (2) architectural elements listed in Section 5.4 of this article.

a) Horizontal Front Façade Articulation

1. Facades of all buildings shall be divided using architectural elements such as awnings, cornices, and pitched roofs.
2. Any wall surface over forty feet in length should include a least one architectural change in the flat surface.
3. Larger buildings shall be divided into sections of twenty-five (25) to forty (40) foot widths. The sections may be articulated by a combination of pillars, piers or variation in color, texture and materials in the wall surface.
4. The addition of covered walkways and porches may also be used.

Roofs

Roofs shall adhere to the following guidelines:

- a) Use roof forms that complement building design and contribute to human scale.

- b) Development patterns shall avoid the excessive linear rooflines of a strip plaza.
- c) If a shed or flat roof is used, a parapet wall shall be used on all sides of the building to screen the roof.
- d) Roof access shall be provided internally whenever possible.

Roof Pitch

- a) Flat roofs or roof pitches less than 3:12 shall include cornice trim along the tops of walls, roof line offsets, and/or the use of a parapet wall on all sides of the building to avoid the appearance of strip development and create a prominent edge and architectural interest when viewed against the sky.
- b) Pitched roofs shall incorporate eaves that overhang the building wall by a minimum of twelve (12) inches.



Industrial uses are encouraged but not required to adhere to the Regulations mentioned above.

Site Plan Review

A site plan is required and shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed to practice in the State of North Carolina. Please refer to **Article 7, Development Procedures for site plan requirements.**

Access Management

General

Access management is a process for providing access to the development of land, while preserving traffic flow on surrounding roadways in terms of safety, capacity, and speed.

This is achieved through managing location, design and operation of driveways, median openings, and street connections to a roadway. Additionally, access management may involve the use of auxiliary lanes, such as turn lanes or bypass lanes, to remove turning vehicles from through-traffic movement.

Location of Access Points

1. Driveways on existing or proposed State roads shall meet NC DOT standards.
2. The minimum distance between driveways on existing or proposed State Roads, thoroughfares, or major collectors is determined by NC DOT and must have NC DOT approval.

Traffic Impact Study

A Traffic Impact Study (TIS) shall be prepared and submitted by the developer of projects subject to the major site review process when recommended by the NC DOT District Engineer or the Board of Adjustment as necessary to protect the functional integrity of the affected roads or highways. The traffic impact study shall be prepared by a qualified transportation or traffic engineer shall follow NC DOT regulations.

Shared Access

Shared access between uses is allowed provided that the property owners enter into a contractual agreement for shared use and maintenance. When feasible, all access areas should be designed to allow connectivity to adjacent uses in order to promote efficient traffic flow. Doing so will reduce impacts associated with impervious surfaces. Internal areas between buildings in a development should incorporate shared parking areas.

Connected Interior Driveways and Parking

1. Interior driveways and parking areas shall be designed to provide safe and efficient circulation, in accordance with commonly accepted traffic engineering practices. Interior driveways and parking areas are subject to the review and approval of the site plan review committee.
2. Adjacent commercial developments with access to existing or proposed thoroughfares and major collectors shall connect interior parking and driveways. Where adjacent commercial property is vacant, sufficient provisions to connect to the properties shall be submitted.
3. Parcels with frontage on existing or proposed thoroughfares and major collectors shall also be required to reserve sufficient access to any adjacent properties with poor or non-existent access. These reserved areas for future roads shall be shown on the site plan at a location where, actual construction of the road would be practicable.

Channelization

Channelization, or the separation of conflicting traffic movements into well-defined paths of travel by traffic islands or significant pavement markings, shall be considered when a site access study is required. All developments with multiple tenants, parcels, and/or buildings subject to the major site plan review process shall provide for the installation of a median-type entranceway when located on proposed or existing thoroughfares and major collectors.

Signalization

Signalizations may be installed only after all other traffic improvements have been explored. Although traffic signals may reduce the frequency of turning conflicts, signals significantly disrupt efficient traffic flow.

Street Design

1. All streets shall be designed, constructed, and maintained to NC DOT road standards.
2. A maintenance agreement is required for all private and public roads until the road(s) is accepted for public maintenance.
3. Multi-phase developments, road, parking, and access management improvements for initial phases must be completed prior to approval to begin construction on subsequent phases.

Off-Street Parking Standards

Parking

Parking areas should be designed in a manner to provide safe and efficient circulation of traffic and provide safe access ways for pedestrians to travel from vehicles to buildings.

Parking Design

- a) Off-street parking shall be located on the same lot with the building that it is intended to serve.
- b) No parking space shall be located more than three hundred (300) feet from a building entrance.
- c) When practical, parking areas shall be located on the front side of the building. Parking may be located on the side or rear of the building when a development fronts on arterial roads and major or minor thoroughfares.
- d) Parking areas shall be located no closer than ten (10) feet from a public right-of-way and twenty (20) feet from side and rear property lines.
- e) Parking areas shall be designed so that vehicles do not back or encroach on to rights-of-ways, sidewalks, buffers, or other structures.
- f) All parking spaces shall be clearly striped to facilitate an orderly parking arrangement.
- g) Parking shall be designed to facilitate adequate access for emergency vehicles.
- h) All lighting used to illuminate off-street parking areas shall conform to [Article 6, Section 29 Outdoor Lighting](#) of this ordinance.
- i) All development required to provide off-street parking areas shall provide and maintain suitable landscaping as prescribed in this section.

Parking Dimensions

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

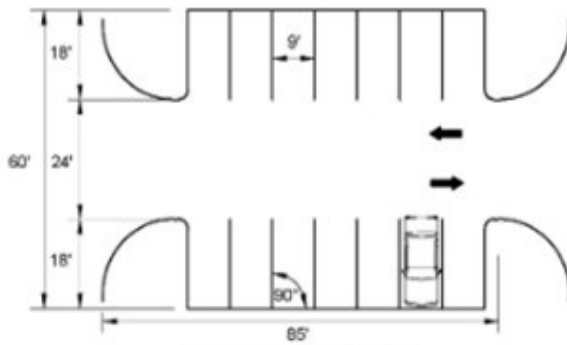
6 Commercial Design

7 Development Procedures

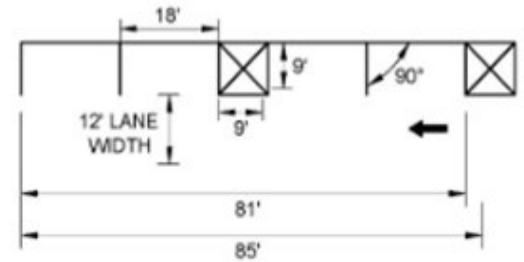
8 Admin & Enforcement

Angle	Width	Depth	Width	
			One-way Aisle	Two-way Aisle
0°	9 ft.	26 ft.	12 ft.	20 ft.
45°	9 ft.	18 ft.	12 ft.	24 ft.
60°	9 ft.	18 ft.	18 ft.	24 ft.
90°	9 ft.	18 ft.	18 ft.	24 ft.

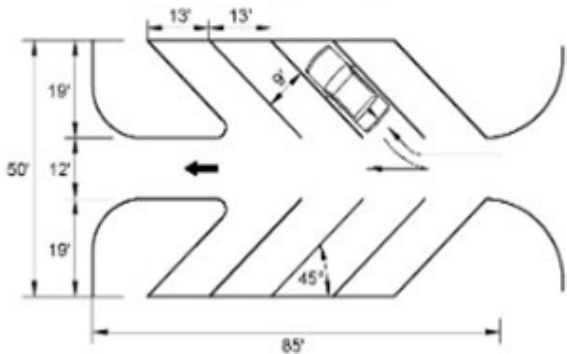
All parking spaces shall meet the following minimum dimensional requirements:



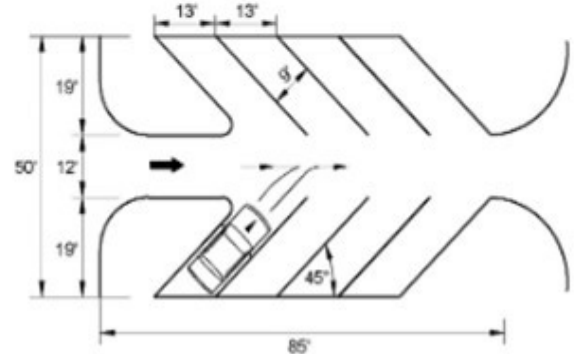
Two-way Aisle 90°



Typical 0° Parking

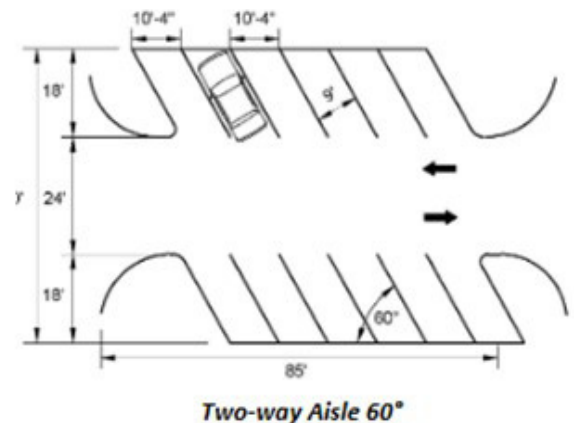
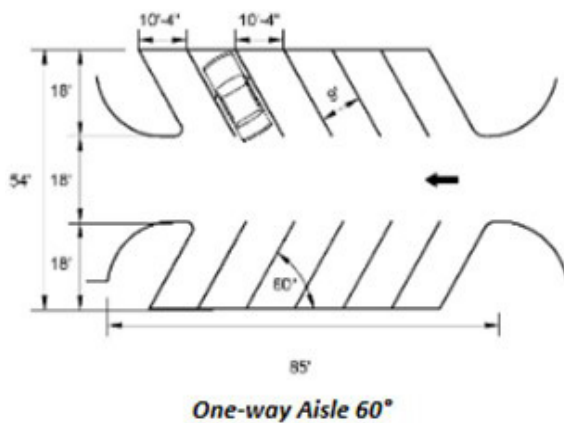
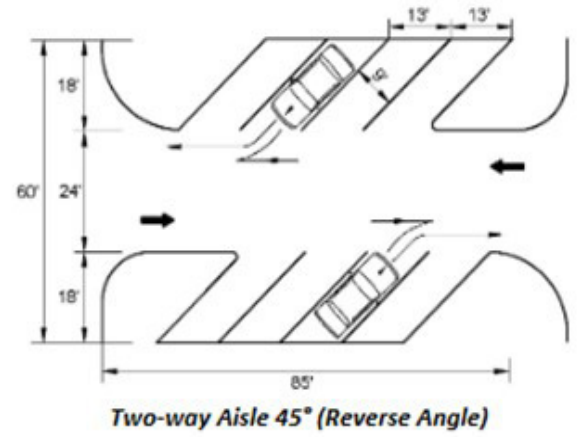
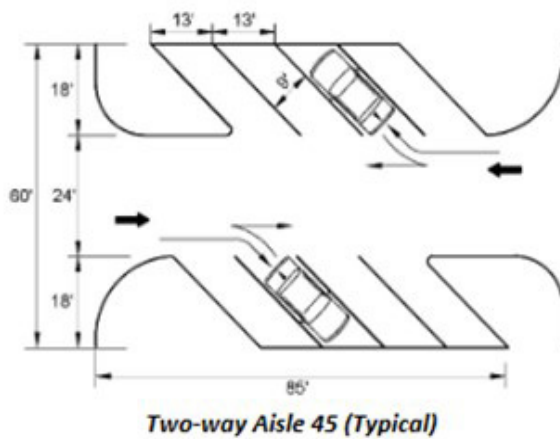


