

## ARTICLE VI. TABLE OF PERMITTED AND SPECIAL USES

### **Section 6.1**            **General**

The Table of Permitted and Special Uses which follows in Section 6.5 contains a listing of uses which may be permitted in one or more of the various Zoning Districts established by this Ordinance.

### **Section 6.2**            **Entries**

The District or Districts in which a particular listed use may be permitted is indicated by an "X" or "S" in the District column(s) opposite the listed use.

### **Section 6.3**            **Meaning of Entries**

The meanings of the entries in the Table are as follows:

1. "X" indicates the use is permitted by right and a Zoning Compliance Certificate may be obtained.
2. "S" indicates the use requires approval of a Special Use Permit in accordance with the procedures of Section 15.9.

The column on the far right labeled "SR" (Special Requirements) means that there are special additional performance requirements that the use must comply with in its development. These requirements are contained in Section 6.5, "Special Requirements to the Table of Permitted and Special Uses". For any use subject to a Special Use Permit, the Special Requirement shall represent the minimum conditions for issuance of a Special Use Permit.

3. The listing of a use in the Table of Permitted and Special Uses in no way relieves that use of having to meet all local, State, and Federal laws pertaining to the establishment and operation of that use.

### **Section 6.4**            **Table of Permitted and Special Uses (See Table)**

### **Section 6.5**            **Special Requirements to the Table of Permitted and Special Uses**

The Table of Permitted and Special Uses of Article VI contains a column on the far right labeled "SR" for Special Requirements. In any case where a use listed in the Table of Permitted and Special Uses has a number in the SR column opposite the use, the use must comply with the additional Special Requirements contained in this Section corresponding to the Special Requirements number. For example, the use Mobile Home Park has the number 5 in the "SR" column opposite the use, therefore, the development of a Mobile Home Park must meet the Special Requirements for SR 5 Mobile Home Park of this Section.

#### **SR 1.            Bed and Breakfast Inns**

In the Residential and OI Districts:

1. The maximum number of guest bedrooms shall be 6.
2. The inn shall be operated by a resident manager.
3. The use shall be located in a structure which was originally constructed as a dwelling.
4. The use shall contain only 1 kitchen.
5. The use of such a facility by any one patron shall be limited to no more than 15 days per 60-day period.

**SR 2. Family Care Home and Family Day Care Home**

A family care home with 5 or fewer persons or a family day care home with 5 or fewer persons may be operated as an accessory use to a principal dwelling. Provided, however, no family care home may be located within one-half mile radius of any other family care home as defined by North Carolina General Statute 168-21. Nor shall any family day care home be located within a one mile radius of any other family day care home.

**SR 3. Group Residential District (GRD): Multi-Family Housing**

For the purposes of this Special Requirement, multi-family housing shall be defined as a multiple unit building with units vertically or horizontally arranged. Units may be for rental (apartments) or for sale in condominium ownership.

In approving a Special Use Permit for a multi-family housing development, the City Council may modify any standard or requirement of this Section where in the Council's opinion equal or better performance will result. In modifying any standard or requirement the evaluation shall be made with regard to the overall performance in carrying out the purposes of this Ordinance. In approving a modification the Council may prescribe such reasonable and appropriate conditions and safeguards as will in its opinion assure performance and the maintenance of the purposes of this Ordinance.

1. Definitions:

- a. Apartment. Any dwelling which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of 2 or more families living independently of each other in dwelling units.
- b. Condominium. A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, and all surrounding land on the property is generally owned by all the inhabitants of the building or property in common ownership.

2. General Requirements:

- a. The maximum impervious surface coverage area is 50%.
- b. All streets within the interior of the development shall be private as defined in this Section.
- c. A Traffic Impact Analysis (TIA) will be required for all multi-family housing developments that are larger than 50 units.
- d. All utilities within the development shall be located underground. Nothing in this section shall require the placement of off-site electric utilities underground in conformance with the provisions of NCGS 160D-804(h).
- e. All outdoor lighting should be arranged to reflect away from adjoining property owners. Lighting plans shall be reviewed and endorsed by the local electric utility provider.

3. Dimensional Requirements:

- a. The maximum density within the multi-family housing district is 12 units per acre.
- b. A 50 foot setback is required from the thoroughfare and shall be landscaped per the requirements of this Section.
- c. The front yard setback for interior streets is 15 feet as measured from the edge of the street or curb.
- d. The front yard setback for single structure multi-family units, such as duplexes, triplexes, etc. along an existing public right-of-way is 35 feet. If a single structure multi-family development is infill development, the newly constructed structure must conform to the same front setback as existing structures located on either side of the property.
- e. The side and rear yard setback is 20 feet as measured from adjoining property lines.
- f. The maximum building height is 35 feet or 3 stories.
- g. The maximum building length is 150 feet.
- h. To determine building separation (or position of an individual building or series of attached units), an isosceles triangle (yard space triangle) shall be drawn from each building façade. The base of the triangle shall be a line connecting the

extreme ends of the façade (ignoring one-story storage rooms and other one-story protrusions of 100 square feet or less, exterior stairways, and decks), and its altitude shall be the length of the base line multiplied by a factor related to the height of the building as shown below:

<u>Number of Stories</u>	<u>Altitude Factor</u>
1	0.4
2	0.5
3	0.6

The isosceles triangle thus established shall not:

1. overlap any portion of any other building, or
2. extend across the property lines of the development.

Regardless of the regulations above, a minimum distance of 20 feet must separate buildings within a development. This minimum separation requirement is increased to 25 feet between buildings whose yard space triangles overlap each other. Furthermore, buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks.

The isosceles triangle (yard space triangle) requirements are not applicable to single structure multi-family units of one story on a single parcel of developable land.

4. Streets, Parking, and Walkways:

- a. All parking areas must be constructed with curb and gutter.
- b. The minimum street width shall be 24 feet as measured from face of curb or edge of pavement.
- c. Sidewalks shall be located on one side of the street for streets that are 24 feet in width. Sidewalks are required on both sides of the street for streets that are wider than 24 feet. The sidewalk must be 5 feet wide.
- d. A minimum of a 2 foot grass strip should be located between the curb and the sidewalk for utility placement.
- e. Street stub outs to adjoining property shall be provided wherever feasible.
- f. The interior streets and off-street parking areas must be maintained by a private association.
- g. The off-street parking area must be paved. The City encourages pervious paving materials.

- h. Walkways must connect the off-street parking area to building units as well as to the sidewalk along the public street.
- i. Off-street spaces shall be provided in accordance to the following schedule:

1 Bedroom Units	1.8 spaces per unit
2 Bedroom Units	2.0 spaces per unit
3 Bedroom Units	2.4 spaces per unit
Additional Bedrooms	0.5 spaces per additional unit

- j. Dimensional requirements for off-street parking spaces shall be in accordance with Section 8.11 of the Zoning Ordinance.
- k. No off-street parking area should be located within 50 feet of the thoroughfare.
- l. No more than 10 parking spaces can be in a continuous row without being separated by a landscaped island as defined in this Section.
- m. No off-street parking area should be located within the side and rear yard setbacks or buffer areas.
- n. Developments along a thoroughfare that are 100 units or less shall have at least 1 access point to the thoroughfare. Developments along a thoroughfare that are more than one 100 units shall have at least 2 access points to the thoroughfare.
- o. Walkways shall be constructed to provide links between residential buildings, off-street parking areas, mail kiosks, solid waste disposal, and adjoining sidewalks and greenways.
- p. A double driveway is required for developments that are along the thoroughfare. The entire entranceway shall be no more than 80 feet wide. The entranceway shall include a minimum 110 square feet landscaped median consisting of grass, mulch, and shrubs. A monument sign may also be located in this landscaped area as per this Section. For developments of 20 or more units, three traffic lanes must be provided at the entrance: 1 for entry and 2 for exits.

5. Design Standards:

- a. All developments shall provide a detailed design elevation for review.
- b. To provide for variation and distinction of each individual unit, the following standards are required:
  - 1. Building designs and/or color schemes that create variety and do not look monotonous if replicated throughout the development.

- 2. Windows and/or projecting wall surfaces to break up larger wall surfaces.
- 3. A minimum of 2 types of high quality building materials for each building on the front, side, and rear elevations.
- c. Front porches and/or balconies are encouraged for all units that abut an outside wall of the building.
- d. All rooftop equipment shall be screened from view of the street.
- e. The façades of accessory structures should be similar to the primary structure.

6. Open Space Standards:

Dedicated open space shall be provided based on the following schedule:

- a. Developments of less than 100 units – minimum 10% of the development excluding required setbacks and buffers.
- b. Developments of more than 100 units – minimum 1 acre for each 100 units excluding required setbacks and buffers.
- c. The open space should be dedicated to a private association.
- d. In any case where the City Council agrees to accept open space from the developer, the dedication shall count to serve this open space requirement assuming it meets the minimum requirements from paragraphs 1 and 2 above.

7. Landscaping Standards:

Thoroughfare Planting Yard

- a. A berm is required along the entire yard that fronts the thoroughfare. The berm must be a minimum of 3 feet high.
- b. The yard shall contain 3 canopy trees and 7 understory trees per 100 linear feet of planting yard. The yard shall also contain 25 shrubs per 100 linear feet of planting yard. The terms canopy tree, understory tree, and shrub are defined in Section 10.2. The city's Recommended Tree Species List for Planting is found in Section 10.13.
- c. Any area in the thoroughfare yard not planted with trees or shrubs should be grassed or mulched.

Interior Street Planting Yard

- a. One canopy tree shall be planted every 50 feet along the interior streets.

#### Buffer Yard from Adjoining Property

See Section 10.5 (Multi-Family and Single-Family Attached Residential Uses) and below:

Protection of existing trees that are proven to be healthy and appropriate for screening is mandatory in required buffer strips and is to be used as credit toward a portion of the buffer required by this Section.

Landscaped islands in off-street parking areas shall have an unobstructed width dimension of not less than 7½ feet and shall not be less than 110 square feet in area. Each landscaped island shall be protected by curbing or parking barriers and contain at least 1 canopy tree.

Alternative Screening Methods as defined under Section 10.6 may be used if it is determined by the Zoning Administrator that the application of the landscaping standards in this Ordinance are inappropriate or ineffective.

#### 8. Solid Waste Facilities:

The developer shall install solid waste storage facilities consisting of a minimum 10 foot by 20 foot concrete pad with vehicle apron and a minimum 6 foot high opaque fence on the sides and rear of the facility with a gated front. 2 bollards are also required to protect the fence. The facility shall not be in any required front setback from the thoroughfare or in any side or rear yard setback or buffer from adjoining property.

#### 9. Mail Kiosks:

Mail kiosks shall not be located in any front setback from the thoroughfare or any side or rear setback from adjoining property. The Postmaster shall have the authority to review and alter the placement of any kiosk to suit the needs of the United States Post Office.

#### 10. Sign Standards:

One monument-type ground sign shall be provided for each entranceway from a thoroughfare. The maximum height shall be 6 feet above ground level (prior to any berm construction). The maximum copy area shall be 32 square feet. Signs may be located in the front planting yard.

#### 11. Stormwater Standards:

Requirements for control of stormwater runoff are found in Archdale's Stormwater Ordinance.

### **SR 4. Home Occupation, Customary**

1. Customary home occupations such as dressmaking, cooking and baking, hairdressing, music instruction, and the practice of such professions as insurance and accounting

may be permitted in the Zoning Districts indicated. The City Council shall decide whether other occupations not listed are within the spirit of this category of uses.

2. Only 1 person other than those residing in the home shall be engaged in the occupation.
3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
4. There shall be no changes in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation except 1 non-illuminated sign not exceeding 4 square feet.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or which causes fluctuations in line voltage off the premises.

#### **SR 5. Mobile Home Parks**

The purpose of these mobile home park regulations is to provide an acceptable environment for what are in fact small communities of mobile homes and to establish minimum requirements for issuance of Special Use Permits for mobile home parks.

1. Location of Mobile Homes: After June 16, 1977 it shall be unlawful for any person to locate a mobile home on any lot within the zoning jurisdiction of the City of Archdale except in a mobile home park that has received Special Use approval of the City Council. If a park does not comply with all regulations of this district, individual mobile homes cannot be replaced nor can the park expand in size. However, if the entire park is brought up to standards as prescribed in this Section, existing mobile homes can be replaced and the park can expand. After June 16, 1977 mobile homes on individual lots cannot be replaced or structurally expanded, although normal maintenance will be permitted if necessary to maintain a safe and healthy dwelling unit.



2. Temporary Mobile Structures: Although it is the intent of the City of Archdale to restrict mobile homes to mobile home parks, there are specific situations where they may be allowed as temporary facilities:
  - a. A mobile structure may be used temporary office quarters, but under no circumstances shall mobile structures be used for human habitation.
  - b. Where public schools are permitted, modular units approved by the N.C. Department of Insurance may be located on school property to be used as temporary classrooms.

Temporary use permits may be issued initially for 12 months, but may be renewed for successive six-month periods as long as the specific conditions described in “a.” and “b.” above continue to exist. Temporary Use permits shall be issued by the Zoning Administration officer.

3. Facilities Required on Mobile Homes: Every mobile home (except those units referenced in 2a and 2b above) located either in a mobile home park or on an individual lot that existed prior to or after adoption of this Zoning Ordinance within the zoning jurisdiction of the City of Archdale shall have the following facilities:
  - a. Every mobile home shall be underpinned with a material of a permanent nature such as masonry, but does not include wood framing.
  - b. Every mobile home shall be tied down to a concrete foundation or footing to resist overturning in the events of high winds. All such tie downs shall be in accordance with the State of North Carolina Regulations for Mobile Homes.
4. Special Use Permit for Mobile Home Parks Required: It shall be unlawful for any person to construct or use any lot or other parcel of land within the jurisdiction of the City of Archdale for a mobile home park until application has been made and a Special Use Permit therefore has been issued by the City Council. The City Council shall, prior to issuing a Special Use Permit, determine if all requirements of this Ordinance can be complied with. No on-site improvement may be made until after a permit has been granted by the City Council. A Special Use Permit for a mobile home park may be revoked by the City Council upon finding of fact that a violation of the requirements of this Ordinance exists, provided, however, the owner, lessee, or other responsible person is notified in writing of such violation and 5 days from the date of receipt of such written notice have expired, it shall be unlawful for any person, firm, or corporation to continue such mobile home park or mobile home lot after a Special Use Permit therefore, as required herein, has been revoked by the City Council.
5. Conflict with Health Department Regulations: In the event the State or County Health Department has adopted regulations governing mobile homes or mobile home parks, the requirements of this Ordinance or the requirements of the State or County Health Department, whichever is more stringent, shall govern.