One-way Aisle 45 (Typical)



One-way Aisle 45° (Reverse Angle)





Drive-through Lanes

Drive-through lanes shall be separate from routes or lanes used for ingress or egress from the property.

- Drive-through lanes shall not utilize or obstruct access to parking spaces
- Drive-through lanes shall have a minimum width of nine (9) feet.
- Drive-through lanes shall be striped or otherwise distinctly marked.

Shared Parking

Shared parking between two (2) adjacent uses is allowed provided that the adjacent property owners enter into a contractual agreement for shared use. When feasible, all parking areas should be designed to allow connectivity to adjacent developments in order to promote efficient traffic flow and encourage shared parking areas. Doing so will reduce the use of

land for parking and development costs, and impacts associated with impervious surfaces. Internal areas between buildings in a development should incorporate shared parking areas.

Parking Construction

In order to provide a safe and suitable surface for the quantity and quality of traffic expected to use a development, parking areas shall be required to meet the following requirements:

1. Parking areas shall be paved with asphalt and concrete. Any alternative material proposed for use must be approved by the Zoning Administrator. (Examples) Gravel, stone, and exposed compacted soil are not approved hard surface (excludes special events grounds and racetracks).
2. Parking areas shall be designed and constructed to remove all surface water that accumulates in a manner that will not contribute to the erosion or sedimentation on the development site or off-site.

Required Parking

All parking areas shall meet the following minimum space requirement (where the table refers to employees, it means the maximum number on the premises at any one time. For example, two part-time employees whose hours do not overlap shall be counted as one worker for parking requirements. If the same two employee’s hours do overlap, they shall be counted as two workers):

Minimum Spaces Required	
Use	Minimum Number of Parking Spaces
A. Residential	
Residential uses	2 for each dwelling unit
Accessory dwellings	1 per dwelling unit
Bed & Breakfast	2 + 1 per guest room
Home Occupations	Residential use requirement + 1 per employee
C. Industrial	
Industrial, warehousing, transportation	1 parking space per employee and 1 per company vehicle at peak shift
Brewery, Winery	1 per every 3 seats +1 per employee
Mini warehouse	1 per 4,000 sq ft of gross floor area



Scrapyards, Junkyards, salvage yards	1 parking space per employee + 1 per 5,000 sq ft of gross floor area + 1 per company vehicle
D. Retail	
Retail uses (unless otherwise specified)	1 per 200 sq ft of gross floor area
Auto, truck, boat, recreation vehicle & motorcycle sales	3 spaces + 1 space per 400 sq ft of building gross floor area
Flea markets	1 per every 4 persons of max. capacity
Restaurants	5 spaces + 1 for every 3 seats
E. Entertainment/Recreation	
Recreation and entertainment uses (unless otherwise specified)	1 per 150 sq ft of gross floor area or 1 per 4 persons of max. capacity
Campgrounds	2 per campsite
F. Services	
Personal services	1 per 150 sq ft of floor area
Banks	1 per 150 sq ft of gross floor area.
Beauty parlors or Barbershops	1 space per chair + 1 space per employee
Health club and facilities	1 per 300 sq ft + 1 per employee
G. Utilities	
Utility uses	1 parking space per employee and 1 per company vehicle at peak shift + 5 customer spaces
Communication towers	1 space + 1 space per service vehicle
I. Institution/Office	
Office and service uses (unless otherwise specified)	1 per 300 sq ft of gross floor area
Colleges, universities, technical college, and associated facilities	1 per employee + 1 per 2 students
Hospitals	1 per 400 sq ft of gross floor area of administrative area + 1 per bed
Hotels/Motels	1 space per room + 1 per employee at peak shift
Office/professional for doctors, dentists, or similar professions and out-patient clinics	1+ per 175 sq ft gross floor area
Religious institutions	1 per every 4 seats
Residential care facilities	1 space per 2 beds
Schools and associated facilities, elementary and middle (public & private)	1.5 per classroom
Schools and associated facilities, high (public & private)	10 per classroom



Accessible Parking

Accessible parking spaces for those with physical disabilities shall be designed and provided as part of the minimum of required parking spaces. Accessible spaces with a curb ramp or curb cut, when necessary to provide access to a building or structure shall be designed, constructed, and marked in accordance with the American's with Disabilities Act or other federal, state, and local laws.

The number of accessible parking spaces required is specified in the following table.

ACCESSIBLE PARKING SPACES	
Total Parking Spaces Provided	Required Minimum Number of Accessible Spaces
<u>1 to 25</u>	1
<u>26 to 50</u>	2
<u>51 to 75</u>	3
<u>76 to 100</u>	4
<u>101 to 150</u>	5
<u>151 to 200</u>	6
<u>201 to 300</u>	7
<u>301 to 400</u>	8
<u>401 to 500</u>	9
<u>501 to 1,000</u>	2% of total
<u>1,001 and over</u>	20 + 1 for each 100 or fraction thereof, over 1,000

Loading/Unloading Area

1. On lots that frequently receive or ship goods there shall be an area reserved for standing, loading, and unloading in order to avoid interference with the use of public streets, driveways, alleys, or other parking spaces.
2. Loading spaces shall not be located on the front of any building.
3. When practical overhead doors for service bays shall be located on the side of the building.
4. Loading and unloading areas shall be designed so that vehicles intended to use them can maneuver safely to and from a public right-of-way.

5. Loading and unloading operations must not obstruct any public right-of-way or parking space.
6. Areas designated for loading and unloading may be used to meet the requirements for off-street parking.
7. The space shall be a minimum of ten feet by forty feet (10x40) with a 14-foot height clearance the minimum number of spaces is specified in the table that follows:

Delivery/Loading Area Vehicles Spaces	
Floor Area of Building	Number of Spaces
0 to 3,000 sq. ft	0
3,001 to 20,000 sq. ft	1
20,001 to 100,000 sq. ft	1 each 20,000 sq. ft

Maintenance

Parking areas shall be repaired and maintained by the property owner/responsible party to be safe for vehicular and pedestrian travel. Surfaces shall be kept free of potholes, debris, trash, and excessive vegetation. Parking space lines or markings shall be kept clearly visible.

Enforcement

The owner/responsible party is required to complete repairs within thirty (30) days after written notice of violation has been received.

- a. Failure to maintain and repair off-street parking facilities shall result in a violation of this ordinance. For more information refer to **Article 8, Administration, Appeals, and Enforcement**.

Landscape Standards

Intent

Proper landscaping areas add to the aesthetic appeal of commercial areas and can reduce or delay stormwater runoff, soil erosion, downstream flooding and provide shade. The landscaping regulations imposed in this ordinance are minimum standards. However, exceeding these minimums is encouraged in order to minimize paved surfaces.



Landscaping General

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

1. Required landscaping may not obstruct visibility related to transportation and shall include intersections, or points of egress/ingress, and parking lots.
2. The retention of existing vegetation is encouraged.
3. All dead or dying trees, stumps, litter, brush, weeds or other nuisance plant materials must be removed from the development site at the time of occupancy.
4. All roadway slopes must be landscaped and all cuts and fills must be designed and/or vegetated to prevent erosion.
5. Developments must utilize existing topography to include hills, ridges, and berms to screen parking and maintenance areas to the maximum extent possible.
6. No structures, buildings, or parking may be located within buffer areas, with the exception of permitted signage, pedestrian amenities, and decorative elements.
7. Stormwater retention areas, kept in good aesthetic and functioning condition, may be placed in buffer areas that are not adjacent to any lake, creek, or stream. Such facilities may not be placed in any portion of a right-of-way.

Protection of Water Bodies and Natural Resources

Protection of Water Bodies and Natural Areas

Developments should strive to maintain the contours of the land and utilize existing natural vegetation and topography to screen parking and maintenance areas to the maximum extent possible. When natural bodies of water are on site, a minimum fifty (50) foot natural vegetative buffer shall be maintained. All properties developed in designated watersheds must comply with the vegetative buffer requirements in [Article 4, Water Supply Watershed Management & Protection Ordinance](#).

Landscape Plan Review

A landscape plan is required and shall be prepared by a landscape architect licensed in the State of North Carolina. The following landscape details shall be incorporated into the development site plan; names of all plant materials to be installed (both scientific and common), size and quantity of plant materials to be installed, existing plants on site, ground cover to be used, and other landscape materials. The developer shall submit a separate landscape site plan that include the following details:



The site plan shall include:

1. Scale
2. North arrow
3. All permanent structures
4. Names of all plant materials to be installed (both scientific and common)
5. Size and quantity of plant materials to be installed
6. Existing plants on site
7. Ground cover to be used
8. Hard surfacing
9. Other landscape materials
10. Name, address, and telephone number of landscape designer

Perimeter Landscaping

Perimeter Landscaping

Rear and side yard - Where non-residential uses abut residential zoning and or existing residential uses the perimeter of lots must be landscaped by a vegetative strip a minimum of ten (10) feet in width. The landscaping strip must consist of seventy-five (75%) percent evergreens planted in a single or staggered row, a minimum of six (6) feet apart and a minimum five (5) feet in height. The remaining twenty-five (25%) percent may consist of ornamental trees or deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip. The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three (3) feet in height in order to address safety and visibility issues.