6. Utilities Required:

- a. Water – An adequate and safe supply of water shall be readily available at the mobile home park site. This requirement shall be deemed to have been met: (1) when an approved connection is made to the municipal water system, or (2) when an independent water supply capable of furnishing 300 gallons of water per day per available mobile home space and which has been approved by the County Health Department as a safe supply of drinking water is available on the mobile home park or mobile home site;
- b. Sewer – Each mobile home park shall be required to have a connection with a municipally approved sanitary sewer system in the manner as required or, if located beyond the municipal service area, a sanitary sewer system approved by the County Health Department. Any extension of the municipal sanitary sewer system required to comply with this requirement shall be made in accordance with the utility extension ordinance or policies of the City of Archdale then in effect. No waste water from washing machines or similar sources shall be discharged on the ground or in streams; and
- c. Electricity – Each mobile home so parked in accordance with this Ordinance must have an individual metered connection to an electric supply and must have an approved fuse disconnect box at the metered location.

7. Site Requirements: Site requirements for all mobile home parks shall be as follows:

- a. The minimum lot size, tract, or parcel of land to be used for a mobile home park shall not be less than 2 acres in size, and shall contain at least 5 mobile homes spaced as defined in this Section. In no event shall there be more than 8 mobile homes per acre.
- b. The minimum lot size for each mobile home space shall be 5,000 square feet.
- c. No mobile home shall be located closer than 30 feet to any public street or exterior boundary line of the mobile home park.
- d. Each mobile home space shall have at least 2 automobile parking spaces.
- e. Ingress and egress to the mobile home park shall be made accessible only through driveways or openings as approved by the Director of Public Works or the North Carolina Department of Transportation. Interior streets shall be graded to a width of 33 feet and finished grade, cross-section, and profile shall be approved by the City. All interior streets shall have a width of 21 feet if no parking is permitted; or 33 feet if parking is permitted on one side of the street; or 41 feet if parking is permitted on both sides of interior streets.

- f. No mobile home shall be located closer than 20 feet to the nearest other mobile home or structure.
  - g. Cul-de-sacs shall be provided with a turnaround for emergency service and vehicles having 40 foot radius. All interior streets shall be retained as private streets on mobile home park property.
  - h. Mobile home parks shall be located on ground that is not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the mobile home park. Topographic information and Flood Insurance Rate Map (FIRM) elevations shall be utilized to determine areas susceptible to flooding.
8. Facilities Required: Each mobile home park shall provide minimum facilities for occupants as follows:
- a. Plumbing Installations: All plumbing installations shall conform to any and all applicable city and state building codes. Furthermore, each mobile home shall be required to make separate connection with sanitary sewer facilities or Health-Department approved septic tanks immediately upon occupying a mobile home site. A minimum of 4 inch connections shall be required and shall have approved fittings to insure a water-tight connection and means for capping or closing such connection when it is not in use.
  - b. Garbage and Trash Containers: At least 1 covered garbage and trash container shall be provided for each mobile home. Containers shall be placed on racks which are approved by the County Health Department and such racks shall be located within the mobile home park at a point which is readily accessible for collections and screened from public view. In lieu of requiring individual garbage and trash containers for each mobile home, other approved garbage and trash disposal facilities may be provided with the approval of the County Public Health Department.
  - c. Front Porches: Each mobile home must be provided, at the front entrance, with a minimum of a 10 feet by 10 feet approved porch constructed in accordance with building code requirements.

**SR 6. Planned Unit Development (PUD)**

In approving a Planned Unit Development, the City Council may modify any standard or requirement of this Section where in the Council's opinion equal or better performance will result. In modifying any standard or requirement the evaluation shall be made with regard to the overall performance in carrying out the purposes of this Ordinance. In approving a modification

the Council may prescribe such reasonable and appropriate conditions and safeguards as will in its opinion assure performance and the maintenance of the purposes of this Ordinance.

1. PUD's shall be permitted by a rezoning request to one of the following Districts:

a. Conditional Planned Unit Development Residential (CD-PDR)

The Conditional Planned Unit Development Residential District (CD-PDR) is intended to accommodate a variety of housing types developed on large tracts in accordance with a Unified Development Plan.

b. Conditional Planned Unit Development Mixed Residential District (CD-PDMR)

The Conditional Planned Unit Development Mixed Residential District (CD-PDMR) is intended to accommodate a variety of residential housing types developed on large tracts in accordance with a Unified Development Plan. This District also accommodates neighborhood business and office uses which primarily serve nearby residents.

c. Conditional Planned Unit Development Mixed Commercial (CD-PDMC)

The Conditional Planned Unit Development Mixed Commercial District (CD-PDMC) is intended to accommodate residential, commercial, and light industrial uses developed on large tracts in accordance with a Unified Development Plan.

2. Application for a PUD shall be approved only if the following findings are made:

- a. that application of Planned Unit Development requirements to the property will produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
- b. that application of Planned Unit Development requirements to the property will encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
- c. that application of Planned Unit Development requirements to the property will produce a development functioning as a cohesive, unified project; and
- d. that application of Planned Unit Development requirements to the property will not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the City.

3. An approved PUD Conditional Zoning District and the approved verified Development Plan shall govern all uses and development activities in a PUD.

4. Except as otherwise provided by this SR, a PUD shall be subject to all the applicable standards, procedures, and regulations of the other parts of this Ordinance.
5. Minimum Size and Uses Allowed:
  - a. Conditional Planned Unit Development Residential (CD-PDR)
    1. A CD-PDR District shall contain at least 5 contiguous acres under unified ownership or control.
    2. Uses Allowed: A CD-PDR District allows all uses permitted in all Residential Districts.
  - b. Conditional Planned Unit Development Mixed Residential District (CD-PDMR)
    1. A CD-PDMR shall contain at least 15 contiguous acres under unified ownership or control.
    2. Uses Allowed: A CD-PDMR District allows all uses permitted in Residential Districts, in the Neighborhood Business District (B-2), or in the Office and Institutional District (OI).
    3. Limitation in Uses: In a CD-PDMR District, OI and B-2 uses shall not exceed 30% of the total land area and at no time shall the cumulative amount of land development for OI and/or B-2 purposes exceed the cumulative amount of land development for residential purposes.
  - c. Conditional Planned Unit Development Mixed Commercial (CD-PDMC)
    1. A CD-PDMC District shall contain at least 15 contiguous acres under unified ownership or control.
    2. Uses Allowed: A CD-PDMC District allows all permitted uses except those uses which are only allowed in the Heavy Manufacturing District (M-1).
    3. Limitations on Uses: In a CD-PDMC District, residential uses shall not exceed 30% of the total land area and at no time shall the cumulative amount of land development for residential purposes exceed the cumulative amount of land development for commercial purposes.
6. Development Standards: Development in a PUD shall be exempt from the minimum required lot width, front yard, side yard, and rear yard requirements of the Schedule of District Regulations and from Section 3.2 and 3.3 relating to relationship of buildings to lots and access to streets provided that the following development standards are followed. The overall residential density limitation and residential building types of the corresponding principal district shall apply in a PUD provided

that a density bonus which may involve a different residential development type may be permitted during the PUD approval process as provided for herein.

- a. Lot Size: The exemption from the Schedule of District Regulation provisions shall not apply in the following situations:

No lot for a single-family detached dwelling shall be less than the minimum lot size for a single-family dwelling in the zoning district in which the PUD is located. Where the zoning district permits attached and multi-family developments, such uses are permitted subject to the Special Requirements for such developments.

- b. Vehicle Access:

- 1. Local streets shall be located and designed so that they do not encourage through access by traffic with origins and destinations outside of the development.

- c. Pedestrian Access: PUD's shall be designed and developed and uses so arranged to promote pedestrian access within the development.

- 1. Areas between structures shall be covered by easements where necessary for pedestrian access and to provide for maintenance and utility service.

- d. Non-Residential Areas: Non-Residential areas in PUD's shall be designed and located to principally serve the residents of the PUD and the immediate surrounding area.

- e. Boundary Treatment: The scale and setbacks of development in a PUD within 150 feet of the perimeter of the PUD shall be in harmony with development on adjacent lands.

- f. Environmentally Sensitive Areas: One of the principal purposes of the PUD procedure is to protect environmentally sensitive areas through the use of innovative arrangement of buildings and spaces. It is the intent of the PUD process that significant consideration in planning and design of PUD's shall be given to the following elements such as but not limited to:

- 1. Floodway and floodway fringe areas
- 2. Steep slopes and knolls
- 3. Wetlands
- 4. Water supply watersheds and recharge areas
- 5. Rock outcrops

6. Soil erosion and stormwater management
7. Tree and foliage preservation
8. Habitat for threatened or endangered species
9. Areas of historical, archaeological, or architectural significance
10. Useable open space; recreation area

In any case where the City Council finds in its opinion that the PUD provides for significant protection or enhancement of any one or more of the above elements, or a similar element as determined by the City Council, the Council may award a bonus of up to 10% increase in residential dwelling units for a PUD and may permit such additional dwelling units to be of a development type not otherwise permitted in the PUD. The determination by the City Council of the significant protection or enhancement of a particular element shall be based upon a comparison between the type of development that could be placed on the property under the current zoning and other regulations and the proposed development scheme for the PUD.

- g. Unified Development Plan: The application for a PUD as part of a Conditional District rezoning shall be accompanied by a Unified Development Plan in the form of a Site-Specific Vesting Plan.
  - h. Phased Development: A PUD may be developed in phases in the same manner as a subdivision and subject to the phasing requirements for subdivisions.
7. Commercial Areas:
- a. Permitted uses in a PUD are restricted to those permitted in the Primary and Secondary zoning districts in which the project is located.
  - b. The property included in the project shall, along its exterior boundary, meet the front, rear, and side yard requirements of the zoning district in which the project is located.
  - c. PUD's may consist of one or more parcels of land and may be subdivided for the purpose of the project. The following requirements shall be met concerning the interior arrangement of the cluster project.
  - d. Overall parking requirements for the project shall be met. However, all or part of the parking requirement for a use may be located on another parcel in the project.

- e. Overall watershed impervious surface area requirements for the project shall be met. However, impervious surface area requirements may be transferred from one parcel to another in the same PUD district.
- f. Sign provisions shall not be exceeded, but may be transferred provided that district requirements are not exceeded.
- g. In any case where buildings are to be constructed closer to an internal property line than permitted by the zoning district, in any case where parking, impervious surface, or signs are to be transferred, or in any case of other shared facilities between separate parcels in a PUD that are needed to support the project, such as common drives and entrances and exits, a recorded perpetually binding agreement between all the property owners involved in the project shall acknowledge such common facilities.

**SR 7. Amusement, indoor commercial**

- 1. The facility shall be designed to absorb sound to the maximum extent feasible.

**SR 8. Amusement or Water Parks; Batting Cages; Go-Cart Tracks; Golf Driving Ranges; Miniature Golf Facilities**

- 1. Minimum lot size for all development except miniature golf facilities shall be 2 acres.
- 2. No principal buildings or structures shall be located within 50 feet of any property line.
- 3. Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of park activities.
- 4. No amusement equipment, machinery, or mechanical device of any kind may be operated within 200 feet of any residentially zoned property.

**SR 9. Associations and Organizations; Social and Fraternal**

In the Residential Districts:

- 1. A minimum of 1 acre shall be required to establish any one of the above uses.
- 2. All structures including secondary and accessory structures shall be located a minimum of 50 feet from any street line and property lines.
- 3. Any use listed above located in a Residential District on a site greater than 3 acres shall have frontage on a collector or thoroughfare street.



4. Existing uses as described above which do not meet the 1 acre minimum requirement of “1” above at the time of the adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

**SR 10. Dance Halls, Including Nightclubs**

1. All principal buildings shall be setback at least 50 feet from any residential zoning line.
2. No part of any parking space shall be located within 20 feet of any residential zoning line.

**SR 11. Golf Course, Including Pro Shop; Recreation Facilities, Private; Saddle Clubs, etc.**

There shall be a 50 foot minimum setback between clubhouses, swimming pools, lighted tennis courts, athletic fields, and other activity areas and adjacent residentially zoned property.

**SR 12. Swim and Tennis Clubs**

1. In any residential district the minimum area shall be 1 acre.
2. There shall be a 50 foot minimum setback between clubhouses, swimming pools, lighted tennis courts, or athletic fields and adjacent residentially zoned property.
3. Outdoor swimming pools, as herein defined, shall be enclosed by a barrier with a minimum height of 4 feet, with all gates provided being self-closing and all vertical or horizontal openings being no more than 4 inches, which would deter and/or prevent the accidental or unauthorized use of said swimming pool. Fences which enclose the rear yard of the property and meet the above requirements shall be an approvable barrier if they totally secure the area around the swimming pool structure.

**SR 13. Cemeteries**

1. A minimum of 3 contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church. This minimum area shall not apply to a family cemetery or mausoleum.
2. All buildings and burial sites shall be setback a minimum of 20 feet from all property and public street lines.
3. Such facilities shall be organized as Perpetual Care facilities in accordance with state regulations.

**SR14. Day Care Centers (6 or more)**

An adult or child day care center with 6 or more attendees shall be operated as a principal use and subject to the following development standard:

1. Centers in a Residential District on a site greater than 3 acres shall have frontage on a collector or thoroughfare street.