Front yard – When a use cannot accommodate parking in the front of the building the following landscape regulations shall apply. Lots must be landscaped by a vegetative strip a minimum of twelve (12) feet in width, exclusive of any right-of-way. Front yards require a staggered double row of vegetation which includes seventy-five (75%) percent low-growing evergreen shrubs planted six feet on center. The remaining twenty-five (25%) percent of the vegetation may be planted with ornamental trees or low-growing deciduous shrubs. Ornamental trees may be planted intermittently throughout the perimeter landscape strip. The plantings consisting of low-growing evergreen shrubs, with the exception of the ornamental trees, cannot exceed three feet in height in order to address safety and visibility issues. Manicured turf, crushed brick, stone, ground-hugging vines or shrubs, ground cover, annuals, perennials, ornamental grasses, rock or wood mulch must cover the balance of the area.

Parking Landscaping

Internal Parking Area Landscaping


Parking areas shall meet the following requirements: .

1. A landscape island is required for every twelve (12) spaces in a continuous row.
2. Each island must be a minimum of eight (8) feet in any horizontal dimension, with concrete or asphalt curbing.
 - a) The island must contain at least one major shade tree having a clear trunk height of at least five feet. The tree must be a minimum fifteen (15) gallon size or balled and burlapped at time of planting.
 - b) Turf, ground cover, perennials, ornamental grasses, rock or wood mulch must cover the balance of the landscape island.

Foundation plantings or plantings along the perimeter of the parking lot, or in any part of a yard, do not count toward meeting the interior parking landscape requirements.

Landscaping Construction & Maintenance

Landscape Installation

1. All landscape materials shall be native species of North Carolina.
2. Minimum caliper on a large tree measured six (6) inches above ground should be five (5) inches and the minimum height shall be eight (8) feet at planting.
3. Plantings shall be installed in accordance with the latest edition of the American Standards for Nursery Stock, published by the American Nurserymen's Association and the American National Standards Institute (ANSI).
4. Large tree species shall not be planted within thirty (30) feet of overhead utility lines or within five (5) feet of a utility easement.
 -  This does not include telephone or cablevision lines, or low voltage insulated or covered lines two-hundred forty (240) volts or less.
5. All plantings shall be free of disease and scarring.
6. Planting materials shall meet the following specifications:

a) Suitable plant and grass materials are to be used in compliance with this ordinance. Grass areas and sod shall be free of weeds, pests, or diseases.

b) All trees shall be balled and un-bagged at the time of planting.



7. Plantings shall have access to sufficient soil and water to maintain healthy growth.
8. All plantings shall be installed before the certificate of occupancy (C/O) is issued. Where planting installation cannot be completed before the C/O is issued, a cash bond, letter of credit, or corporate surety bond equal to the estimated cost of the landscape plan shall be filed with the Burke County Finance Department to ensure project completion plantings must be installed within six months of C/O issuance.

Landscape Maintenance

1. All landscaping shall be maintained to a healthy mature growth and trees shall not be topped.
2. The property owner/responsible party shall be responsible for the maintenance of all landscaping materials to include:
 - a. Keeping landscaped area healthy and viable.
 - b. Keeping landscaped area free of liter and debris.
 - c. Keeping landscaped area from interfering with safe vehicular and pedestrian travel.
3. All landscape materials shall be protected from damage by erosion, motor vehicles, pets, or pedestrians that could alter the effectiveness of the landscaping.

Enforcement

All unhealthy and dead plantings shall be replaced within sixty (60) days or within the next planting season. Failure to maintain and repair landscaped areas shall result in a violation of this ordinance. For more information refer to [Article 8, Administration, Appeals and Enforcement](#).

Screening Requirements

Unless otherwise specified, the following requirements for screening of property shall be adhered to:

Special Screening Requirements

1. **Group or Multi-Family Projects.** Fencing or vegetative screening shall be seven (7) feet in height. Screening must be sufficiently dense enough to visually block any part of the project from a residential structure on any side abutting the project. Where natural features such as topography or natural vegetation are preserved and prevent visibility the adjoining residential properties, the Board of Adjustment may waive requirements for screening.
2. **Shopping center or shopping complex.** A shopping center or shopping complex shall be permanently screened from adjoining residential uses by a wall, fence, evergreen hedge, and/or other suitable enclosure at a minimum height of seven (7) feet at the original elevation of the property line.
3. **Extraction of Natural Resources.** Vegetation shall be retained and/or fully developed to screen extraction processes from nearby residential areas and adjoining roadways. Quarry areas being excavated shall be entirely enclosed within a fence located at least ten (10) feet back from the edge of any excavation. Borrow pits are exempt but must comply with State of North Carolina mining regulations if applicable.
4. **Automobile Parts Recycling and Scrap yards.** All such operations shall be completely enclosed by an opaque fence or wall, or a buffer that is at least ten (10) feet in width composed of dense shrubs planted a maximum of ten (10) feet apart, except driveway areas. The opaque fence or wall shall be set back ten (10) feet from all property lines, and no storage of any kind associated with the operation of the automobile graveyards and junkyards shall be permitted between the fence or wall and the property line. The intent of this requirement is to screen Automobile Parts Recycling businesses and scrap yards from the view of adjoining properties to the most reasonable extent possible, knowing that certain topographic conditions will limit effective screening. These requirements apply for all new scrap yards and automobile parts recycling facilities.
5. **Service Stations in the Neighborhood Business (N-B) Zoning District.** When allowed, service stations located in the Neighborhood Business (N-B) Zoning District shall comply with this ordinance. A buffer shall be constructed and maintained as defined within the buffer/screening requirements of this ordinance.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



6. Refuse Disposal and Refuse Storage Areas

Refuse containers, recycling containers, and their storage areas shall be screened on three (3) sides with masonry materials. The fourth side shall be enclosed by an opaque gate constructed of solid or simulated wood, vinyl, or other approved material. The wall height shall be at least two feet above the top of the dumpster. An enclosure is not required when the dumpster is behind the building, and within an area that is not visible to adjacent street or properties. All refuse shall be stored within the covered refuse disposal containers.

7. Outdoor Storage Areas

Outdoor storage areas shall be screened from view of all adjoining property and streets by a solid or simulated wood fence or masonry screen wall. The fence/wall shall be no less than eight (8) feet in height. When the fence/wall is located along a public right-of-way, and where feasible, plantings shall be installed to soften the effect of the screening between the wall and adjoining properties. No material stored outdoors shall exceed the height of the fence or wall. Opaque landscape screening may be substituted for a fence or wall upon the approval of the Zoning Administrator.

8. Loading/Unloading Areas

Loading and unloading areas shall not be visible from a public right-of-way, while still allowing access to the use it is serving.

9. Utility Equipment

Utility equipment shall be screened from public rights-of-way and public view. Screening shall consist of evergreen plants of sufficient height, width, and quantity so as to provide screening at the time of planting.

10. Drive-Through Areas

Drive-through aisles shall be screened from view of adjacent residential sites in order to minimize the impact of exterior lighting, headlight glare, and menu intercom displays. The screening shall be approved during the site plan review process and shall consist of a solid wood or simulated wood fence, masonry wall or dense evergreen hedge at least six (6) feet in height. Plant materials shall be installed along the fence or wall to soften the effect.

Fences

Where fences are required, or allowed in lieu of a buffer strip, the fence/wall shall be at least seven (7) feet in height at the original elevation of the property line.



Public Utilities Required

1. For developments requiring a major site plan review or major subdivision review and when technically applicable, the developer will connect to a public water and/or sewer system if located within 1,000 feet of the property to be developed and such lines can be extended within public road rights-of-way and property easements.
2. For developments requiring a minor site plan review and when technically applicable, the developer will connect to a public water and/or sewer system if adjacent to the property to be developed.
3. Review and approval from NC DENR is required for both new systems and extensions to existing systems for both public water and sewer utilities. Proof of plan approval is required prior to issuance of a zoning permit but is not necessary for site plan approval.
4. When the proposed water or sewer system is to be connected to an existing system, approval of the project must also be obtained from the owner of the existing system prior to site plan approval. The system shall be constructed according to the specifications and standards of the utility provider. A letter of approval from the owner of the existing system shall also be submitted prior to issuance of a zoning permit.
5. Where a development is to be constructed in phases, the infrastructure and improvements must be in place on the initial phase before subsequent phases are developed.
6. Site Plan Requirements for Utilities
 - a. Proposed utility easements, proposed line location, line capacity, and line size shall be shown on all applicable site plans;
 - b. Location of existing public utilities on or adjacent to the site and existing lighting when applicable, and;
 - c. Proposed lighting plans showing location, type of lighting, and area that will be lighted.

Location of Utilities

1. Utilities shall be located within public road rights-of-ways or within utility easements. Utility easements shall not be located laterally within a water body buffer but may cross vertically when necessary.
2. All on-site utilities should be located underground unless technical restrictions exist for not doing so. When utilities must be located above ground, provisions shall be made to significantly reduce the visual impact of the utility from public road rights-of-way and pedestrian areas.

Encroachment Agreement

The developer shall obtain a right-of-way encroachment agreement from NC DOT when any utility lines are constructed or expanded in the State’s right-of-way.

Outdoor Lighting Standards

In order to reduce the impact of lighting on neighboring residential uses, potential safety hazards to the traveling public, and the effect on viewsheds and nightscapes, outside lighting shall meet the following requirements:

1. Exterior lighting shall be fully shielded and directed in a downward direction to avoid illuminating the night sky.
2. Lighting shall not illuminate neighboring residential properties.
3. Lighting shall not be directed towards or illuminate in a manner that would distract or harm the traveling public.

Lighting of Buildings and Pedestrian Areas

On-site lighting may be used to accent architectural elements and provide safety and security on pedestrian walkways, at building entrances, and public areas between buildings.

Entryway, Street and Parking Lighting

In order to promote safety and security in developments, lighting should be used at intersections, development entrances, and in parking areas.

Prohibited Lighting

The following types of lighting shall be prohibited:

- a) Flashing, blinding, or obtrusive lighting.
- b) Lights that mimic emergency vehicles.
- c) Flood or spot lighting aimed higher than forty-five degrees from ground level.



This does not include low voltage lighting used for landscaping.

d) Non-shielded lighting.



Industrial uses may use non-shielded lighting.

e) Laser or any other high intensity light used for outdoor advertising or entertainment.

Lighting Height

1 Freestanding light poles shall not exceed thirty (30) feet in mounting height. Sports facilities are exempt from this height restriction.



Sports facility lighting shall utilize the minimum height necessary to achieve to the proper illumination of the area of play and spectator areas.

2 Light fixtures mounted to buildings shall be placed at the minimum height necessary to achieve effectiveness.



Updating Existing Uses

Any change of use or major expansion to an existing non-residential, multi-family residential, mixed-use structure or land use shall comply with the following table:

Retrofitting Existing Uses and Structures						
X = Compliance with all applicable standards required						
	Section 5.1 -5.9 Building Design	Section 2110 Access Management	Section 2111 Parking	Section 2112 Landscaping & Screening	Section 2113 Signage	Section 2114 Utilities & Lighting
Change of Existing Use (No Expansion)			X	X	X	
Major Expansion (26% to 50%)	X		X		X	X
Major Expansion (Greater than 50%)	X	X	X	X	X	X

Applicability

This Section applies to industrial buildings and structures.

Massing and Scale of Buildings

Massing is a technique used to reduce the perceived size or scale of a building. Use variation in materials, textures, patterns, colors and details to break down the mass and scale of buildings. Material and patterns changes can reduce the apparent height of a large building.

Building Setbacks and Height

Building Setbacks

Minimum required non-residential building setbacks

Front yard	40 Feet
Side yard	30 Feet
Rear yard	30 Feet

Minimum required setbacks on corner lots with streets abutting two (2) sides

Front yard	40 Feet
Side yard	35 Feet
Rear yard	30 Feet

Building Height

Non-residential buildings that exceed fifty (50) feet in height require a special use permit.

Building Orientation

Buildings shall be sited so that their main entrances are facing the street on which they are located. Buildings shall be oriented toward accessible arterial or collector streets rather than nearby limited access interstate or freeways. Building entrances should be designed with architectural elements such as columns, arches, or details such as special moldings. They should include entry features such as porches, canopies, porticos, or awnings.

Building Facade

Larger buildings should be divided into sections of 50 to 75-foot widths. The sections may be defined by the use of columns, piers, different material textures or color or by variation in the wall plane. The base of a building may be defined by a change in wall plane, or a change in material, texture, or color.



Roofs

Industrial buildings may have flat or pitched roofs. Any equipment located on the roof shall be screened from all sides of the building.

Site Plan Review

A site plan is required and shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed to practice in the State of North Carolina. Please refer to [Article 7, Development Procedures for site plan requirements](#).

Required Parking

All parking areas shall meet the following minimum space requirement (where the table refers to employees, it means the maximum number on the premises at any one time. For example, two part-time employees whose hours do not overlap shall be counted as one worker for parking requirements. If the same two employee's hours do overlap, they shall be counted as two workers):

Minimum Spaces Required	
Use	Minimum Number of Parking Spaces
C. Industrial	
Industrial, warehousing, transportation	1 parking space per employee and 1 per company vehicle at peak shift
Brewery, Winery	1 per every 3 seats +1 per employee
Mini warehouse	1 per 4,000 sq ft of gross floor area
Scrapyards, Junkyards, salvage yards	1 parking space per employee + 1 per 5,000 sq ft of gross floor area + 1 per company vehicle

Other Design Standards

For access management, parking, landscape design, screening, and lighting requirements refer to [Article 6, Non-Residential Design Standards](#).

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 7.0 Development Procedures



7.0 Development Procedures

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

7.1 Intent

The site plan review process is intended to ensure that proper design standards are maintained in types of development which can have potentially harmful effects on their surroundings. These effects are subject to modifications or reduction through the physical design of such development. It is also necessary to ensure that the requirements of the underlying zoning district and any applicable overlay district(s) are maintained. Review of the site plans benefit to the community through building and site design.

7.2 Site Plan Review Required

All uses referenced in Section 7.3 Uses Subject to Site Plan Review shall submit a site plan for review approval to the Burke County Community Development Department prior to the issuance of any zoning or improvement permits.

7.3 Uses Subject to Site Plan Review

The following types of development may be subject to the site plan review process:

1. All commercial and industrial facilities
2. All institutional facilities such as schools, hospitals, and clubs
3. All residential developments involving three (3) or more dwelling units in one building or on one lot
4. Manufactured (mobile) home park
5. Special exceptions when specified in this ordinance; include all developments subject to special overlay district requirements for site plan submittal. (Reference I-40 Corridor Overlay District **Article 8, Section 8.2** and Scenic Overlay District **Article 8, Section 8.3**)
6. Townhouse development projects
7. Planned unit development projects
8. Recreational vehicle parks, subject to special site plan requirements in **Article 5, Section 5.1**
9. Other uses when specified by the Planning Board or Board of Commissioners.



7.4 Minor Site Plan Review

A minor site plan review is required when any new construction, addition, renovation, or change in use involves one of the following categories:

- a. Industrial developments involving five (5) or less acres of land
- b. Commercial buildings, structures, or developments whose current or proposed gross floor area is less than 50,000 square feet
- c. Any development that involves less than fifty (50) dwelling units consisting of duplexes, townhouses, or multi-family residential buildings
- d. Planned unit developments that have less than five (5) separate building units and/or that meet any of the criteria listed in this section
- e. Development meeting the criteria listed in this section and located in a special overlay district.

7.5 Major Site Plan Review

A major site plan review is required when any new construction, addition, renovation, or change in use which involves one of the following categories:

- a. Industrial developments involving more than five (5) acres of land
- b. Commercial buildings, structures, or developments whose current or proposed gross floor area is greater than 50,000 square feet
- c. Institutional buildings, structures, or developments
- d. Any manufactured housing park or recreational vehicle park
- e. Any development that involves more than fifty (50) dwelling units consisting of duplexes, townhouses, or multi-family residential buildings
- f. Planned unit developments that have more than five (5) separate building units and/or that meet any criteria listed in this section.
- g. Any development meeting the criteria listed in this section and locating in a special overlay district, and
- h. Any other uses specified by the Planning Board or Board of Commissioners.

7.6 Site Plan Review Process

Pre-Application Conference

A pre-application conference with the Zoning Administrator, County Planner, or their designee is required for all major site plan reviews to determine the appropriate procedure to be followed and discuss the proposed project. All applicants submitting a plat subject to site plan review are encouraged to schedule a pre-application conference with the Zoning Administrator, County Planner, or their designee. The pre-application conference may include a discussion of the provisions affecting the proposed project that must be adhered to and any other appropriate item affecting the proposal.

Minor Site Plan Review Process

1. Any applicant required to submit a minor site plan for review shall submit seven (7) paper copies of the site plan to the Zoning Administrator. The Zoning Administrator may require the applicant to provide additional copies of the site plan when deemed necessary.
2. If further review or consultation is necessary, the Zoning Administrator shall notify members of the site plan review committee within three (3) business days of submittal of a complete site plan. Copies of the minor site plan shall be available for review by the site plan review committee until the applicant has been notified of a decision.
3. The Zoning Administrator shall notify the applicant of a decision within two (2) weeks of the site plan review submittal.
4. Appeals of decisions of the Planning Administrator shall be made in accordance with **Article 8, Section 8.3(1)** of this ordinance.

Major Site Plan Review Process

1. Any applicant required to submit a major site plan for review shall submit seven (7) paper copies of the site plan to the Planning Administrator.
2. The Planning Administrator shall forward copies of the submitted site plan to the members of the site plan review committee identified in Section 1305.4 within three (3) business days of submittal of a complete site plan.
3. The site plan review committee shall review the provided site plan and provide written comments to the Planning Administrator within fifteen (15) business days of plan submittal.
4. Within five (5) business days of receiving written comments from the site plan review committee, the Planning Administrator shall notify the applicant in writing the decision of the site plan review.
5. Appeals of decisions of the Zoning Administrator shall be made in accordance with **Article 8, Section 8.3(1)** of this ordinance.

7.7 Site Plan Committee Members

The site plan review committee shall consist of county staff members from the building services, environmental health, engineering, public works, fire, planning, and GIS departments. Additional local, state, and/or federal agencies shall be consulted as deemed necessary by the Zoning Administrator.

Purpose and
Introduction
1

Definitions
2

Zoning
Districts
3

Overlay
Districts
4

Use
Standards
5

Commercial
Design
6

Development
Procedures
7

Admin &
Enforcement
8



7.8 Submittal of Incomplete Site Plans

Submittal of site plans that do not contain the required information prescribed in this Ordinance may be removed from the agenda and placed on the next scheduled meeting agenda. The Planning Administrator or their designee shall notify the applicant before the decision deadline of the incomplete status of the application.

7.9 Permits

Once the applicant receives written approval of a site plan, the applicant may submit an application for a zoning permit. The approved site plan is valid for one (1) year unless a vested right is requested and approved. Failure to obtain permits within this time period shall result in the termination of any vested right and the site plan must be resubmitted.

7.10 Site Plan Requirements

Preparation of the Site Plan

Site plans required for development shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed to practice in the State of North Carolina. A Zoning Ordinance Site Plan Compliance Form must accompany the site plan submittal.