**SR 15. Nursing Convalescent Homes; Congregate Care and Group Care; Orphanages**

In any residential or OI District:

1. A minimum of 1 acre shall be required to establish any one of the above uses.
2. All structures including secondary and accessory structures shall be located a minimum of 50 feet from any street line and 20 feet from any other property line.
3. Any use listed above located in a Residential District on a site greater than 3 acres shall have frontage on a collector or thoroughfare street.
4. Existing uses as described above which do not meet the 1 acre minimum requirement of "1" above at the time of the adoption of that provision may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.

**SR 16. Animal Kennels**

1. Minimum lot size shall be as follows:

1 to 10 animals	1 acre
11 to 20 animals	2 acres
21 to 30 animals	3 acres

For each additional acre beyond 3 acres, an additional 10 animals may be permitted. The minimum lot size requirements may be waived if a kennel is constructed to entirely enclose all kennel facilities so as to adequately protect all animals from weather extremes and to protect adjacent residences from noise, odors, and other objectionable characteristics, provided all building setback requirements are in accordance with Subsection 2 below.

2. All structures shall have minimum front, side, and rear yards of 150 feet. There shall be a separation of at least 500 feet between residences on adjoining tracts and any building used for kennel operation.
3. Sewage disposal system and sanitation control methods as approved by the County Board of Health shall be required for all kennels. (This provision shall include, but

shall not be limited to, the sanitary removal or disposal of solid waste, carcasses, or any other items deemed necessary for removal or disposal because of unsafe or unsanitary conditions by the Health Department).

**SR 17. Automobile Rental or Leasing; Automobile Sales (New and Used); Farm Machinery Sales and Service; Mobile Home Sales and Service; Motorcycle Sales and Service; Recreational Vehicle Sales and Service; Boat Sales, Repair**

1. Sales facilities shall be in a permanent site built structure. Buildings shall consist of at least 80% of the following materials: utility brick, standard brick, stucco, synthetic, colored split faced block, glass, stone, tile, or other similar high quality materials.
2. All sales and parking lots shall be paved.
3. All lighting shall be directed away from adjoining residential properties.
4. Vehicles for sale shall be set back from public streets and adjoining property lines a minimum of one-half ( $\frac{1}{2}$ ) the minimum required building setback.

**SR 18. Automobile Storage; Automobile Towing & Storage; Automobile Wrecking or Junk Yards; Salvage Yards, Scrap Processing; Refuse and Raw Material Hauling**

1. Any area covered by 600 square feet or more of scrap material or seven 7 or more junk vehicles shall qualify as a use of this type.
2. A minimum of 10 acres is required for such facilities.
3. A solid fence or wall not less than 8 feet in height shall be placed and maintained around all setback boundaries; an open space setback of at least 10 feet shall be maintained around the enclosure; such area shall not be used for storage and shall be grassed and maintained in natural vegetation.
4. Weeds and grasses shall be controlled within the facility.
5. The height of items inside the facility shall not exceed the height of the barrier fence.
6. Items shall not be stored closer than five 500 feet to any adjoining residentially zoned property.
7. Stormwater runoff and erosion control measures shall be installed around the site in accordance with state standards.
8. All unmounted tires (200 maximum) shall be stored in an enclosed building to prevent the accumulation of stormwater within the well of the tire.

9. The owner understands that he/she will be financially responsible for any contamination of the site and/or its environs.

**SR 19. Recreational Vehicle Parks or Campsites**

Such uses shall comply with the following standards:

1. Yard Requirements: The following yard requirements are hereby established:
  - a. Exterior: Along any public street or public right-of-way, a setback of at least 40 feet from the edge of the public right-of-way shall be maintained.
  - b. Distance between trailers: A distance of at least 10 feet shall be maintained between trailers and/or structures. Any accessory structures such as attached awnings, carports, or individual storage facilities, shall, for the purpose of this requirement, be considered a part of the trailer.
2. Open Space: A recreational area of not less than 10% of the gross site area or 2,500 square feet, whichever is greater, shall be maintained in a central and convenient location to all trailer spaces.
3. Lot Area: The lot for the park shall be a minimum of 2 acres.
4. Density: The density shall not exceed 25 trailer spaces per acre of gross area.
5. Parking: Adequate off-street parking and maneuvering space shall be provided on site. The use of any public street, sidewalk, or right-of-way or any other private grounds not a part of the travel trailer parking area for the parking or maneuvering of vehicles is prohibited.
6. Streets: All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event, shall comply with the following minimum requirements:
  - a. Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than 500 feet in total length, serve less than 25 trailer spaces, and be at least 11 feet in width.
  - b. Internal one-way roadway and roadways on which parking is permitted on 1 side and two-way roadways which do not allow parking shall be at least 24 feet in width.
  - c. Internal two-way roadways which permit parking on 1 side only shall be at least 27 feet in width.

- d. Internal two-way roadways which permit parking on both sides shall be at least 34 feet in width.
7. Water: Each travel trailer parking area shall be connected to an approved water supply system, which provides an accessible, adequate, safe, and potable supply of water.
8. Sewer: An adequate and safe sewer system shall be provided in all travel trailer-parking areas. Such system shall either be a municipal system or a system approved by the appropriate County or State agency vested with the authority to approve sewage disposal systems.
9. Screening: An opaque screening device at least 6 feet high shall be provided where the use adjoins residentially zoned property.
10. Service Building: A central service building containing all necessary toilets, bathhouses, and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all travel trailer parking areas. Service building shall be conveniently located within a radius of 300 feet to spaces which it serves.
11. Trash: The storage, collection, and disposal of trash and refuse in the travel trailer parking area shall comply with all applicable regulations.
12. Time of Stay: Neither any person nor any mobile unit shall occupy a trailer space or the travel trailer parking area for a period in excess of 30 days. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained.

**SR 20. Service Stations (includes the screened storage of inoperable vehicles);  
Automobile Washing Facilities**

1. Outdoor storage of not more than 5 inoperable vehicles associated with the above uses shall be completely screened by an opaque screening device at least 6 feet in height.
2. Uses subject to this note shall be developed in such a manner as to prevent dust and tracking of mud and debris onto adjoining streets.

**SR 21. Taxi Terminals**

All storage, repair, and service facilities shall be in a completely enclosed building.

**SR 22. Builders Supply Dealers**

1. All outside storage shall be completely screened from view from all streets and adjacent residentially zoned property.
2. Security fencing, a minimum of 6 feet in height, shall be provided around all outside storage areas.
3. All storage areas shall be maintained in a manner so as to prevent dust from adversely impacting adjacent properties.
4. Uses subject to this note shall be developed in such a manner as to prevent dust and tracking of mud and debris onto adjoining streets.

**SR 23. Airports or Air Transportation Facilities**

1. The minimum area shall be 50 acres for Basic Utility Stage 1 airport with a 2,000 foot runway.
2. Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum 6 feet in height.

**SR 24. Ammunition, Small Arms**

1. No such facility shall locate within a 500 foot radius of any residentially zoned property.
2. Security fencing shall be provided along the entire boundary of such a facility.
3. The facility and its operation shall observe all Fire Prevention and Protection requirements.

**SR 25. Asphalt Plant**

1. Any asphalt plant operations shall be located at least 50 feet from any property line.
2. Security fencing, a minimum of 6 feet in height, shall be provided around the perimeter of the operation.
3. Rehabilitation:
  - a. Within 1 year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  - b. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public drainageways, nor to

appreciably increase the humidity of any natural water course, or to occlude any existing drainage course.

4. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
5. Access:
  - a. Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and maintained in a dust-free manner.
  - b. Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way line.
  - c. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

**SR 26. Landfill, Building Debris, Private**

1. Setback: There shall be 50 foot minimum distance from any property line.
2. Use Separation: There shall be a 300 foot minimum separation from any residence.
3. Access: Access to the landfill shall be controlled with gates, chains, fences, ditches, and/or trees to prevent unregulated dumping.
4. Dust: All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
5. Operation: No filling is permitted in any flood hazard area. No filling is permitted in minor drainageways unless the drainage has been piped in accordance with approved plans. No filling is permitted in utility easements.
6. Signs: An information board sign shall be posted and maintained at the entrance, listing the name and phone number of the current operator, the types of material accepted, and the hours of operation.

**SR 27. Landfill, Sanitary, Private**

1. An operations and rehabilitation plan shall be submitted for approval prior to permitting.
2. Direct illumination resulting from the operation shall not fall upon any land not covered by the application.

3. Equivalent sound levels at the boundaries of the fill site shall not exceed the following standards:

between 7:00am and 7:00pm – 60 DBA

between 7:00pm and 7:00am – 55 DBA

4. The Rehabilitation Plan shall be referred to the Soil and Water Conservation District for review and recommendation, in particular regarding the landscape material specified, the planting and maintenance proposed to insure continuous growth and development, and the acceptability of the proposals for the handling of lakes, ponds, etc.
5. The permanent roads, defined as those to be used in excess of 1 year, within the fill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete, or Portland Cement concrete.
6. Roads other than permanent roads shall be treated with dust inhibitors, to be specified in the Operations Plan, which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons are an acceptable means of dust inhibition.
7. Where the proposed fill shall take place within 300 feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least 6 feet high shall be installed.
8. The operations plan and the rehabilitation plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consistent with good practices and so that rehabilitation proceeds in concert with filling.

## **SR 28. Mining and Quarrying**

1. Setback:
  - a. The edges of any pit where a mining operation is taking place, any equipment used in the processing of rock and gravel, any asphalt plant, or other industrial use operated in conjunction with the mine or quarry shall be located at least 50 feet from any property line.
  - b. Where the mining operation site is bounded by a railroad right-of-way currently being used for rail service to the mining operation, no setback shall be required between the railroad right-of-way and such operation.
2. Security fencing, a minimum of 6 feet in height, shall be provided around the perimeter of both existing and abandoned operations.



3. Rehabilitation:
  - a. Within 1 year after the cessation of production at all mining operations, all equipment and stock piles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
  - b. Except in a case where redevelopment for another permitted use is in progress on the site of an abandoned extraction operation, all excavations shall be graded to reduce the surface to gently rolling topography in substantial conformity to the land area immediately surrounding, and shall be planted with a cover of sod, trees, shrubs, legumes, or grasses which will minimize erosion due to wind or rainfall.
  - c. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the humidity of any natural water course, or to occlude any existing drainage course.
4. All operations involving blasting discernable beyond the external property line of a quarry shall only be conducted between the hours of 7:00am and 6:00pm.
5. All unpaved storage areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.
6. Access:
  - a. Access roads leading to any part of the operation shall be constructed with gravel or asphalt stone surface and maintained in a dust-free manner.
  - b. Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way line.
  - c. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic. Such routes shall be adhered to.

**SR 29. Petroleum and Related Products (Wholesale or Manufacturing)**

1. Setback:
  - a. Storage tanks protected by either an attached extinguishing system approved by the Fire Marshal or an approved floating roof, shall not be located closer to an exterior property line than a distance of either the diameter or height of the tank, except that such distance need not exceed 120 feet.

- b. Storage tanks not equipped as indicated in “a” above shall not be located closer to an exterior property line than a distance equal to one and one-half (1½) times the greater dimension of either the diameter or height of the tank, except that such distance need not exceed 175 feet.
2. Above ground storage tanks and loading facilities shall be located a minimum of 500 feet from any existing residence or residentially zoned property.
3. Gravel or paved roadways shall be provided to all storage tanks.
4. Security fencing, a minimum of 6 feet in height, shall be provided along the entire boundary of such facilities.
5. Dikes:
  - a. Tanks or groups of tanks shall be diked to prevent the spread of liquid onto other property, waterways, or drainageways. The volumetric capacity of the diked area shall not be less than the capacity of the largest tank within the diked area.
  - b. Dikes or retaining walls shall be of earth, steel, concrete, or solid masonry designed and constructed to be liquid-tight and to withstand a full hydraulic head. Earthen dikes 3 feet or more in height shall have a flat section at the top not less than 2 feet in width. The slope shall be consistent with the angle or repose of the material of which the dikes are constructed. Dikes shall be restricted to an average height of not more than 6 feet above the exterior grade unless means are available for extinguishing a fire in any tank. Dikes enclosing such tanks shall be provided at the top with a flareback section designed to turn back a boil-over wave. A flareback section shall not be required for dikes and walls enclosing approved floating roof tanks. No loose combustible material, drums, or barrels shall be permitted within the diked area.
  - c. Where provision is made for draining rainwater from diked areas, such drains shall normally be kept closed and shall be designed so that when in use they will not permit flammable liquids to enter natural watercourses, public sewers, or public drains. Where pumps control drainage from the diked area, they shall not be self-starting.
6. Tank Maintenance:
  - a. All storage tanks shall be maintained in a leak-proof condition with an adequately painted, rust-free exterior surface.
  - b. A firm substratum shall be constructed under each storage area to eliminate differential subsidence and to prevent the product from seeping.

7. All storage facilities shall comply with the latest edition of the “Flammable and Combustible Liquids Code, NEPA 30” of the National Fire Protection Association.

**SR 30. Pottery and Related Products**

All outside display areas shall be setback from public streets and adjoining property lines ½ the minimum required building setback.

**SR 31. Water Treatment Plants, Non-Governmental Public; Sewage Treatment Plants, Non-Governmental Public**

In all Residential Districts such plants shall meet the following standards:

1. No use shall be made of the site that is not directly related to the operation of the plant.
2. All buildings shall meet the minimum yard setbacks for the district in which located or 20 feet, whichever is greater.
3. Screening shall be provided adjoining residential property lines with a 6 feet high, opaque screen.
4. All structures shall be enclosed by a chain link fence at least 8 feet in height.