Click on the document icon below to go directly to burkenc.org to download the Site Plan Compliance Form

Minimum Requirements of the Site Plan

A Zoning Ordinance Site Plan Compliance Form  must accompany the site plan submittal. At a minimum, all site plans shall contain the following information:

1. Development name, North arrow, scale denoted graphically and numerically, vicinity map, and the name(s), address(s), and telephone number(s) of the owner(s), date, and the site plan preparer;
2. Quantitative data such as property boundary lines with dimensions, acreage of tract(s), any proposed lot lines, total acreage;
3. Parcel Identification Number (PIN) and 911 address for the property;
4. Location of adjacent streets, driveway cuts, proposed streets, and utility easements and all associated rights-of-way;
5. Dimensions of footprint and setbacks of the existing and proposed structures with gross

gross floor area indicated;

6. Location, number, and type of parking spaces;
7. Location and size of buffer and landscape areas;
8. Location of any FEMA designated floodplain and perennial waterways identified by U.S.G.S. topographic maps;
9. Location of adjacent properties and the zoning of adjacent properties;
10. The zoning district, overlay district (if applicable), and water supply watershed (if applicable), of the property.
11. Number of stories and overall height from grade of all structures existing and proposed;
12. Location of proposed stormwater facilities;
13. Phasing schedule (if applicable),
14. Location of fire hydrants,
15. Erosion control measures,
16. Water and/or sewer locations and;
17. Other information as required within the Watershed Protection Ordinance, Burke County Zoning Ordinance, and/or other requirements deemed necessary by the Zoning Administrator.

Purpose and
Introduction
1

Definitions
2

Zoning
Districts
3

Overlay
Districts
4

Use
Standards
5

Commercial
Design
6

Development
Procedures
7

Admin &
Enforcement
8



1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 8.0 Administration, Appeals, and Enforcement



8.0 Administration, Appeals and Enforcement

8.1 Introduction

The Zoning Administrator or their designee, shall maintain a master copy of this ordinance as a public record. When amendments are enacted that add new subject matter or revise existing language, the master copy shall be periodically updated with all new amendments. The master copy shall be an official record of the ordinance provisions currently in force governing Burke County.

8.2 Appointment of the Zoning Administrator

The Zoning Administrator shall administer and enforce the provisions of this ordinance and may call upon other county officials, employees, and agents for assistance. The Zoning Administrator shall be appointed by and serve at the pleasure of the County Manager.

8.3 Duties and Powers of the Zoning Administrator

The Zoning Administrator is authorized and empowered on behalf of the Board of Commissioners to administer and enforce the provisions of this ordinance to include:

1. Receiving applications,
2. Inspecting premises,
3. Issuing zoning and compliance permits,
4. And reviewing and taking appropriate action on site plans, in conformance with the provisions of this ordinance.

The Zoning Administrator shall have authority on behalf on the Board of Commissioners to administer and enforce this ordinance, including:

1. Ordering in writing the remedy of any violation of this ordinance with the approval of the Planning Director,
2. Commencement of legal action, including injunction, abatement, or the appropriate action to ensure compliance with this ordinance.

The Zoning Administrator has the authority to take final action on minor variances not to exceed twenty percent (20%) of the total setback requirement, lot size or accessory building size. The Zoning Administrator does not have the authority to take final action on applications that require final action by the Board of Commissioners, the Planning Board, or the Board of Adjustment.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



8.4 Conflict of Interest

Administrative Staff

No staff member shall make a final decision on an administrative decision if the outcome of that decision would:

1. Have a direct, substantial, and readily identifiable financial impact on the staff member
2. Or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or other staff person. No staff member shall a financial interest or be employed by a business that has a financial interest in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved.

No staff member, other individual or an employee of a company contracting with a city local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.



Familial relationship. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

8.5 Application Procedures

Application Procedures

In order for an applicant to begin construction or alterations on a proposed development, they shall seek a zoning permit in accordance with this section, with the exception of the exempt uses listed in this section. An applicant seeking a zoning permit in any use district shall be required to adhere to the application procedures outlined in this ordinance.

The Pre-Application Conference

Prior to the submission of an application for a zoning permit, the developer may meet with the Zoning Administrator to discuss the proposed project and determine the appropriate procedure to be followed. The pre-application conference may include a discussion of the provisions within this ordinance affecting the proposed project and any other appropriate item affecting the proposal.




8.6 Submittal of Application



Click on the document icon below to go directly to burkenc.org to download the Zoning Permit and Special Use Permit Applications

Submittal of Application

Uses-By-Right Applications  for a zoning permit shall be submitted to the Zoning Administrator according to the following provisions:


1. An application for a zoning permit for a use-by-right shall be accompanied by a site plan (if applicable).



All commercial permits require a site plan.

2. If the proposed documentation is in conformity with the provisions of this ordinance, and other appropriate codes and regulations of the County. The Zoning Administrator shall approve the site plan and issue a zoning permit. The Zoning Administrator shall retain the application and one (1) copy of the site plan for their records.

Application Procedures for Special Uses

Special Use Applications  for a zoning permit shall be submitted to the Zoning Administrator, who shall refer the application to the Board of Adjustment, depending on the nature of the special use, for a public hearing. Applications for zoning permits for a special use must be submitted in according to the following provisions:

1. An application shall be accompanied by a site plan (if applicable).
2. The Zoning Administrator shall process the application as prescribed by this ordinance.
3. The Board of Adjustment shall consider the proposed special use after notice and public hearing and shall take action on the proposed special use within sixty (60) days from the date of the public hearing. The Board of Adjustment shall hold a public hearing on the application for a special use. If the Board of Adjustment fails to submit a report within a sixty (60) day period, it shall be deemed to have approved the special use.
4. In addition to the specific requirements for special uses, the Board of Adjustment shall review the facts and circumstances of each proposed use and shall find adequate evidence showing that the use at the proposed location:
 - a. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's comprehensive plan and/or this ordinance;

- b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - c. Will not be hazardous or disturbing to existing or future neighboring areas;
 - d. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - e. Will not create excessive additional requirements at public costs for public facilities and services and will not be detrimental to the economic welfare of the community;
 - f. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production to traffic, noise, smoke, fumes, glare, odors, or water pollution;
 - g. Will have vehicular approaches to the property which shall be designed as not to create any interference with traffic on surrounding public streets or roads; and
 - h. Will not result in the destruction, loss or damage of a natural scenic or historic feature of major importance.
5. The conditions listed above and in Article 7, Development Procedures are the minimum conditions for the various special uses. When approving a proposed special use, the Board of Adjustment may stipulate additional requirements in the interest of the public. The Board of Adjustment may require an applicant to furnish a performance bond in an amount sufficient for, and condition upon, the fulfillment of any requirements stipulated by the board.
 6. All special use decisions made by the Board of Adjustment are subject to an appeal to the Superior Court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is made, or after a written copy of the petition is delivered to every aggrieved party who has filed a written request for a copy with the Secretary or Chairman of the Board of Adjustment at the time of the hearing of the case, whichever is later. The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service, registered mail, or certified mail return receipt requested.



8.7 Issuance of Zoning Permit

Issuance

The Zoning Administrator or their designee shall issue a zoning permit for any approved use or structure alteration, provided the proposed use of land or structure, or structural alteration, is in compliance with the provisions of this ordinance. The zoning permit shall indicate the terms of compliance and shall be on file in the Community Development offices. A zoning permit must be obtained from the Zoning Administrator prior to the issuance of a permit for a new or expanded septic system from the Environmental Health Department and prior to the issuance of a building permit by the building inspector. The zoning permit shall be issued only after all appropriate federal, state, and local permit or license requirements are met.

Expiration

Any zoning permit shall automatically expire twelve (12) months from the date of issuance if the persons, firm, or corporation to which the permit was issued have not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work authorized is suspended or discontinued for a period of twelve (12) months. Once the permit expires, it must be reissued as an original permit.

8.8 Denial of Application

General Denial

If an application and site plan submitted describe work which does not conform to the requirements in this ordinance, the Zoning Administrator shall not issue a zoning permit. He/she shall return one (1) copy of the site plan (if applicable) to the applicant along with a signed denial in writing. The disapproval shall state the reasons for denial and shall cite the portions of this ordinance with which the submitted site plan does not comply and shall identify modifications or corrections that will permit approval. The Zoning Administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal as public record.

Denial of Special Uses

If the Board of Adjustment disapproves a special use application for a zoning permit, the board shall inform the applicant of the decision in writing within thirty (30) days from the date of the public hearing, stating the reasons for disapproval. The Zoning Administrator shall retain one (1) copy of the site plan (if applicable) and one (1) copy of the refusal, as a public record.

Re-submittal of Application

A property owner, or his appointed agent, shall not reapply for a zoning permit for the same use, for the same parcel of land more than once. In order for the Board of Adjustment to rehear a case regarding the same use or parcel of land the following must apply:

1. The application must be modified substantially from the original applications
2. The provisions of the ordinance relevant to the previous application must have changed
3. The new application must contain new issues that were not heard in the previous application

8.9 Burden of Proof

The burden of proof shall rest with the applicant in all proceedings required by this ordinance.

8.10 Administrative Remedies

Procedure for Requesting an Amendment to this Ordinance

The Board of Commissioners may, from time to time, after examination and review hold a public hearing to, amend, supplement, or change the provisions of this ordinance. Proposals for amendments, whether initiated by the Planning Board, or any person, firm, corporation, or group of citizens shall be treated according to one of the following procedures.


8.11 Creating Other Use Districts and/or Changes Between Other Use Districts



Click on the document icon below to go directly to burkenc.org to download the rezoning application

Creating Other Use Districts and/or Changes Between Other Use Districts

Anyone requesting to change the use district designation as an amendment to this ordinance shall adhere to the following process:

A rezoning application  for the reclassification of property shall be filed with the Zoning Administrator or their designee. No application will be accepted until it is complete. A decision by the Zoning Administrator that an application is incomplete may be appealed to the Planning Board. A decision by the Planning Board that an application is incomplete may be appealed to the Board of Commissioners.

1. The Zoning Administrator will review the proposed amendment and may convene with other governmental departments and entities as part of that review. After the review, and within sixty (60) days of the submittal, the Zoning Administrator or their designee shall write a report and recommendation stating whether the amendment should be granted or denied and the reasons for the recommendations. The report shall advise and comment on whether the proposed amendment is consistent with the Strategic Land Use Plan or any other officially adopted plan that is applicable.

2. The Planning Board may hold a public meeting and shall consider the proposed amendment in accordance with North Carolina General Statutes. The Board shall present its recommendations in writing to the Board of Commissioners. The recommendations shall advise and comment on whether the proposed amendment is consistent with any adopted Strategic Land Use Plan and any other officially adopted plan that is applicable. A written recommendation by the Planning Board that a proposed amendment is inconsistent with the Strategic Land Use Plan shall not prohibit consideration or approval of the proposed amendment by the Board of Commissioners. If the Planning Board fails to submit its recommendation to the Board of Commissioners within sixty (60) days of the first meeting of the Planning Board after the proposed amendment has been presented, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board report. The Board of Commissioners shall consider the proposed zoning district creation or change after notice and a public hearing in accordance with North Carolina General Statutes.
3. The Board of Commissioners shall consider the proposed amendment after proper notice and a public hearing and shall take action on the proposed amendment within sixty (60) days from the date of the public hearing. At the Commissioners discretion this public hearing may be combined with the Planning Board public meeting. Prior to adopting or rejecting any zoning amendment, the Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board considers the action to be reasonable and in the public interest. This statement is not subject to judicial review per N.C. General Statutes.
4. Any petition for an amendment to convert land to other use districts may be withdrawn by the applicant initiating the request prior to further action by the Board of Commissioners, and upon written notice to the Zoning Administrator or their designee.
5. No applicant shall reapply for an amendment to convert land to another use district for the same parcels of land more than once every ninety (90) days.
6. Applications for creating new or changing existing use districts shall be accompanied by a parcel map and fee as determined by the fee schedule approved by the Board of County Commissioners.

8.12 Text Amendments

Proposals to adopt, amend, or repeal the text of this ordinance, shall comply with the following process:

1. The Planning Board may hold a public meeting and shall consider a proposed text amendment in accordance with North Carolina General Statutes and shall present its recommendations to the Board of Commissioners. If the Planning Board fails to submit its recommendations to the Board of Commissioners within sixty (60) days of the first meeting of the Planning Board after the proposed text amendment has been presented, the Board of Commissioners may consider the amendment without the Planning Board report. The Board of Commissioners shall consider the proposed zoning text amendment after proper notice and a public meeting in accordance with North Carolina General Statutes.

- Upon the receipt of a recommendation from the Planning Board or after sixty (60) days from the first Planning Board meeting without action, the Board of Commissioners shall consider the proposed text amendment after proper notice and a public meeting. The Board of Commissioners shall take action on the proposed text amendment within sixty (60) days from the date of the public meeting. The Commissioners may combine this public meeting with the Planning Board public meeting. Prior to adopting or rejecting any zoning amendment, the Commissioners shall adopt a statement describing whether its action is consistent with an adopted Strategic Land Use Plan and explaining why the Board considers the action to be reasonable and in the public interest. This statement is not subject to judicial review per N.C. General Statutes.


8.13 Variance and Interpretation



Click on the document icon below to go directly to burkenc.org to download the variance application

Procedure for Requesting a Variance or an Interpretation of the Use District Map

Requests for a Hearing before the Board of Adjustment for a variance or an interpretation of the use district map shall comply with the following procedure:

Applications for a variance,  or an interpretation of the use district map, shall be submitted in writing to the Zoning Administrator with two (2) copies of a complete site plan, if applicable, of the proposed request with any other information required by the Zoning Administrator. The Zoning Administrator shall submit the application to the Board of Adjustment.

Public Hearing

The Board of Adjustment shall consider a proposed request after proper notice and a public hearing.

Withdrawal

Any petition for a variance or interpretation of the use district map may be withdrawn by the applicant initiating the request prior to further action by the Board of Adjustment, and upon written notice to the Zoning Administrator.



Each petition shall be accompanied by payment of the current non-refundable fee listed in the fee schedule to help defray the cost of conducting the public hearing

Time Limitation

No applicant shall reapply for a variance or interpretation of the use district map for the same parcels of land more than once. In order for the Board of Adjustment to rehear a case regarding the same use or parcel of land the following must apply:

1. The application must be modified substantially from the original applications
2. The provisions of the ordinance relevant to the previous application have changed
3. The new application must contain new issues that were not heard in the previous application

Fee

Each application for a variance or interpretation of the use district map shall be accompanied by the current non-refundable application fee as determined by the fee schedule approved by the Board of Commissioners to help defray the cost of publicizing and conducting the public hearing.

8.14 Appeals Procedure

Decisions by the Zoning Administrator

Decisions of the Zoning Administrator relating to the administrative enforcement of the provisions of this article are subject to an appeal to the Board of Adjustment by any person aggrieved or by any officer, department, or agency of the county affected by the decision or decisions.

1. An appeal shall be submitted in writing to the Zoning Administrator who shall immediately refer the written appeal to the Board of Adjustment. The appeal shall specify the grounds for the appeal.
2. An appeal stays all proceedings or further progress of the action that was appealed unless the Zoning Administrator certifies to the Board of Adjustment that a stay would, in their opinion, cause imminent peril to life or property, in which case proceeding shall not be stayed other than by a restraining order.
3. Each appeal shall be accompanied by payment of the current non-refundable fee dictated by the fee schedule to help defray the cost of publicizing and conducting the public hearing.
4. The Board of Adjustment shall appoint a reasonable time for the hearing of appeals and shall consider appeals after proper notice and a public hearing and decide the same within sixty (60) days from the date of such public hearing.
5. The Board of Adjustment may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from. The Board shall make any order, requirement, decision, or determination that in its opinion should be made under the circumstances. The Board of Adjustment has all the powers of the Zoning Administrator from who the appeal is taken.

Decisions by the Board of Commissioners

All decisions by the Board of Commissioners are subject to an appeal to the superior court by any person, firm, corporation, or government agency aggrieved by the decision or decisions.



8.15 Boards of Appeal

Intent

This article identifies the responsibilities of the public bodies which administer this ordinance. Their responsibilities include those delegated by the General Statutes of North Carolina, as well as those responsibilities left to local options and assigned by the enactment of this ordinance.

8.16 The Board of Adjustment

A Board of Adjustment consisting of seven (7) members (5 regular and 2 alternate members) shall be appointed by the Board of Commissioners, with appointments and terms of office as follows.

1. The five (5) Board of Adjustment members appointed shall serve for terms of one (1) year for one (1) member, two (2) years for two (2) members, and three (3) years for two (2) members. Subsequent appointments shall be for terms for three (3) years each. Members may be re-appointed to succeed themselves but may not serve more than four (4) consecutive terms.
2. The Board of Commissioners shall also appoint two (2) alternate members to serve on the Board of Adjustment in the absence, of any regular member. The alternate members shall be appointed for three (3) year terms. In the case of the first appointment of alternate members, one (1) shall be appointed for a two (2) year term, and one (1) shall be appointed for a three (3) year term. Alternate members, of the Board of Adjustment serving in the absence of any regular member, shall have and exercise all the powers and duties of the absent member.
3. The members of the Board of Adjustment shall be residents of the county. Two (2) members shall be from the eastern portion of the County and two (2) members shall be from the western portion of the County. The fifth (5th) member shall serve at-large. The alternates will be at-large seats.
4. A member whose term expires shall continue to serve until a successor is appointed.
5. The secretary of the Board of Adjustment shall notify the Board of Commissioners in advance of the expiration of any term of office, and if a vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.
6. Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, by the Board of Commissioners once a hearing is held at least fifteen (15) days after notice.


The Board of Adjustment shall observe the following procedures:

1. The Board of Adjustment shall adopt rules in accordance with the provisions of this ordinance and consistent with other ordinances of the County and general laws of the State of North Carolina.
2. The Board of Adjustment shall elect a chairman and vice-chairman from its own membership who shall serve annual terms and may succeed themselves. The Board of Adjustment may elect as its secretary either one (1) of its members or a qualified individual who is not a member of the Board of Adjustment. A secretary who is not a member of the Board of Adjustment shall not be entitled to vote on matters before the Board of Adjustment.
3. The Board of Adjustment shall keep a full public record of its proceedings.



Click on the calendar icon below to go directly to burkenc.org for the Board of Adjustment meeting schedule



4. All meetings  of the Board of Adjustment shall be open to the public.
5. Any member of the Board of Adjustment shall be disqualified to act on a matter before the Board of Adjustment with respect to property in which the member has an interest.
6. The meetings of the Board of Adjustment shall be held at the call of the chairman and at other times determined by a quorum of the board.
7. The chairman, or in their absence, the vice-chairman, shall administer oaths and compel the attendance of witnesses.
8. A quorum shall be at least four-fifths of the members to reverse any order, requirement, decision, determination of any administrative official, or to decide in favor of the applicant on any variance request which the Board of Adjustment is required to pass. There shall be a quorum of four (4) members for all other meetings or decisions.
9. A favorable vote of at least four-fifths (4/5) or a minimum of five (5) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, determination of any administrative official, or to decide in favor of the applicant on any variance request which the Board of Adjustment is required to pass. All other decisions will be rendered by majority vote.

8.18 Duties and Powers

The Board of Adjustment shall have the following duties and powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator, or an administrative official in the administration or enforcement of this ordinance described in this article.
2. To authorize upon appeal, in specific cases, variances from the terms of this ordinance not contrary to public interest, when under special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done as follows:
 - a. When a property owner can show that their property was acquired in good faith and the exceptional narrowness, shallowness, size, or shape of a specific piece of property or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board of Adjustment is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrated hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.
 - b. No variance shall be authorized by the Board of Adjustment unless it finds that all three (3) of the following conditions apply:
 1. That the strict application of this ordinance would produce undue hardship;
 2. That such hardship is not shared generally by other properties in the county and the same vicinity; and
 3. That the authorization of such variance will not be a substantial detriment to adjacent property and that the character of the area will not be changed by the granting of the variance.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



- c. No variance shall be authorized until a public hearing is held.
 - d. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property or the intended use of the property is not general or recurring in nature to create a general regulation to be adopted as an amendment to this ordinance.
 - e. When authorizing a variance the Board of Adjustment may impose conditions regarding the location, character, and other features of the proposed structure for use as it deems necessary in the public interest and may require a guarantee or bond to insure that the property owners are or will comply with the conditions imposed.
 - f. No such variance shall be authorized that effects a change in permitted uses of land, building, or structure denoted in the permitted table of uses.
3. To hear and decide applications of interpretation of the use district map where there is any uncertainty as to the location of a district boundary. The rules for determining boundaries per **Article 8, Administration, Appeals and Enforcement** of this ordinance will be utilized. After the affected property owners are notified, and after proper notice and a public hearing, the Board of Adjustment may interpret the map in a way that carried out the intent and purpose of the ordinance for the particular section or district in question. The Board of Adjustment shall not have the power to change substantially the locations of district boundaries established by this ordinance.
4. No provisions of this ordinance shall be construed as granting the Board of Adjustment the power to change the use of a parcel of land except as prescribed in this ordinance.