**SR 32. Wireless Telecommunication Towers and Facilities**  
**Section 1. Purpose and Legislative Intent**

1. The Telecommunications Act of 1996 affirmed the City of Archdale’s authority concerning the placement, construction and Modification of Wireless Telecommunications Facilities or Complexes. This ordinance provides for the safe and efficient integration of Wireless Facilities or Complexes Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.
2. The City of Archdale (City) finds that Wireless Telecommunications Facilities (Facilities) and Complexes may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to assure that the placement, construction or Modification of a Facility or Complex is consistent with the City’s land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facility or Complex application and permitting process. The intent of this Section is to minimize the physical impact of Wireless

Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City.

## **Section 2. Severability**

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Section or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Section, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
2. Any Special Use Permit issued pursuant to this Section shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

## **Section 3. Definitions**

For purposes of this Section, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.

1. “**Accessory Facility or Structure**” means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities or Complexes, including but not limited to utility or transmission equipment storage sheds or cabinets.
2. “**Amend**”, “**Amendment**” and “**Amended**” mean and shall relate to any change, addition, correction, deletion, replacement or substitution, other than typographical changes of no effect.
3. “**Applicant**” means any Wireless service provider submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.
4. “**Application**” means all Necessary and *required* documentation that an Applicant submits in order to receive a Special Use Permit or a Building Permit for Wireless Telecommunications Facilities.
5. “**Antenna**” means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

6. **“Council”** means the City Council of the City of Archdale.
7. **“Certificate of Completion”** or **“COC”** means a required document issued by the City that confirms that all work represented in the application i) was properly permitted; ii) was done in compliance with and fulfilled all conditions of all permits, including any final completion deadline; iii) was fully constructed as approved and permitted; and iv) a final inspection was requested, conducted and the Facility or Complex passed the final inspection.
8. **“City”** means the City of Archdale, North Carolina
9. **“Co-location”** means the use of an approved telecommunications structure to support Antenna for the provision of wireless services.
10. **“Commercial Impracticability”** or **“Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone and for a single site, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
11. **“Completed Application”** means an Application that contains all necessary and required information and/or data as set forth in this Ordinance and that is necessary to enable an informed decision to be made with respect to an Application and action on the Application.
12. **“Complex”** means the entire site or Facility, including all structures and equipment located at the site.
13. **“DAS”** or **“Distributive Access System”** means a technology using antenna combining technology allowing for multiple carriers or Wireless Service Providers to use the same set of antennas, cabling or fiber optics.
14. **“Eligible Facility”** means an existing wireless tower or base station that involves collocation of new transmission equipment or the replacement of transmission equipment that does not constitute a Substantial modification. An Eligible Facility Application shall be acted upon administratively and shall not require a Special Use Permit, but shall require Staff Administrative Approval.
15. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
16. **“Facility”** means a set of wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.

17. **“FCC”** means the Federal Communications Commission, or its duly designated and authorized successor agency.
18. **“Height”** means, the distance measured from the pre-existing grade level to the highest point on the Tower or support structure, even if said highest point is an Antenna or lightning protection device. As regards increasing the height of an existing structure, Height means the height above the top of the structure prior to any work related to a wireless Facility.
19. **“In-Kind Replacement”** means replacing a component(s) that is malfunctioning with a properly functioning component of the same weight and dimensions and that does not enable an increase in revenue for the service provider or increase the compensation paid to the owner or manager of the support structure.
20. **“Maintenance”** means plumbing, electrical, carpentry or mechanical work that may or may not require a building permit, but that does not constitute a Modification of the WTF.
21. **“Modification”** or **“Modify”** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless Facility or Complex with identical components, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to an existing support structure or Tower as a co-location is a Modification, unless the height, profile or size of the compound is increased, in which case it is not a Modification.
22. **“Necessary”** or **“Necessity”** or **“Need”** means what is technologically required for the equipment to function as designed by the manufacturer and that anything less will result in the effect of prohibiting the provision of service as intended and described in the narrative of the Application. Necessary, Necessity or Need does not mean what may be desired, preferred or the most cost-efficient approach and is not related to an Applicant’s specific chosen design standards.
23. **“NIER”** means Non-Ionizing Electromagnetic Radiation.
24. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
25. **“Personal Wireless Facility”** See definition for ‘Wireless Telecommunications Facilities’.

26. **“Personal Wireless Services”** or **“PWS”** or **“Personal Telecommunications Service”** or **“PTS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
27. **“Repairs and Maintenance”** means the replacement or repair of any components of a wireless Facility or Complex where the replacement is identical to the component being replaced, or for any matters that involve the normal repair and maintenance of a wireless Facility or Complex without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless Facility or Complex that will impose new visible burdens of the Facility or Complex as originally permitted. Any work that changes the services provided to or from the Facility, or the equipment, is not Repairs or Maintenance.
28. **“Special Use Permit”** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use a Facility or Complex as granted or issued by the City.
29. **“Stealth”** or **“Stealth Siting Technique”** means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean building the least visually and physically intrusive facility and Complex that is not technologically or commercially impracticable under the facts and circumstances. Stealth technique includes such techniques as i) DAS or its functional equivalent; or ii) camouflage where the Tower is disguised to make it less visually obtrusive and not recognizable to the average person as a Wireless Facility or Complex.
30. **“State”** means the State of North Carolina.
31. **“Structural Capability”** or **“Structural Capacity”** or **“Structural Integrity”** means, notwithstanding anything to the contrary in any other standard, code, regulation or law, up to and not exceeding a literal 100% of the designed loading and stress capability of the support structure.
32. **“Substantial Modification”** means a change or Modification that
- a. increases the existing vertical height of the structure by the greater of (a) more than ten percent (10%) or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet; or
  - b. except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance; or

- c. increases the square footage of the existing equipment compound by more than 2,500 square feet.
- 33. **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- 34. **“Telecommunications Site”** See definition for Wireless Telecommunications Facilities.
- 35. **“Telecommunications Structure”** means a structure used primarily to support equipment used to provide wireless communications or was originally constructed primarily for such purpose.
- 36. **“Temporary”** means not permanent in relation to all aspects and components of this Section and that will exist for fewer than ninety (90) calendar days.
- 37. **“Tower”** means any structure designed primarily to support an antenna and/or other equipment for receiving and/or transmitting a wireless signal and is the lesser of i) more than ten feet (10’) taller than the adjacent buildings or trees; or ii) taller than forty feet (40’).
- 38. **“Wireless Telecommunications Facility or Facilities (WTF or WTFs)”, “Facility”, “Site”, “Complex”, “Telecommunications Site” and “Personal Wireless Facility Site”** all mean a specific location at which a structure that is designed or intended to be used to house, support or accommodate Antennas or other transmitting or receiving equipment is located. This includes without limit, Towers and support structures of all types and kinds, including but not limited to buildings, church steeples, silos, water Towers, signs or other any other structure that is used or is proposed to be used as a support structure for Antennas or the functional equivalent of such. It expressly includes all related facilities and equipment such as cabling, radios and other electronic equipment, equipment shelters and enclosures, cabinets and other structures associated with the Complex used to provide, though not limited to, radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services, Internet access service and any commercial wireless telecommunication service whether or not licensed by the FCC.

#### **Section 4. General Policies and Procedures for Applications under this Section**

In order to ensure that the location, placement, construction and Modification of a Facility or the components of a Complex do not endanger or jeopardize the City’s health, safety, public welfare, environmental features, the nature and character of the community or neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section, the City hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or Administrative Approval granted authority for Wireless Facilities for the express purpose of achieving the following outcomes:



1. Requiring a Special Use Permit for any new Complex, Facility or any Substantial Modification of a Facility or Complex or for a Co-located Facility;
2. Requiring Administrative Approval and a properly issued Building Permit for any co-location or Modification of a Facility or Complex that is not a Substantial Modification or Substantial Co-location.
3. Implementing an Application process and requirements;
4. Establishing procedures for examining an Application and issuing a Special Use Permit or Administrative Approval that are fair and consistent;
5. Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers;
6. Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of attachments to a Facility or Complex in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth siting techniques.
7. Requiring that the Facility and Complex shall be the least visually intrusive among those options that are not technologically impracticable given the facts and circumstances.
8. The City Council is the officially designated agency or body of the City to whom applications for a Special Use Permit for a Facility or Complex must be made, and that is authorized to make decisions with respect to granting or not granting or revoking Special Use Permits applied for under this Section. The City Council may at its discretion delegate or designate the City Planning Board or other official agencies or officials of the City or outside consultants to accept, review, analyze, evaluate and make recommendations to the City Council with respect to the granting or not granting or revoking Special Use Permits for Wireless Telecommunications Facilities. However, the Council shall possess the sole right to grant all Special Use Permits.
9. The City Council hereby designates the City Manager or the City Manager's designee as the authority for requests for anything other than a Substantial Modification or Special Use Permit, i.e. for all Administrative Approvals.
10. Prior to the submission of an application there shall be a pre-application meeting for all intended applications. The pre-application meeting may be held either on site or telephonically as deemed appropriate by the Planning Director or its designee. The purpose of the pre-application meeting will be to address i) issues that will help to expedite the review and permitting process; and ii) specific issues or concerns the City or the Applicant may have. Costs of the City's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a fee set forth in the City's Schedule of Fees, which shall have been paid to the City prior to any site visit or

pre-application meeting or any work related to an intended application preceding the site visit or per-application meeting in excess of one (1) hour related to the application.

11. If there has not been a prior site visit for the requested Facility or Complex within the previous six (6) months a site visit shall be conducted.
12. An Applicant shall submit to the City the number of completed Applications determined to be needed at the pre-application meeting. If Council action is required, applications will not be transmitted to the Council for consideration until the application is deemed Complete.
13. If the proposed site is within one (1) mile of another jurisdiction, written notification of the Application shall be provided to the legislative body of all such adjacent jurisdictions as applicable and/or requested.
14. The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official Applicant of Record, unless the owner is the City, in which case, to prevent a conflict of interest, the City shall not be a party to the Application.
15. All Applicants shall closely follow the instructions for preparing an Application. Not following the instructions without permission to deviate from such shall result in the application being deemed incomplete and a tolling of the time allowed for action on an Application until a Complete Application is received.
16. Within thirty (30) days of the date of submission of an Application the Applicant shall be notified in writing of any deficiencies related to the completeness of the Application. Remediation of deficiencies in an Application shall be deemed an amendment of the Application that was received.
17. The City may deny applications not meeting the requirements stated herein or which are otherwise not complete after proper notice and a reasonable opportunity to make the Application Complete has been afforded. Applications will be deemed abandoned if left incomplete for more than ninety (90) days after the date of notice of incompleteness.
18. No work of any kind on or at a Facility or Complex shall be started until the Application is reviewed and approved and the Special Use Permit or Administrative Approval, as applicable, has been issued, and a Building Permit has been issued in accordance with the City's Code.
19. Any and all representations made by the Applicant or that are made in support of the Application shall be deemed to be on the record, whether written or verbal, and shall be deemed to have been relied upon in good faith by the City. Any verbal representation shall be treated as if it were made in writing.
20. Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a Facility or Complex shall be issued

where the Facility or Complex is not in full compliance with all applicable local, State and federal laws, rules, regulations and orders. A Facility or Complex not in full compliance with this Section shall be required to be brought into full compliance before any Permit of any kind will be issued.

21. An Application shall be signed on behalf of the Applicant(s) by a person vested with the authority to bind and commit the Applicant attesting to the truthfulness, completeness and accuracy of the information presented
22. The Applicant must provide documentation to substantiate that it has the right to proceed as proposed on the site or at the Complex in the form of an executed copy of the lease with the landowner or landlord or a signed letter of agency granting authorization. If the applicant owns the Site or Complex, a copy of the ownership record is required.
23. Applications shall include written commitment statements to the effect that:
  - a. the applicant's Facility or Complex shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations, unless specifically granted relief by the Council in writing; and
  - b. the construction of the Facility or Complex is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
24. Where a certification is called for in this Section, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.
25. A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technique as may be required by the City.
26. All utilities at a Complex or site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the City, including specifically, but not limited to applicable electrical codes.
27. At a Facility or Complex needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as

determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.

28. All work at a Facility or Complex shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code, the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
29. A holder of a Special Use Permit or Administrative Approval granted authority granted under this Section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
30. Unless such is proven to be technologically impracticable, the City requires the co-location of new antenna arrays on existing structures, as opposed to the construction of a new Complex or support structure or increasing the height, footprint or profile of a Facility or Complex beyond the conditions of the approved Special Use Permit for an existing Facility or Complex. In instances not qualifying as an Eligible Facility, the Applicant shall submit a comprehensive report inventorying all existing structures more than fifty feet (50') in height within one-half (1/2) mile of the location of any proposed new Facility or Complex.
31. An Applicant intending to co-locate on or at an existing Facility or Complex shall be required to document the intent of the existing owner to permit its use by the Applicant.
32. Co-located equipment shall consist only of the minimum Antenna array technologically Needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown in the form of clear and convincing evidence.
33. A DAS system that is owned or operated by a commercial carrier and is part of a commercial wireless system, or are used for commercial purposes, is expressly included in the context of this Section, regardless of the location or whether the Facility or any of its components is located inside or outside a structure or building.
34. The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this Section, as well as other applicable land use and zoning regulations. An Applicant may not by-pass sites of higher siting priority than the priority chosen solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority, or attaching to an existing

structure is proposed, the applicant must demonstrate and explain to the reasonable satisfaction of the City why co-location is technically or commercially impracticable. Contractual or Build-to-Suit agreements between carriers and a proposed Tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with the siting priorities.