8.19 Financing the Board of Adjustment

The Board of Adjustment may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Secretaries, legal counsel and members of the Board of Adjustment may receive compensation as authorized by the Board of Commissioners.

8.20 Appeals to the Board of Adjustment

Requests for compliance permits, administrative review, and variances shall follow procedures per Section 8-14 Appeals Procedures.



8.21 Decisions of the Board of Adjustment

Each variance decision of the Board of Adjustment is subject to review by the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is made, or after a written copy of the petition is delivered to every aggrieved party who has filed a written request for a copy with the secretary or chairman of the Board of Adjustment at the time of the hearing of the case, whichever is later. The decision of the Board of Adjustment may be delivered to the aggrieved party either by personal service, registered mail, or certified mail return receipt requested.

8.22 Conflict of Interest

Quasi-Judicial Decisions

Board of Adjustment members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. This includes, but is not limited to:

1. Members having an opinion on the matter that is not susceptible to change prior to hearing the matter,
2. Undisclosed ex parte communications,
3. A close familial, business, or other associational relationship with an affected person,
4. Or a financial interest in the outcome of the matter.



Familial relationship. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Resolution of Objection

If an objection is raised regarding a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall rule on the objection by majority vote.

8.23 The Board of Commissioners

Board of Commissioners

The Board of Commissioners shall have the following responsibilities in the administration of this ordinance:

1. Review and decide requests for amendments to this ordinance and the official zoning map as specified in this article.
2. Review and decide on the disposition of county owned public facilities and related improvements proposed on site plans in accordance with the provisions of this ordinance.

8.24 Conflict of Interest

Governing Boards

Members of Board of Commissioners shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Commissioner member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship



Familial relationship. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Resolution of Objection

If an objection is raised regarding a board member's participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall rule on the objection by majority vote.

8.25 The Planning Board

Planning Board Membership and Duties

A Planning Board consisting of seven (7) members shall be appointed by the Board of Commissioners with appointments and terms of office as follows:

1. The Planning Board members appointed shall serve for terms of one (1) year for one (1) member, two (2) years for three (3) members, and three (3) years for three (3) members. Subsequent appointments shall be for terms of three (3) years each. Members can be re-appointed to succeed themselves but may not serve more than two consecutive terms.

2. The members of the Planning Board shall be residents of the County. Three (3) members shall be from the eastern portion of the County and three (3) members shall be from the western portion of the County. The seventh (7th) member shall serve at large.
3. A member whose term expires shall continue to serve until his successor qualifies and is appointed.
4. The secretary of the Planning Board shall notify the Board of Commissioners in advance of the expiration of any term of office, and if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term.
5. Any member may be removed for misconduct while in office, failure to perform the duties of office, or for other just cause, by the Board of Commissioners once a hearing is held at least fifteen (15) days after notice.

8.26 Rules of Procedure

The Planning Board shall observe the following procedures:

1. The Planning Board shall adopt rules in accordance with the provisions of this ordinance and consistent with other ordinances of the County and general laws of the State of North Carolina.
2. The Planning Board shall elect a chairman and a vice-chairman from its own membership who shall serve annual terms and may succeed themselves. The Planning Board may elect as its secretary either one of its members or a qualified individual who is not a member of the Planning Board. A secretary who is not a member of the Planning Board shall not be entitled to vote on matters before the Planning Board.
3. The Planning Board shall keep a full public record of its proceedings and shall submit a report of its activities to the Board of Commissioners at least once per year.
4. All meetings of the Planning Board shall be open to the public.
5. Any member of the Planning Board shall be disqualified to act on a matter before the Planning Board with respect to property in which the member has an interest.



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6. The meetings of the Planning Board shall be held at the call of the chairman and at other times determined by a quorum of the board.
7. A quorum shall consist of four (4) members. Any official acts must have a majority vote of the quorum. Tie votes will constitute the failure of a motion to pass.



8.27 Duties and Powers

The Planning Board shall have the following duties and powers:

1. Review applications for zoning district changes and amendments to this ordinance and make recommendations to the Board of Commissioners.
2. Review and make comments and/or recommendations on special matters referred to the Planning Board by the Board of Commissioners.

8.28 Conflict of Interest

Appointed Boards

Members of Planning Board shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship



Familial relationship. For purposes of this section, a close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Resolution of Objection

If an objection is raised regarding a board member’s participation at or prior to the hearing or vote on that matter and that member does not recuse himself or herself, the remaining members of the board shall rule on the objection by majority vote.

8.29 Fees and Deposits

Financing the Planning Board

The Planning Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Secretaries, legal counsel and members of the Board of Adjustment may receive compensation as authorized by the Board of Commissioners.

8.30 Zoning Map and Amendments

Zoning Map Requirements



The “Official Zoning Map of Burke County, North Carolina”, with all notations, references, amendments, dates, in its entirety, shall constitute a part of this ordinance and be referred to as the zoning map. The zoning map shall be made public record and shall be kept permanently in the office of the Zoning Administrator, and shall be available for review by the public.

8.31 Zoning Map Amendments

In accordance with [Article 8.9 Administrative Remedies](#), if changes are made in the district boundaries or other information portrayed on the official map, the new changes shall be entered on the official zoning map within thirty (30) days after the amendment’s approval by the Board of Commissioners. A numerical entry referring to the application for the amendment shall be kept as a public record by the Zoning Administrator. The numerical entry shall state the following:

1. The reference number of the application.
2. The date of the approval of the amendment by the Board of Commissioners.

Amendments to this ordinance regarding changes to the official zoning map shall become effective immediately upon approval by the Board of Commissioners. The official zoning map shall be the final authority in determining the current legal status of land, water areas, buildings, and other structures in the County. No changes of any nature shall be made on the official zoning map except in accordance with this ordinance.

8.32 Replacement of the Official Zoning Map

In the event that the official zoning map becomes damaged, destroyed, lost, difficult to interpret because of the number of changes and additions, or can be improved with a more accurate base map, the Board of Commissioners may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting errors or omissions in the prior official zoning map. No correction shall have the effect of amending the original official zoning map or any significant parts of the official zoning map without a public hearing. The prior official zoning map or any significant parts of the prior official zoning map that remains shall be preserved, along with all available records pertaining to its adoption or amendment.

8.33 Rules for Determining Boundaries

Unless district boundary lines are fixed by dimensions, and where uncertainty exists with respect to the boundaries of any districts as shown on the official zoning map, the following rules shall apply.

Approximate Boundaries

Unless otherwise indicated, district boundaries indicated as approximately following property lines, land lot lines of streams, streets, highways, alleys or railroads, or the shorelines of reservoirs, or other bodies of water, or civil boundaries, shall be construed to follow such lines.

Parallel Boundaries

District boundaries indicated as approximately parallel to the center lines of streams, streets, highways, or railroads, or rights-of-way of the same, or the shorelines of reservoirs, or other bodies of water, or said lines extended, shall be construed as being parallel thereto and at such distance there from as indicated on the official zoning map. If no distance is given, the dimensions shall be determined by the use of the scale shown on the official zoning map.

Split Lots

Where a district boundary line appearing on the official zoning map divides a lot which is in single ownership, the use classification of the larger portion may, on application, be extended to the remainder by the Planning Board in accordance with [Article 8.11 Text Amendments and Article 8.12 Variance and Interpretations](#).

Abandoned Roads

Where a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the property that absorbed the vacated or abandon road shall apply to the vacated or abandoned road, street, or alley.

Waterways

Where a district boundary is indicated to follow a river, creek, branch, or another body of water, the boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction. In the event of natural change in the shoreline, the boundary shall be construed as moving with the actual shoreline with its reestablished center of channel.

Measurements

If no distance, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the measurements shall be determined by the use of the scale shown on the official zoning map. In case of subsequent dispute, the matter shall be referred to the Board of Adjustment which shall determine the boundary in accordance with [Article 8.12 Variance and Interpretation](#).

Appeal

In case the exact location of a boundary cannot be determined by the foregoing method, the Board of Adjustment shall determine the location of the boundary in accordance with [Article 8.12 Variance and Interpretation](#).

8.34 Compliance, Penalty, and Other Remedies

Upon occasion the requirements of this ordinance may be in conflict with the provisions of other lawfully adopted laws and private contracts.

8.35 General Provisions of Compliance

Terms of Compliance

This ordinance contains a minimal number of exempt uses and very few prohibited uses. Exempt uses are considered generally compatible in nature and are not required to obtain a compliance permit, when the provisions of this ordinance are met. All other development, including all changes of developed uses that are not prohibited, is required to obtain a compliance permit issued pursuant to **Article 8, Administration, Appeals, and Enforcement** and in accordance with other appropriate Articles of this ordinance.

8.36 Prohibited Uses

The following developments shall be prohibited in all jurisdictions of the County:

1. Sanitary landfills except those established by the County to meet the County's solid waste disposal needs. This includes any sanitary landfill developed jointly by the County and another jurisdiction.
2. Location of hazardous/nuclear waste disposal or waste storage sites.
3. Initiation of any development which would destroy any listing on the Survey of Historic Sites in North Carolina or the National Register of Historic Places; and
4. Installation of signs, whether for temporary or permanent use, which blink or flash, except informational public service signs.

8.37 Exempt Uses

The following uses are exempt from obtaining a compliance permit:

1. Agricultural uses (i.e. "Bona fide farms" as defined in the North Carolina General Statutes.
2. Yard sales and garage sales by the resident owner, and bazaars, flea markets and sales conducted by non-profit organizations. These sales must be limited to not more than six (6) days in any three (3) month period of time.
3. Wayside stands.
4. Any uses initiated by a Federal, State, and/or local governmental body.