35. Any technical information must be provided in such a manner, detail and form that the content and any conclusions are able to be verified by a third party using the information used and provided by the applicant.
36. All costs associated with the preparation and submission of an Application and/or necessitated by the requirements for obtaining and maintaining any and all City permits shall be borne by the Applicant or Permittee.
37. Any new Wireless Facility shall be designed and constructed so as to be the least visually intrusive, create the least visual impact reasonably possible and have the least negative impact on nearby property values, provided that pursuant to 47 U.S.C. 332(c)(7)(B)(II) compliance with this requirement does not prohibit or effectively serve to prohibit the provision of the intended service from one or more Facilities.
38. No new Facility or antenna array shall be identifiable, recognizable or discernable as a Wireless Facility or antenna by a typical lay-person from a distance of two-hundred fifty feet (250') or more.
39. The fact that a proposed use satisfies all specific requirements for a Special Use Permit in a given type of zoning or land use district does not create a presumption that the use is compatible or in harmony with nearby properties within one thousand feet (1,000') and, in itself, is not sufficient to require the grant of a Special Use Permit.

### ***Section 5. Responsible Party(s)***

With the exception of the City itself, the owner(s) of a Facility or Complex, any support structure used to accommodate wireless Facilities, and of the land upon which a Facility support structure or Complex is located, shall at all times be jointly and individually responsible for: (1) the clean, neat, non-littered and safe condition of the Facility or Complex, support structure and all components on the site related to the Facility or Complex; (2) assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the Facility or Complex, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the Facility or Complex; and (3) assuring the proper permitting as required by this Article and other City regulations by all lessees and users of the Facility or Complex, including but not limited to any upgrades and/or Modifications of equipment. Said owner(s) shall regularly and diligently monitor activities at the site to assure that the Facility or Complex is operated in compliance with this Ordinance, other City regulations and any Special Use Permit.

### **Section 6. Fees**

All fees and charges, including but not limited to Application fees, Expert Assistance fees, Inspection fees and Permit fees, shall be as set forth in the City's Schedule of Fees and Charges. For new towers, support structures or substantial modifications, the Expert Assistance fee shall be as set forth in the City's Fee Schedule, and to prevent taxpayer subsidization of the Applicant shall not be less than \$7,500.

### **Section 7. Existing Facilities and Complexes**

- A. Any legally permitted Facility, Tower or other support structure or Complex that exists on the effective date of this Section of the City's codes shall be allowed to continue as it presently exists, provided that i) all work was properly permitted; ii) the Facility or Complex is in compliance with all applicable local, State and federal laws, rules regulations, orders and permit conditions; iii) the Site is in compliance with the latest version of TIA ANSI 222 as regards the physical condition of the Site; and iv) a Certificate of Completion (COC) was issued for the most recent work performed;
- B. Any work not properly previously permitted prior to the adoption of this Section must be properly permitted within ninety (90) days of the effective date of this Section or prior to any Modification of, on or at the site or Facility.
- C. Any new Co-location and/or Modification of a Facility, Tower or other support structure or Complex or a Carrier's equipment located on the Tower or Facility, must be permitted under this Section and the entire Facility or Complex and any new Co-location or Modification shall comply with all applicable laws, rules and regulations, including obtaining a valid COC.

### **Section 8. Certificate of Completion**

- A. No work shall be allowed to be done at or on any Facility or Complex, excepting normal repair and maintenance work as defined in this Section, for which the owner cannot produce the COC for the most recent work, until a final inspection has been conducted and a COC has been issued. The owner of the Facility, Tower or other support structure or Complex shall pay for the actual cost of the required final inspection prior to the inspection being conducted. If the Facility or Complex does not pass the initial final inspection, the owner shall be required to pay for any subsequent re-inspection prior to the re-inspection being conducted. A passing final inspection is required prior to the issuance of a COC.
- B. If no COC can be produced for previously done work, at the discretion of the Planning Director, per day per violation fines and other penalties as allowed by law maybe imposed until the Facility or Complex is compliant and the required COC has been issued.

### **Section 9. Exclusions**

The following shall be exempt from this Section:

- A. Any facilities expressly exempt from the City's zoning, land use, siting, building and permitting authority.
- B. Any reception or transmission devices expressly exempted under the Telecommunications Act of 1996.
- C. A Facility used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications that is less than 100' above ground level.
- D. Facilities used exclusively for providing wireless service(s) or technologies where i) there is no charge for the use of the wireless service; ii) the Facility or Complex does not require a new Tower or increase the height or profile of the structure being attached to; and iii) the service is not intended to be useable more than seventy-five feet (75') from the Antenna.

**Section 10. Application Requirements for a New Tower, Support Structure, or a Substantial Modification or Co-location**

A. All Applicants for a Special Use Permit for a new Wireless Facility or Complex, including for a new Tower or other new support structure or that constitutes a Substantial Modification, shall comply with the requirements set forth in this Section. In addition to the required information set forth in this Section, all applications for the construction or installation of new Wireless Facility or Complex or Substantial Modification shall contain the information hereinafter set forth prior to the issuance of a Building Permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

**Ownership and Management**

- 1. The Name, address, phone number and e-mail address of the person preparing the Application;
- 2. The Name, address, phone number and e-mail address of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name, e-mail address and all Necessary contact information shall be provided;
- 3. The Postal address and tax map parcel number of the property;
- 4. A copy of the FCC license(s) applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands to be used;
- 5. The Applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower or support structure that it constructs or has constructed for it;

**Zoning and Planning**

- 6. The Zoning District or designation in which the property is situated;

7. The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all property lot lines;
8. The location, size of the footprint and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the Application;
9. A site plan to scale, not a hand drawn sketch, showing the footprint of the Support Structure and the type, location and dimensions of access drives, proposed landscaping and buffers in compliance with the City's Building or Development Code, including but not limited to fencing and any other requirements of site plans;
10. Elevation drawings showing the profile or the vertical rendition of the Tower or support structure at the Facility or Complex and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
11. The type of Tower or support structure, the number of antenna arrays proposed to be able to be accommodated and the basis for the calculations of the Tower's or support structure's capability to accommodate the required number of antenna arrays for which the structure must be designed;
12. Disclosure in writing of any agreement in existence prior to the submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.
13. A certified statement of i) the total cost of construction for the work associated with the Application; and ii) the total cost of all equipment of the Applicant at the Facility. To verify the accuracy of the information, the City reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.

**Safety**

14. the age of the Tower or support structure and Complex stated in years, including the date of the grant of the original permit;
15. a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or other type of support structure;
16. for a tower, the make, model, type and manufacturer of the Tower and the structural design analysis and report, including the calculations, certified by a Professional Engineer licensed in the State, proving the Tower or support Structure's capability to safely accommodate the Facilities of the Applicant without change or Modification .
17. if a Substantial Co-location, change or Modification of a Facility or Complex is needed, a detailed narrative explaining what changes are needed and why they are needed;
18. a Complete, unredacted copy of the foundation design and report for the Tower or other structure, including a geotechnical sub-surface soils investigation report and foundation design for the Facility;
19. if Substantially Modifying or Co-locating on an existing Tower or other support structure, a Complete, unredacted and certified TIA ANSI 222 Report regarding



the physical condition of the Complex and all of its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the Application. No Building Permit shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this subsection and other adopted standards of the City regarding the physical condition and/or safety of the Facility, unless and until all remediation work that is deemed needed has been completed, or a schedule for the remediation work has been approved by the City Planning Department ;

20. In an instance involving a Tower with only a single array of antennas, or for the first antenna array to be attached to a Tower where the array will be thirty-three feet (33') or more above ground level, and not within 100 feet of areas to which the public has or could reasonably have or gain access to, in lieu of a full RF emissions study, if deemed appropriate by the City, signed documentation in the form of the FCC's "Checklist to Determine whether a Facility may be Categorically Excluded" may in certain cases be allowed to be used and shall be provided to verify that the Facility and Complex with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations;
  21. In certain instances the City may deem it appropriate to have a post-construction on-site RF survey of the Facility or Complex done after the construction or Modification and activation of the Facility or Complex, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;
  22. In the event the City deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding §A,(21) of this Section, the City expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the City, itself, may be prohibited from determining.
  23. If not submitted in a previous application, a signed statement that the Applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
- B. A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless Telecommunications Facility or Complex is in compliance with Federal Aviation Administration Regulation Part 77, and if it requires lighting, including any Facility or Complex where the application proposes to increase the height of the existing Tower or support structure.
- C. New Towers shall be prohibited on private property in Residential Districts, Historic Districts and areas officially deemed to be visual or sensitive scenic areas within the City's Corporate Limits.

- D. All Applications for a proposed Facility or Complex applicable to this Section shall contain clear and convincing evidence that the Facility or Complex is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved. To achieve this goal the City expressly reserves the right to require the use of Stealth or Camouflage siting techniques such as, but not limited to, DAS (Distributive Antenna System), a Small Cell Facility or a functional equivalent as regards size, and such shall be subject to approval by the Council.
- E. If proposing a new Tower or support structure, or a Substantial Co-location or Modification of an existing structure, the Applicant shall be required to submit clear and convincing evidence that there is no alternative solution within the search ring of the proposed site that would be less visually intrusive and that not to permit the proposed new Tower or support structure, or a Substantial Co-location or Modification would result in the prohibition of service or the perpetuation of a significant gap in service.
- F. An Applicant proposing a new Tower or support structure shall use the largest search ring technically possible, and may be required to prove technically that the search ring used is the largest that could be used.
- G. In order to better inform the public, in the case of a new Tower or support structure or Substantial Modification, the applicant shall hold a “balloon test” prior to the initial public hearing on the application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored balloon with horizontal stabilizers, at the maximum height of the proposed new Tower or support structure or Substantial Modification. Unless conditions at the time preclude it, for reasons of instability vis-à-vis wind speed, the use of spherical balloons shall not be permitted.
- H. At the option of the Planning Director, a community meeting may be held concurrent with the balloon test, the notification of which shall be as set forth in the following §I(4).
- I. At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4’) by eight feet (8’) in size and shall be readable from the road by a person with 20/20 vision.
1. Such sign shall be placed off, but as near to, the public right-of-way as is possible.
  2. Such sign shall contain the times and date(s) of the balloon test and contact information.
  3. The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City and as agreed to by the City. The

Applicant shall inform the City in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.

4. The Applicant shall notify all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the Tower and Facility or Complex and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail. The Planning Director shall be provided an attested copy of the list of addresses to which notification is provided. The Wireless Telecommunications Facility or Complex shall be structurally designed to accommodate at least four (4) Antenna Arrays, with each array to be flush mounted or as close to flush-mounted as is reasonable possible.

J. The Applicant shall provide certified documentation in the form of a structural analysis and report, including all calculations, showing that the Facility or Complex will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent shall apply.

K. The Applicant shall furnish a Visual Impact Assessment, which may be required to include:

1. a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage; and
2. To-scale pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the City as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;

L. The Applicant shall provide a written description and a visual rendering demonstrating how it shall effectively screen from view the bottom fifteen feet (15') of the Facility or Complex and all related equipment and structures associated with the Facility or Complex.

M. A Building Permit shall not be issued for the construction of a new Tower or other support structure until i) there is an Application for or by a specific carrier that documents with verifiable

technical evidence that the Facility or Complex is Necessary for that carrier to serve the community and that co-location on an existing Structure is not feasible, or ii) that no owner of an existing structure within the Applicant's search ring will allow attachment to the owner's building or other type of structure.

N. Co-location on an existing structure is not reasonably feasible if such is technically or Commercially Impracticable or the owner of the Structure is unwilling to enter into a contract for such use at a fair and reasonable price. If an Applicant feels the price is unreasonable, sufficient documentation in the form of clear and convincing evidence to support such a claim shall be submitted to determine whether co-location on a given existing structure is Commercially Impracticable or otherwise unreasonable.

### **Section 11. Requirements for Eligible Facility Co-locations or Modifications**

A. For the co-location, modification or upgrade of a wireless facility that qualifies as an Eligible Facilities request under applicable law, the following information shall be required to be contained in an application. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

#### **Safety**

- 1) the age of the Tower or other support structure in years, including the date of the grant of the original permit;
- 2) a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or a description of another other type of support structure;
- 3) certified documentation in the form of a structural analysis and report done by a Professional Engineer licensed in the State of North Carolina. Said analysis and report shall include all supporting calculations, showing that the Facility, as it exists, will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, the North Carolina Building Code and all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict, the more stringent shall apply.
- 4) a copy of i) the installed foundation design, including a geotechnical sub-surface soils investigation report; and if necessary ii) a foundation remediation design and recommendation for the Tower or other structure;
- 5) a certified, unredacted report and supporting documentation, including photographs, regarding the physical situation and physical condition of all equipment and facilities at the site in the form of a report based on an on-site inspection done pursuant to and in compliance with the latest version of TIA/ANSI 222. The inspection shall be done by a qualified individual experienced in performing such inspections and the report shall be signed by an individual with authority to order any needed remediation or resolution of issues.
- 6) a copy of the FCC licenses for each frequency band applicable for the intended use of the Wireless Telecommunications transmission and/or receive equipment;
- 7) a list of all frequencies, to be used at the Facility;

- 8) the number, type and model of the Antenna(s) proposed, along with a copy of the manufacturer's specification sheet(s), i.e. cut sheet(s), for the antennas;
- 9) certification from the owner of the Facility certifying that the Facility and all attachments thereto are currently in compliance with the conditions of the approved Special Use Permit or Administrative Approval or identifying any non-compliant situation.

### **Ownership and Management**

- 10) the Name, address and phone number of the person preparing the Application;
- 11) the Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
- 12) the Postal address and tax map parcel number of the property;
- 13) a copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.

### **Construction**

- 14) The total cost of construction showing the cost of labor all new and/or replacement components and equipment.

- B. In certain instances the City may deem it appropriate to have an on-site RF survey of the facility performed after the construction or Modification and activation of the Facility, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance. Such study shall reflect the cumulative effects, readings or levels of all active RF equipment at the Site;
- C. In the event the City deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the previous §B of this Section, the City expressly reserves the right to seek the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the City, itself, may be prohibited from determining.

### **D. Attachments to Existing Structures Other Than Towers**

- 1) **Attachments to Buildings**: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.

2) Utility poles and light standards: If attaching to a utility pole or light standard, no equipment may extend more than ten percent (10%) of the existing height beyond the top of the structure and no equipment other than cabling shall be lower than fifteen feet (15') above the ground.

3) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the Applicant can prove that to locate elsewhere less visually on the tank will prohibit or have the effect of prohibiting the provision of service or that to do so would be technologically impracticable.

4) Profile: So as to be the least visually intrusive and create the smallest profile reasonably possible under the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached shall be flush mounted or as near to flush mounted as is possible, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

## **Section 12. Location of Wireless Telecommunications Facilities**

A. No tower or other new support structure taller than 35' shall be permitted in any existing or planned (i.e. platted) residential neighborhood, nor within one-half mile of any existing or planned (i.e. platted) residential neighborhood.

B. If a new telecommunications support structure is proposed to be located within one-half mile of an existing or planned residential neighborhood and is proven by clear and convincing technical information to be a Technical Necessity for the Applicant's service to be provided in the intended service area of the proposed facility, irrespective of the type of zoning, the support structure shall not be taller than ten feet (10') above the tallest obstruction between the proposed support structure and a residential neighborhood.

C. Applicants shall locate, site and erect all Facilities and associated equipment in accordance with the following priorities, in the following order:

1. On existing structures without increasing the dimensions or size of the structure;
2. On existing structures more than one thousand feet from the nearest boundary of the public right-of-way without increasing the height or size of the profile of the Tower or structure by more than is allowed for an Eligible Facility.
3. On existing structures without increasing the height of the structure by more than is Needed, as such Need can be proven by clear and convincing verifiable technical evidence.
4. On properties in areas zoned for Commercial use.
5. In designated Renaissance or Historic Districts in the public right-of-way, but without increasing the height or size of the profile of the support structure, and only if Camouflaged or Stealthed to the satisfaction of the Planning Director.
6. In areas zoned for Residential use, in the public right-of-way, but without increasing the height of the size or dimensions of the support structure, and only if Camouflaged or Stealthed to the satisfaction of the Planning Director.

- D. If the applicant proposes and commits to locate on City-owned property or structures, the City reserves to right to waive the City's Application Fee that would otherwise be paid to the City.
- E. If the proposed site is not proposed for the highest priority listed above, then a detailed narrative and technical explanation shall be provided as regards why a site from all higher priority designations was not selected. The person seeking such an exception must demonstrate to the satisfaction of the Planning Director and the City Council the reason or reasons why a Special Use Permit or Administrative Approval should be granted for the proposed Facility.
- F. Notwithstanding anything else to the contrary, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. The City may also direct that the proposed location be changed to another location that is more in keeping with the goals of this Section and the public interest as determined by the Council and that serves the intent of the Applicant.
- G. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an Application for any of the following reasons:
1. Conflict with safety and safety-related codes and requirements, including but not limited to setback and Fall Zone requirements;
  2. Non-Compliance with zoning or land use regulations;
  3. The placement and location of a Facility or Complex would create an unacceptable risk, or the reasonable possibility of such, to any person or entity for physical or financial damage, or of trespass on private property;
  4. The placement and location of a Facility or Complex would result in a conflict with, compromise in or change in the nature or character of the adjacent and surrounding area, and expressly including but not limited to loss in value as measured over the twelve (12) months preceding the Application having been filed;
  5. Conflicts with the provisions of zoning or land use regulations;
  6. Failure to submit a Complete Application within sixty (60) days after proper notice and opportunity to make the Application Complete.
- H. Notwithstanding anything to the contrary in this Section, for good cause shown such as the ability to utilize one or more shorter, smaller or less intrusive Facilities elsewhere and still accomplish the primary service objective, the City may require the relocation of a proposed site if relocation could result in a less intrusive Facility or Complex singly or in combination with other locations, , including allowing for the fact that relocating the site chosen by the Applicant may require the use of more than one (1) Facility to provide substantially the same service.

### **Section 13. Type and Height of Towers**

- A. No new Towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.
- B. Except in the public rights-of-way and in Residentially zoned areas, the maximum permitted total height of a new tower or other proposed support structure, shall be one hundred feet (100') above pre-construction ground level, unless it can be shown by clear and convincing verifiable technical evidence from a carrier who has committed to use the tower that such height would prohibit or have the effect of prohibiting the provision of service in the intended service area within the City. The maximum permitted height is permissive and is expressly not as-of-right.
- C. As the policy decision has been made that more Facilities of a shorter and less intrusive height is in the public interest, as opposed to fewer but taller support structures, spacing or the distance between Facilities shall be such that the service may be provided without exceeding the maximum permitted height.
- D. If proposed to be taller than the maximum permitted height, the Applicant for a new Tower or support structure shall submit clear and convincing technical evidence by a carrier or wireless service provider that has committed to use the Tower or other support structure justifying the total height requested. If the Applicant chooses to provide evidence in the form of propagation studies, to enable verification of the Need for the requested height such must include all modeling information and support data used to produce the studies at the requested height and at a minimum of ten feet (10') lower. The City or its designee will provide the form that shall be used for providing the modeling information.
- E. The City reserves the right to require a drive test to be conducted under the supervision of the City or its designee to verify the technical Need for what is requested.
- F. At no time shall a Tower or other support structure be of a height that requires lighting by the FAA.
- G. Towers shall be structurally designed to support a minimum of four (4) carriers using functionally equivalent equipment to that used by the first carrier attaching to a Tower or other support structure, so that the height can be increased if Needed.
- H. New structures within Rights-of-Ways – Required Design Characteristics.
  - 1. Wireless installations shall be consistent throughout the city limits and the extraterritorial jurisdiction (ETJ);
  - 2. Wireless installations shall be on non-conductive poles;
  - 3. All antennas shall be undiscernible by an average person from 250 feet away;



4. Wireless installations shall utilize a “concealed” design, including all cabling being inside a hollow pole;
5. All radios, network equipment and batteries will be enclosed in a pedestal cabinet near the pole, or in a pole-mounted cabinet or under a pole-mounted shroud;
6. Cabinets should be consistent in size and no larger than standard DOT streetlight signal cabinets;
7. Unless proven unfeasible by *clear and convincing evidence*, in lieu of installing new poles, any wireless installation in the PROW shall replace a pre-existing distribution pole, secondary pole or streetlight;
8. Wireless installations shall be on poles that meet or exceed current NESC standards and wind and ice loading requirements of ANSI 222 Version G;
9. Any new poles installed shall be “green” and not leach any volatile organic compounds or toxic materials into the ground; and
10. To avoid unsightly rust and corrosion, any new pole installed shall not be metal or reinforced concrete.

#### **Section 14. Visibility and Aesthetics**

- A. No Tower or support structure that is not a building and is constructed after the effective date of this Section shall be tall enough to require lighting by the FAA.
- B. Stealth: All new Facilities, including but not limited to Towers, shall utilize Stealth or Camouflage siting techniques that are acceptable to the City, unless such can be shown to be either Commercially or technologically Impracticable.
- C. Finish/Color: Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section.
- D. Lighting: Notwithstanding the prohibition of lighting, in the event lighting is subsequently required by the FAA, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. For any Facility or Complex for which lighting is required under the FAA’s regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 20 degrees vertical for a distance of at least 1 mile in a level terrain situation. Such device shall be compliant with or not expressly in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.
- E. Retrofitting: In the event a Tower or other support structure that is lighted as of the effective date of this Section is modified, at the time of the first Modification of the Facility the City reserves the right to require that the Tower be retrofitted so as to

comply with the lighting requirements of the preceding §(D) of this Section or be reduced to a height that does not require lighting.

- F. Flush Mounting: Except for omni-directional antennas, all new or replacement antennas, shall be flush-mounted or as close to flush-mounted on the support structure as is functionally possible, unless it can be demonstrated by clear and convincing technical evidence that such has the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), or unless the Applicant can prove that it is technologically impracticable.
- G. Placement on Building: If attached to a building, all antennas shall be mounted on the fascia of the building and camouflaged so as to match the color and, if possible, the texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is reasonably possible given the facts and circumstances involved.

### **Section 15. Security**

All Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- A. All Facilities, including Antennas, Towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be easily climbed or collided with and shall expressly include removing the climbing steps for the first ten feet (10') from the ground on a monopole; and
- B. Transmitters and Telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

### **Section 16. Signage**

Facilities shall contain a sign no larger than four (4) square feet and no smaller than two (2) square feet in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of the same size is also to be installed bearing the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and must be visible from the access point of the Facility or Complex and must identify the equipment owner of the shelter or cabinet. On Tower sites, an FCC registration sign, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

### **Section 17. Setback and Fall Zone**

- A. All proposed Towers and any other proposed Wireless support structures shall be set back from abutting parcels, recorded rights-of-way and roads and streets by the

- greater of the following distances: i) a distance equal to the height of the proposed Tower or support structure plus ten percent (110%) of the height of the Tower or other structure, otherwise known as the Fall Zone; or ii) the existing setback requirement of the underlying zoning district, whichever is greater.
- B. For any Facility located within a fenced compound, any Accessory structure shall be located within the fenced compound as approved in the Special Use Permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The Fall Zone or setback shall be measured from the nearest portion of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines.
  - C. The nearest portion of any private access road leading to a Facility shall be no less than ten (10) feet from the nearest property line.
  - D. There shall be no development of habitable buildings within the Setback area or Fall Zone.

#### **Section 18. Retention of Expert Assistance Cost to be Borne by Applicant**

- A. To prevent the taxpayers from having to bear the cost related to the issue of permitting and regulating a commercially used Wireless Telecommunications Facilities or negotiating agreements to lease or amend or modify a lease for any City-owned property or structure, an Applicant shall pay to the City fees as set forth in the City's Fee Schedule. The fees are intended to cover all reasonable costs of the expert assistance needed by the City in connection with the review of any Application, including both the technical and non- technical review, and the permitting, inspection, construction or Modification requested, any Application pre-approval evaluation requested by the Applicant and any lease negotiations. The payment of the Expert Assistance fees to the City shall precede any work being done that is related to the intended Application or lease, including a pre-application meeting or site visit.
- B. The City may hire any consultant of its choice to assist the City in reviewing and evaluating Applications and negotiating leases, provided the consultant has at least five (5) years of experience working exclusively for the public sector regulating Towers and Wireless Facilities and negotiating leases, and has not had a recommendation successfully legally challenged.
- C. The total amount of the funds needed for expert assistance as set forth in the City's Fee schedule may vary with the scope and complexity of the Application, the completeness of the Application and other information as may be needed to Complete the necessary technical and non-technical reviews, analysis and inspection of any construction or Modification or the amount of time spent responding to an Applicant's arguments as regards its Application or the requirements of this Section.

- D. For a new Tower or support structure or a Substantial Modification, to prevent taxpayer subsidization the expert assistance fee shall be no less than \$7,500.
- E. The City will maintain an accounting record for the expenditure of all such funds.
- F. Pursuant to N.C. 160D-933, if an Application is Amended, or a waiver or relief is requested from any regulations at any time prior to the grant of the Certificate of Completion required under this Ordinance, the City reserves the right to require additional payment for the review and analysis equal to, but not exceeding, the cost created for the City by the Applicant or its Application. Such amount shall be paid to the City prior to the issuance of the Special Use Permit or Administrative Approval or the Certificate of Completion, whichever is procedurally needed next.

### **Section 19. Procedural Requirements for a Granting a Special Use Permit**

- A. When a Special Use Permit is requested, the following procedures shall apply.
- B. When deemed necessary or otherwise in the public interest, as part of the process for any new Towers or Telecommunications Support Structure, the City may require a Neighborhood Meeting with area residents, the Applicant, a representative(s) from the City staff and the City's consultant to discuss the proposed Facility and the effects of such.
- C. The City shall schedule any required public hearing(s) once it finds the Application is Complete and there are no issues of non-compliance or conflict with applicable law, rule or regulation. The City shall not be required to set a date for a hearing if the Application is not Complete or if there are unresolved issues of non-compliance by the Applicant or a party to the Application. The City may, at any stage prior to issuing a Special Use Permit or Administrative Approval, require such additional information as it deems Necessary and that is not expressly prohibited from being required by applicable law as relates to the issue of the siting, construction or Modification of or at a Wireless Telecommunications Facility or Complex.
- D. Upon Council approval, a Special Use Permit shall be issued for a new Tower or Substantially Modified Wireless Support Structure or Substantial Co-location. Notwithstanding the preceding, the Building Permit for a new Tower or other proposed support structure shall not be issued until an Applicant has provided clear and convincing substantiating documentation governing the placement of the first antenna array of a carrier who has committed to use the structure prior to its construction and that carrier has been properly permitted under this Ordinance.

## **Section 20. Action on an Application**

- A. The City will undertake, or have undertaken, a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.
- B. The City may refer any Application or part thereof to any advisory committee or consultant for a non-binding recommendation.
- C. Either after the public hearing if a hearing is required, or after Administrative review for an Eligible facility Application, and after formally considering the Application, the City may i) approve; ii) approve with conditions; or iii) deny for cause a Permit or Administrative Approval. The decision shall be in writing and shall be supported by substantial evidence contained in a written record, which record may be the minutes of any or all official meetings. Throughout the Application and permitting process, the burden of proof for compliance with this Ordinance or the need for a waiver or relief shall always be upon the Applicant.
- D. An Applicant shall not be permitted to refuse to provide information needed to establish the substantial written record required under federal law and applicable case law. Refusal for more than sixty days without agreement by the Council shall result in denial of the Application or the Application shall be deemed abandoned.
- E. Approval Notification: If the City approves the Special Use Permit or Administrative Approval, then the Applicant shall be notified of the approval of its Application, including any conditions, within 30 calendar days of the City's action. The Special Use Permit or Administrative Authorization shall be issued within thirty (30) days after such approval.
- F. Denial Notification: If denied, the Applicant shall be notified of the denial of its Application at the Council Meeting, and in writing within 30 calendar days of the Council's action, which notice shall contain the reason or reasons for the denial.

## **Section 21. Transfer or Assignment**

The extent and parameters of a Special Use Permit or Administrative Authorization for a Facility or Complex shall be as follows:

- A. Such Special Use Permit or Administrative Authorization shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.
- B. A transfer, assignment or other conveyance of the Special Use Permit or Administrative Authorization shall require the written commitment of the proposed

new holder of the Special Use Permit or Administrative Authorization to abide by all applicable laws, rules and regulations, including but not limited to this Ordinance.

## **Section 22. Violations**

- A. Following written notice of violation and an opportunity to cure, any Permit or Administrative Approval granted under this Ordinance may be revoked, canceled, or terminated for a violation of the uncured conditions and provisions of the Special Use Permit or other applicable law, rule, regulation or order, and if warranted the payment of a fine(s) as is permissible.
- B. If not cured within the time frame set forth in the Notice of Violation, a hearing shall be held upon thirty (30) days prior notice to the Applicant citing the violation and the date, time and place of the hearing, which shall be provided by registered mail to the last known address of the holder of the Special Use Permit.
- C. Following the original notice and an opportunity to cure, subsequent or repeated violations of a substantially similar nature shall not require an opportunity to cure prior to the imposition of fines or penalties.
- D. The consideration of the revocation of a Special Use Permit for any Wireless Telecommunications Tower or related facility approved under these special requirements shall occur in the same manner as its original approval. Following the required hearing and notice process, the City Council may revoke the approval if it finds that the use no longer meets the requirements of the ordinance or any conditions of the original approval.

## **Section 23. Removal and Performance Security**

- A. Removal and Performance: The Applicant and the owner of record of any proposed new Tower or other support structure or Complex shall, at its sole cost and expense, be required to execute and file with the City a bond or other form of security that is acceptable to the City as to the type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower or other support structure and with such sureties as are deemed adequate by the City to assure the faithful performance of the terms and conditions of this Section and the conditions of any Special Use Permit issued pursuant to this Section. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or, if abandoned, until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit. The amount of the Bond is, in part, determined by the current cost of demolition, removal and site restoration multiplied by the compounding or cumulative effect of a three percent (3%) annual cost escalator over a thirty (30) year projected useful life of the structure.

- B. Performance: The owner of any equipment attached to a support structure or located in a Complex shall be required to execute and file with the City a performance bond or other form of performance security that is acceptable to the City as to the type of security and the form and manner of execution, in the amount of \$25,000.

#### **Section 24. Reservation of Authority to Inspect Wireless Telecommunications Facilities**

- A. In order to verify that the holder of a Special Use Permit for a Facility or Complex and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, places, constructs and maintains such facility in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this Ordinance, the City or its designee shall have the right to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, Modification and maintenance of such facilities, including, but not limited to, Towers, Antennas, buildings and equipment and connections contained therein, or other structures constructed or located on the permitted site.
- B. Refusal to allow or grant access to the City's representative upon reasonable notice shall be deemed a violation of this ordinance.

#### **Section 25. Liability Insurance**

- A. A holder of a Special Use Permit for a Wireless Telecommunications Support Structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below:
  - 1. Commercial General Liability covering personal injuries, death and property damage: \$2,000,000 per occurrence/\$5,000,000 aggregate; and
  - 2. Automobile Coverage: \$1,000,000.00 per occurrence/ \$3,000,000 aggregate; and
  - 3. A \$5,000,000 Umbrella coverage; and
  - 4. Workers Compensation and Disability: Statutory amounts.
- B. For a Facility or Complex located on City property, the Commercial General Liability insurance policy shall specifically name the City and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with an AM Best's rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.

- E. Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days prior to the expiration of the insurance that such policies are intended to renew or replace.
- F. Before construction of a permitted Wireless Telecommunications Facility or Complex is initiated, but in no case later than fifteen (15) days prior to the grant of the Building Permit, the holder of the Special Use Permit shall deliver to the City a copy of each of the policies or certificates representing the required insurance in the required amounts.
- G. A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the City shall not be deemed to comply with this Section.

## **Section 26. Indemnification**

- A. Any application for Wireless Telecommunication Facilities that is proposed to be located on City property shall contain a signed statement fully and completely indemnifying the City. Such provision shall require the applicant, to the extent permitted by applicable law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, Modification , location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility or Complex. Notwithstanding the preceding, there shall be no claim of indemnification with respect to any act attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.
- B. Notwithstanding the requirements noted in subsection A of this section, an indemnification provision will not be required in those instances where the City itself, or an agency or department of the City, applies for and secures a Special Use Permit for a Wireless Telecommunications Facility or Complex.

## **Section 27. Fines**

- A. In the event of a violation of this Section, or any Special Use Permit or Administrative Approval issued pursuant to this Section, the City may impose and collect, and the holder of the Special Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex shall pay to the City, fines or penalties as set allowed by State law or as otherwise established by the City.



- B. Notwithstanding anything in this Section, the holder of the Special Use Permit or Administrative Approval for a Facility or Complex may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Section or any section of this Ordinance. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit in addition to the payment of fines. The City may also seek injunctive relief to prevent the continued violation of this Section without limiting other remedies available to the City.

### **Section 28. Default and/or Revocation**

If a support structure, Facility or Complex is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Special Use Permit or Administrative Approval, then the City shall notify the holder of the Special Use Permit or Administrative Approval in writing of such violation. A Permit or Administrative Approval holder found to be in violation may be considered in default and subject to fines as permitted under applicable State law, and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Special Use Permit or Administrative Approval shall be subject to revocation.

### **Section 29. Moving or Removal of Co-located Facilities and Equipment**

- A. If attached to an existing tower or other support structure, unless the Council deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's equipment to be relocated from one structure to another without clear and convincing evidence that not to do so would, for technical reasons, prohibit or serve to prohibit the provision of service in the service area served by the existing wireless facility.
- B. If the lease for the existing attachment and use expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed upon i) the provision of clear and convincing evidence satisfactory to the Council of the need to move or relocate the facility; and ii) clear and convincing evidence satisfactory to the Council of the lack of impact on the neighborhood or area of the intended new location. Cancellation or abandonment of a lease by a lessee or refusal to agree to terms of a lease that are not Commercially Impracticable shall not be deemed a permissible reason for relocating.
- C. The owner of any Facility or Complex shall be required to provide a minimum of thirty (30) days written notice to the City Clerk prior to abandoning any Facility or Complex.
- D. Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of Facilities.

1. A Facility or Complex that has been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a cumulative total of one hundred-eighty (180) non-consecutive days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;
  2. A Support Structure, Facility or Complex falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;
  3. A Support Structure or Facility or Complex has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or Administrative Approval, and the Special Permit or Administrative Approval may be revoked.
- E. If the City makes a determination as noted in §D(2) or D (3) of this section, then the City shall notify the holder of the Permit or Administrative Approval for the Facility or Complex that said Facility or Complex is to be removed.
- F. The holder of the Special Use Permit or Administrative Approval, or its successors or assigns, shall dismantle and remove the Facility or Complex and all associated structures and equipment from the site and restore the site to as close to its original condition as is reasonably possible, such restoration being limited only by physical or Commercial Impracticability. Restoration shall be completed within ninety (90) days of the receipt of a written notice from the City. However, if the owner of the property upon which the Facility or Complex is located wishes to retain any access roadway to the Facility or Complex, the owner may do so with the approval of the City.
- G. If a Facility or Complex has not been removed, or substantial progress has not been made to remove the Facility or Complex, within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove or have removed the Facility or Complex at the sole expense of the owner or Special Use Permit holder.
- H. If the City removes, or causes a Facility to be removed, and the owner of the Facility or Complex does not claim and remove it from the site to a lawful location within ten (10) days, the City may take steps to declare the Facility or Complex abandoned, and sell all remaining equipment and materials.
- I. Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the Facility or Complex, but for no more than ninety (90) days duration, during which time a suitable plan for removal, conversion, or re-location of the affected Facility or Complex shall be developed by the holder of the Special Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Special Use Permit or Administrative

Approval and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession and dispose of the affected Facility or Complex in the manner provided in this Section and may utilize the bond in Section 23 of this Ordinance.

### **Section 30. RF Emissions**

- A. As may be deemed appropriate from time to time, to assure the protection of the public health and safety, the City expressly reserves the right under its Police Powers to require that a user of a Facility or Complex or the owner of the Facility or Complex, verify compliance with the FCC's regulations regarding cumulative RF emissions at the Site under the observation of a qualified staff member or the City's consultant, , and that all users of the Facility or Complex cooperate with the party responsible for such testing or verification. Failure to cooperate shall be deemed a violation of this Section and subject the non-cooperating party to all applicable and permissible fines and penalties.
- B. In the event the City deems it necessary to determine compliance with the FCC's Maximum Permitted Exposure (MPE) rules, and in lieu of the procedure contained in the preceding §(A) of this Section, the City expressly reserves the right to request the involvement of the FCC and/or OSHA (Occupational Safety and Health Administration) to determine or verify compliance with federal standards and guidelines that the City, itself, may be prohibited from determining.
- C. With respect to Support Structures other than Towers, if any section or portion of the structure attached to or to be attached to is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape, as appropriate, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger. As deemed warranted by the City at any time, the right of the City is expressly reserved to do itself, or order done, an on-site RF emissions survey.

### **Section 31. Relief**

- A. Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Section shall address and identify such at the Pre-Application meeting. The relief or exemption must be contained in the submitted Application for either a Special Use Permit or Administrative Approval, or in the case of an existing or previously granted Special Use Permit or Administrative Approval, a request for Modification of the Facility or Complex and/or equipment. Such relief may be temporary or permanent, partial or complete.
- B. The burden of proving the need for the requested relief, waiver or exemption shall be solely on the Applicant to prove.

- C. The Applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption.
- D. No relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

### **Section 32. Adherence to State and/or Federal Rules and Regulations**

- A. To the extent that the holder of a Special Use Permit or Administrative Approval for a Wireless Telecommunications Facility or Complex has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit or Administrative Approval for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit or Administrative Approval shall conform the permitted Facility or Complex to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

### **Section 33. Conflict with Other Laws**

Where this Section differs or conflicts with other Local Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, the more stringent shall apply.

### **Section 34. Effective Date**

This Section shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

### **Section 35. Authority**

This Section is enacted pursuant to applicable authority granted by the State and federal government.

**SR 33. Adult Oriented Business**

1. No such business shall locate within 1,000 feet of any other Adult Oriented Business as measured in a straight line from property line to property line.
2. No Adult Oriented Business shall be located within 1,000 feet of a church, public or private elementary or secondary school, library, child day care or nursery school, public park, residentially zoned or residentially used property, or any establishment with an on-premise ABC license, as measured in a straight line from property line to property line.
3. The gross floor area of any Adult Oriented Business shall not exceed 3,000 square feet and all business related activity shall be conducted in a building.
4. Except for an adult motel, no Adult Oriented Business may have sleeping quarters.
5. There shall not be more than 1 Adult Oriented Business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Adult Oriented Business.
6. Except for signs, as may be permitted by Article IX of this Ordinance, no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.
7. No enclosed or underground parking shall be permitted.

**SR 34. Temporary Events and Structures**

The Zoning Administrator may issue a permit for temporary events and structures provided he/she makes the following affirmative determinations:

1. The duration of the event will be for 14 days or less.
2. The location for the event has not had more than 2 temporary events in the past 12 months and no events in the past 30 days.
3. The owner of the property, or his/her agent, has authorized in writing for the event to be held on the property.
4. The application for the permit is made at least 5 working days prior to the event.

5. That ample off-street parking is available.
6. That arrangements are made for suitable garbage disposal and site clean-up.
7. That activities within 1,000 feet of residences not on the site are to be conducted in such a manner as to not create noise that will disturb the occupants of residences.

**SR 35. Restaurants (with Drive-Thru) and Restaurants (no Drive-Thru)**

1. Amplified sound shall not be detectable on adjoining property zoned residential.
2. Provisions for lighting, traffic circulation, buffering, and noise mitigation shall be presented to review with the Special Use Permit application.
3. Any restaurant permitting on premises consumption of alcoholic beverages shall meet the following additional requirements:
  - a. The main entrance shall be oriented away from any adjoining residentially zoned property.
  - b. Parking and parking circulation areas shall be no closer than 20 feet to the property line of any adjoining residentially zoned property.
  - c. A 6 foot opaque fence shall be erected at the property line of adjacent residentially-zoned property.

**SR 36. Hotels and Motels**

1. The lot or parcel shall have direct access to a major or minor thoroughfare.
2. Where the property line of the hotel or motel is adjacent to property in a residential zoning district or a residential use, all hotel and motel buildings shall be located at least 50 feet within the property line of the hotel or motel. Buffer strips as defined in Section 10.5 shall be provided along the property line abutting the residential zoning district or residential use.
3. The isosceles triangle (yard space triangle) method shall be implemented as per Article VII(I). At no point shall any part of the hotel or motel building be less than 50 feet from the property line of the hotel or motel.
4. Any accessory commercial activities such as restaurants and any outdoor recreational activities such as swimming pools shall not be located along the side of the property adjacent to a residential zoning district or residential use.

**SR 37. Traditional Neighborhood Development District (TND)**

The Traditional Neighborhood Development District (TND) is provided for the development of new neighborhoods and the extension or revitalization of existing neighborhoods. These developments shall be structured around an interconnecting network of pedestrian oriented streets and other public spaces. TND's shall offer a mixture of housing types and prices, prominently sited civic or community buildings, and stores/offices/workplaces to provide a balanced mixed-use development. Religious institutions and primary schools are highly encouraged. A TND must have a recognizable center and clearly defined edges. All TND development requests must be accompanied by a Master Plan and must contain all of the requirements and standards as defined in this Section.

The requirements and standards of the Zoning Ordinance shall apply to all TND's except as where otherwise provided. Where requirements and standards of this Section conflict with other requirements of the Zoning Ordinance, the requirements and standards of SR 37 shall apply.