8.38 Uses By Right

A Use-by-right, because of its nature and impact, is automatically allowed within a designated zoning district. A compliance permit shall be required, and the application shall be processed in accordance with **Article 8.5 Submittal of Applications**

8.39 Special Uses

The following development activities or uses shall be allowed within the County and issued a compliance permit, subject to the special provisions of this ordinance and the application process described in **Article 8.5 Submittal of Applications**, other state and local laws, and applicable deed restrictions and covenants:

Any special use within a zoning area that meets the provisions of **Article 8**

8.40 Non-Conforming Lots

Where a platted or deeded lot of record does not meet the minimum lot size and the property owner does not own adjoining property, the lot may be used for building if it can meet the required setbacks and lot width. Where the non-conforming lot cannot meet the required setbacks and lot width the property owner may submit an application to the Board of Adjustment for a variance as outlined in **Article 8.12, Variance and Interpretation** and **Article 8.15 The Board of Adjustment**.



The Zoning Administrator may grant an administrative variance of no more than twenty percent (20%).

8.41 Conflict with Other Laws and Private Contracts

Governmental Laws

Wherever the requirements of this ordinance are in conflict with the requirements of other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive or the law imposing the higher standards shall govern.

Private Contracts

This ordinance bears no relation to any private easement, covenant, agreement, or deed restriction, nor does this ordinance grant any public official the authority to enforce any such implied restriction. Wherever the ordinance is more restrictive than a private easement, covenant, agreement, or deed restriction, the ordinance shall govern.





8.42 All Permits and Licenses to Conform

All departments, officials, and public employees of the county who are authorized to issue permits or licenses shall conform to the provisions of this ordinance. Any permit issued in conflict with the provisions of this ordinance, shall be null and void.

8.43 Violations

General

In addition to remedies provided in the North Carolina General Statutes and as law provides a violation of the ordinance shall occur when there is a failure to comply with the following regulations:

1. Whenever the performance of any act is required, or the performance of any act is prohibited,
2. Whenever any regulation or limitation is imposed on the use of land and water,
3. Or on the erection, removal, or alteration of a structure.

Liability

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance shall be held responsible for the violation and be subject to the penalties and remedies dictated by this ordinance.

Any person who commits the following offenses shall be held responsible for the violation and be subject to the penalties and remedies of this ordinance:

1. Any person who violates or, when under a legal duty to do so, fails to comply with, any of the provisions of this ordinance
2. All persons who aid, abet, or encourage another to violate or remain in violation of this ordinance;
3. All persons who knowingly and willfully resist, obstruct, or oppose the building inspector, Zoning Administrator, or their agents in the lawful performance of their duties;
4. Persons in possession or occupation of a lot or premises (whether as owner, joint owner, tenant or licensee) that is used in violation of this ordinance who shall knowingly remain in possession of and fail to bring the offense into compliance with this ordinance with reasonable promptness following receipt of a written notice of violation.





Click on the calendar icon below to go directly to burkenc.org to download the complaint form.

Complaints Regarding Violations

Any person may file a written complaint  when a violation is alleged. Before the alleged violation is investigated the complaint must be:

1. signed,
2. dated,
3. and addressed

The complaint must state fully the cause and basis for the complaint and shall be filed with the Zoning Administrator or his/her designee. The Zoning Administrator shall record the complaint for public record, promptly investigate the complaint, and take action on the complaint as dictated by this ordinance.

Procedures Upon Discovery of Violation

Upon the determination that any provision of this ordinance is being violated, the Zoning Administrator shall send, within five (5) working days, a written notice by registered mail to the person(s) responsible for the violation. The notice shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be sent at the Zoning Administrator's discretion.

The final written notice, which may also be the initial notice, shall state the action the Zoning Administrator intends to take if the violation is not corrected. The notice shall state that the Zoning Administrator may seek enforcement of any of the remedies below without written notice.

Civil Penalties

Violation of any provision of this ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the county in a civil action in the nature of a debt if the offender does not pay the penalty within a period of three (3) working days after being cited. The citation shall be in writing, signed by the Zoning Administrator or his/her designee, and shall be delivered by any one of the following methods shall constitute delivery of notification; certified mail return receipt, first class mail, email by return receipt, hand delivery, and posting violation notification on the property where the offense occurred. If the violation is not corrected within thirty (30) days after the citation has been mailed and or received, judicial action may be taken.

Judicial Penalties

Any person, firm, or corporation who violates the provisions of this ordinance, shall upon conviction be guilty of a misdemeanor and shall be fined a fine not exceeding fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days. Each day that a

violation was not corrected within thirty (30) days after the notice was given.

8.44 Validity

Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, the declaration shall not affect the validity of the ordinance as a whole or in part. Only the part declared to be invalid shall be affected.

8.45 Effective Date

This ordinance shall take effect and be in force effective 12:01 a.m., January 1, 1997. A certified copy of the foregoing zoning of Burke County, North Carolina, shall be filed in the offices of the chief administrative officer of the County, the Planning Administrator, and the clerk of the superior court. A vote taken on the foregoing ordinance resulted in an affirmative vote.

8.46 Development Agreements

The County may enter into development agreements as set forth in the Burke County Development Agreement Ordinance and NC General Statutes.

1 Purpose and Introduction

2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement



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2 Definitions

3 Zoning Districts

4 Overlay Districts

5 Use Standards

6 Commercial Design

7 Development Procedures

8 Admin & Enforcement

Article 9.0 Vested Rights



9.0 Vested Rights

Intent

In accordance with NC General Statutes nothing in this ordinance shall be construed to impair any vested right except for the elimination of existing uses, lots, or structures not in conformity with this ordinance.

9.1 Initial Adoption of Ordinance

A vested right shall be determined by the following criteria:

1. The existence of a use, structure, or parcel of land that exists upon the adoption of this ordinance, or any amendment to this ordinance.
2. The existence of an approved building permit that is valid, unexpired, or unrevoked upon the adoption of this ordinance, or any amendment to this ordinance.

9.2 Site Plan Vested Right

The purpose of this section is to implement the provisions of current NC General Statute pursuant to which a statutory vested right has been established by the approval of a site plan.

9.3 Establishment of Vested Rights

1. A vested right may be granted upon the approval of site plans identified in Article Section 2 of this article describing the type and intensity of use for the parcel.
2. An approval of a site plan with the condition that a variance be obtained shall not grant a vested right unless and until the necessary variance is obtained.
3. A site plan shall be deemed approved upon the date of the appropriate board's action as required by this ordinance.

9.4 Vested Rights (Permit Choice)

If an applicant submits a permit application for any type of development and a rule or ordinance is amended, the applicant may choose which adopted version of the rule or ordinance

will apply to the permit and use of the building, structure, or land indicated on the permit application. This includes an amendment to any applicable land development regulation between the time the development permit application was submitted and a development permit decision is made.

If the applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the applicant shall not be required to wait for the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

If any provision of the applicant's chosen version of the rule or ordinance is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

9.5 Approval Procedures

Except as otherwise noted in this section, an application for a site plan approval shall be processed in accordance with this section and **Article 7, Development Procedures** of this ordinance.

1. In order for a vested right to be established there must be an approval site plan and the applicant must indicate on the application that a vested right is being sought.
2. Following the approval of a site plan, nothing in this Section shall exempt the site plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that the reviews and approvals are not inconsistent with the original approval.
3. Nothing in this Section shall prohibit the revocation of the original approval or other remedies for failure to comply with any applicable terms and conditions of this ordinance.

9.6 Duration of a Vested Right

1. A right that has been vested per this Section of the ordinance shall remain vested for a period of two (2) to five (5) years. Long-term multi-phased development projects of at least 25 acres shall have a vesting period of up to seven (7) years. (See exceptions). The approving authority in its sound discretion may establish a vesting period exceeding the two (2) year minimum where the applicant shows such extended period is warranted in light of all relevant circumstances, including, but not limited to:
 - a. the size and phasing of development,
 - b. the level of investment,
 - c. the need for the development,
 - d. economic cycles and market conditions.

Modifications or amendments to an approved plan do not extend the period of vesting unless specifically established by the approving authority when it approves the modification or amendment.

2. Upon issuance of a building permit, the expiration and revocation provisions of current NC General Statutes shall apply, except that a building permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.

9.7 Termination of a Vested Right

A right that has been vested as provided in this section shall terminate:

1. At the end of the applicable vesting period for buildings and uses for which no valid building permit applications have been filed.
2. With the written consent of the affected landowner.
3. If the Board of County Commissioners, after notice and a public hearing, find that natural or man-made hazards are on or in the immediate vicinity of the property, and if uncorrected, would pose a serious threat to public health, safety, and welfare if the project were to proceed as proposed in the site plan.
4. Upon payment by the County to the affected landowner. This includes but is not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after the approval of the Board, together with interest at the legal rate until paid. Compensation shall not include any reduction in the value of the property which is caused by such notice.
5. When the Board of County Commissioners, after notice and a public hearing, find that the landowner intentionally supplied inaccurate information or made material misrepresentations which made a difference in approval of the site plan; or
6. Upon enactment of a state or federal law or regulation that prevents development as proposed in the site plan, in which case the appropriate board that approved the site plan may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the site plan, after notice and a public hearing.

9.8 Limitations

Nothing in this section is intended to create any vested right other than those established pursuant to the current NC General Statute.

9.9 Appeals

In the event that current NC General Statute is repealed, this section of this ordinance shall be deemed repealed and the provisions hereof no longer effective.

9.10 Vested Right Attached to Property

A vested right is not a personal right. It shall attach to and run with the applicable property. After approval of a site plan, all successors to the original landowner may exercise the right while applicable.

9.11 Judicial Determination

Nothing in this article shall prevent a determination that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this article, nothing in this article shall be construed to alter the existing common law.



Amendments to the Zoning Ordinance

Amended 7/20/2021
(Text Amendment)

Article 5

Sect. 5.1
Sect. 5.4
Sect. 5.19
Sect. 6.1
Sect. 6.2
Sect. 8.16
Sect. 8.25

Article 6

Article 8

Purpose and Introduction
1

Definitions
2

Zoning Districts
3

Overlay Districts
4

Use Standards
5

Commercial Design
6

Development Procedures
7

Admin & Enforcement
8