All TND rezoning requests must be supplemented by a Master Plan and shall be reviewed and acted upon by the Planning and Zoning Board and City Council.

The Planning and Zoning Board and City Council may modify any standard or requirement of this Section where in the bodies' opinion equal or better performance will result. In modifying any standard or requirement the evaluation shall be made with regard to the overall performance in carrying out the purposes of this Ordinance. In approving a modification the Planning and Zoning Board and City Council may prescribe such reasonable and appropriate conditions and safeguards as will in its opinion assure performance and the maintenance of the purposes of this Ordinance.

#### Design Standards:

##### 1. Neighborhood Size

- a. There is no set standard size of a TND; generally a TND is ¼ mile from center to edge.
- b. Similar land uses should generally face each other across each street. Dissimilar uses should generally abut at rear lot lines.
- c. Corner lots which front on streets of dissimilar uses shall generally observe the setback established for each fronting street.
- d. All lots share frontage with a street or square.
- e. All buildings, except accessory structures, shall have their main entrance opening onto a street or square.

##### 2. Streets

- a. All streets are to be public and provide access to all tracts and lots.
- b. Alleys are also required to be public.
- c. Major and minor thoroughfares are prohibited from penetrating the TND.
- d. Streets should terminate with other streets within the development and with streets outside the development whenever possible. Alleys should terminate with streets and should not terminate with other alleys.
- e. No block shall be longer than 800 feet in length.
- f. Blocks that are larger than 500 feet in length should construct an alleyway at the midpoint of the block for vehicular access.
- g. Alleys are required for all residential development areas.
- h. A continuous network of rear alleys is recommended for all lots.
- i. Streets are to be organized on a hierarchy based on function, size, capacity, and speed. Streets and right-of-ways are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated and separately detailed on the Master Plan. Long uninterrupted segments of streets should be avoided to prevent the buildup of vehicular speed, disperse traffic flow, and create a sense of enclosure.
- j. Street stub outs are required to provide future connections to adjacent open land.

**Table 6.1 – Street Standards**

<u>Classification</u>	<u>ROW</u>	<u>Pavement*</u>	<u>Parking</u>	<u>Planting Strip</u>	<u>Sidewalk</u>
Collector	48'	30'	1 side	4'	5' res. / 8' non-res.
Sub-Collector	48'	24'	1 side	4'	5' res. / 8' non-res.
Local Residential	42'	24'	Both sides	4'	5' res. / 8' non-res.
Local Commercial	50'	26'	Both sides	4'	5' res. / 8' non-res.
Alleys	24'	16'	None	None	None

\* Pavement widths are measured face of curb to face of curb except for alleys, which are measured from edge of pavement to edge of pavement.

### 3. Sidewalks



- a. Sidewalks are to be located on both sides of the street and a minimum 5 feet wide.
  - b. In front of office and shop areas, sidewalks should be a minimum of 8 feet wide.
4. Utilities
- a. All utilities are to be placed underground. Water and sewer shall be placed along the street and all other utilities shall be placed along the alley. Nothing in this section shall require the placement of off-site electric utilities underground in conformance with the provisions of NCGS 160D-804(h).
  - b. Street lamps shall be installed at acceptable intervals on both sides of the street no further than 100 feet apart.
5. On-Street Parking
- a. On-street parking should be provided for all streets.
  - b. All on-street parking must be parallel to the street. For streets or parts of streets that serve non-residential uses, the parking spaces shall be marked on the pavement.
6. Off-Street Parking
- a. Off-street parking areas should be located at the rear or side of buildings and screened from the public view by fences, hedges, or other approved methods with pedestrian access to the adjacent streets and sidewalks.
  - b. Parking lots or garages for vehicles should not abut street intersections and shall only be accessible by an alley.
  - c. Adequate parking areas will be determined based upon the uses allowed and the density of the development.
7. Landscaping
- a. Trees shall be planted on both sides of all streets within rights-of-way parallel to the street along all streets except alleys.
  - b. Natural features of the landscape should be incorporated into the landscaping plan whenever possible.
  - c. Overstory trees are generally planted at a rate no more than 40 feet apart.
  - d. Understory trees are generally planted at no more than 10 feet apart.

- e. Overstory trees are generally planted in residential areas and along street frontages. Understory trees are generally planted along storefront areas along the street.
- f. With the exception of single-family detached development, landscaping is required for all parking areas, common areas, and pedestrian accesses and should be shown on a Landscaping Plan.
- g. Existing trees may count towards street tree requirements.
- h. All tree species are to be identified on the Landscaping Plan.

\*See Sections 10.13 and 10.14 for lists of trees that are recommended and unacceptable in meeting these requirements.

## 8. Open Space

- a. Open space should be incorporated as a fundamental element of the TND and shall be highly accessible and usable by persons living or working nearby.
- b. A minimum of 30% of the gross area of land is to be allocated as open space. A minimum of ten 10% must be usable open space.
- c. Open space may be dedicated to the public provided the public entity has interest in acquiring the land, or such open space may be held privately.

## 9. Lighting

- a. Exterior lighting shall be designed with the pedestrian in mind. Exterior lighting should be located, angled, shielded, and/or limited in intensity so as to cast no direct light upon adjacent streets or properties.

## 10. HVAC

- a. With the exception of single-family detached housing, HVAC units, when ground mounted, must be located at the rear of the building or along the side where it cannot be seen from the front of the building. When HVAC is roof mounted, sufficient screening is required to screen the unit(s) from the public view.

## 11. Solid Waste Facilities

- a. Solid waste storage facilities, if provided, should not be visible from the street. All facilities must be located on a concrete pad with vehicle apron.
- b. Solid waste storage facilities should be screened from streets and sidewalks and on all sides by an opaque fence, wall, or heavy landscaping.

c. The facility shall not be in any required front, side, or rear yard setback.

Dimensional Standards:

**Table 6.2 – Dimensional Standards**

	<u>Single-Family Detached</u>	<u>Single-Family Attached***</u>	<u>Multi- Family</u>	<u>Mixed Use</u>	<u>Comm.</u>	<u>Civic</u>
Min. Lot Area	3,000	2,000	1,000/d.u.*	N/A	N/A	N/A
Max. Lot Area	10,000	4,000	2,000/d.u.*	N/A	N/A	N/A
Min. Lot Width						
Interior Lot	30	20	40	30	30	30
Corner Lot	40	25	45	35	35	35
Min. Street Frontage	30	20	40	30	30	30
Build Line (Front)	10	5	0-5**	0-5	0	0
Min. Side Setback						
Street Side	10	5	5	0	0	0
Interior Side	5	5	5	0	0	0
Min. Rear Setback	10	10	10	5	5	5
Max. Height	50	50	50	50	50	50

\* Multiply this number by the number of dwelling units to get the size of the lot.

\*\* Stoops may be allowed in front of multi-family structures. If allowed, all stoops must be uniform throughout the block of multi-family.

\*\*\* The dimensional requirements are for the lot on which the dwelling is located.

Additional Dimension Standards are as follows:

1. No structure, building, or use should encroach into the public right-of-way.
2. Porches or stoops, whether covered or uncovered, may encroach into the front setback of single-family and multi-family lots.

3. Alleys are to be kept clear of encroaching buildings, structures, and fences within 5 feet of the alley right-of-way.
4. Accessory structures should not exceed 24 feet in height.
5. All accessory structures and buildings shall be separated from other buildings and structures by a minimum of 5 feet.

Architectural Standards:

A set of architectural drawings shall be submitted with the Master Plan. The drawings should show a sample of buildings and building materials throughout the development.

Use Standards:

1. Single-Family Residential
  - a. Porches are required for all single-family residential structures.
  - b. All accessory structures shall be located to the rear of the dwelling unit.
  - c. Driveway access shall be from an alley.
  - d. Outdoor storage is prohibited.
2. Single-Family Attached Residential
  - a. Driveway access shall be from an alley.
  - b. Each unit must have at least 200 square feet of private rear yard.
  - c. Outdoor storage is prohibited.
3. Multi-Family Residential
  - a. Where dwelling units are provided on the upper stories of buildings, such shall be provided in accordance with the density established in the Dimensional Standards. Dwelling units shall have their own outside door or may share a main common outside door. Exterior staircases are prohibited.
  - b. Driveway access shall be from an alley.
  - c. Outdoor storage is prohibited.
4. Commercial / Office

- a. Where retail uses are provided in multi-story buildings, such uses shall be located on the ground floor. Upper floors may be office use or dwelling units.
  - b. Drive-thru facilities and other facilities that allow people to remain in vehicles while receiving products or services are prohibited.
  - c. Commercial uses shall have a maximum of 6,000 square feet in gross floor area.
  - d. Restaurants should not exceed 5,000 square feet of gross floor area.
  - e. Grocery stores, department stores, hardware stores, and general merchandise stores can exceed the 6,000 square foot maximum, but shall not exceed 15,000 square feet of gross floor area.
5. Civic
- a. Civic uses shall be located on prominent sites in the TND.
  - b. Civic buildings may be located on open space provided no more than 15% of the open space lot is occupied by civic buildings.
6. Accessory Uses
- a. Accessory structures may be used for rental housing on attached and detached home lots.
  - b. One accessory structure is permitted on the same lot as the principal dwelling.
  - c. An accessory dwelling unit may be combined with a garage to form one accessory structure.
  - d. Accessory structures shall not have a separate driveway to serve the structure.

Prohibited Uses:

The following uses are prohibited from locating in a TND:

Animal kennels	Equipment repairs	Recreational vehicle parks
Automotive repair	(light and heavy)	Refrigerator repairs
Automobile sales	Farm machinery sales	Septic tank services
Automobile washing	Farm related enterprises	Shooting ranges
(full service)	Farm supplies	Tire dealers
Boat sales	Flea markets	Truck driving schools
Building supply stores	Fuel oil sales	Truck stops
Contractor's facilities	Mini warehouses	Truck/trailer rental
(w/ open storage)	Mobile home sales	Upholstering

Correctional institutions	Mobile homes	(& furniture refinishing)
Drive-in theater	Motels	Saddle, hunting, boating
	Recreational vehicle sales	(& other similar clubs)

Additionally, all uses designated as Wholesale Trade and Manufacturing/Industrial Uses as listed in Section 6.4 Table of Permitted and Special Uses are prohibited.

Use Changes:

Where use changes occur within a block and/or across street frontages, such uses shall be compatible in use and design with other uses within the same block and across street frontages.

Addressing:

Addresses should be clear and visible from the street for all uses. Addresses should be clear and visible from the alley for all uses except single-family detached.

Phasing:

A TND may be developed in phases if all phases are shown and numbered on the Master Plan. No final plat for a phase shall be approved unless all public facilities and infrastructure (such as streets, alleys, sidewalks, utilities, and street trees) and open space of previous phases have been started, and there is no violation of the Master Plan in any previous phase.

Stormwater Management:

As per state regulations, the developer must ensure that the first 1 inch of stormwater runoff is controlled by a stormwater control structure as provided in the Watershed Protection Ordinance. In addition, TND developments must meet the requirements set forth in the Archdale Stormwater Ordinance, Erosion Control ordinance, and the Flood Damage Prevention Ordinance.

Owner's Association:

An association shall be established to manage stormwater control facilities, maintain common areas, and administer architectural standards.

Signage:

A common signage plan is required for all TND proposals and shall conform to the standards set forth in Section 9.9. The common signage plan will be reviewed by staff and thus can be presented after the TND Master Plan is approved. However, the location of all freestanding signs must be provided on the Master Plan.

See table 6.3 for sign requirements:

**Table 6.3 – Sign Requirements**

<u>Sign Type</u>	<u>Max Area</u>	<u>Max Height</u>	<u>Number</u>
Freestanding			
Entrance	50 sq. ft.	6'	1 at entrance
Commercial*	32 sq. ft.	6'	1 per street frontage
Civic	24 sq. ft.	6'	1 per street frontage
Awning / Canopy**	25% of awning up to 24 sf	top of awning	1 per face
Wall	up to 10% of the building's façade	not above 1st floor	1 per unit***

\* Freestanding signs for commercial use are only allowed on stand alone commercial sites.

\*\* Awning / Canopy signs must have a 9 foot clearance from the sidewalk.

\*\*\* Wall signage copy area can vary as long as it adheres to the standards in Section 9.9 and the total copy area for all signs on any one façade does not exceed 10% of the square footage of the façade.

**SR 38. Bars and Nightclubs**

1. No such establishment shall be located within 500 feet of a church, school, or public park, or 200 feet from residentially zoned property.
2. The main entrance of the building shall be toward a street zoned predominantly for non-residential uses.
3. A minimum 6 foot high opaque fence shall be erected adjacent to the property line of abutting residences.
4. Parking areas related to the establishment shall be located no closer than 30 feet to the property line of abutting residences.
5. No such establishment shall be located within 500 feet of any other bar or nightclub.

### **SR 39. “Big Box” Retail and Shopping Centers**

These standards shall apply to any single tenant commercial building that is 25,000 square feet or larger or any multi-tenant commercial building that is 25,000 square feet or larger. The Planning and Zoning Board and City Council may modify the requirements of this Section if it is determined that the applicant is providing equal or better performance from one of the requirements listed in this Section.

Architectural plans must be submitted that depict the required architectural details found in this Special Requirement.

#### Building Design and Character:

1. When a façade faces a street, 35% must be glass.
2. Façade walls shall be constructed of high quality materials. Examples of acceptable high quality materials are standard brick, utility brick, and stone. These high quality materials shall be the predominant feature on the façade wall. Other materials such as stucco, pre-cast concrete, tilt-up concrete, and shingle siding are allowed on the façade walls as accents to the predominant high quality materials.
3. A maximum of 3 primary colors or a range of complementary hues shall be acceptable. Any accent colors should complement the primary color palette. Acceptable color schemes shall be subtle, neutral, or earth tones. Fluorescent, pastel, and black color schemes are not acceptable.
4. Façade walls that are 100 feet or more in length shall incorporate recesses having a depth of at least 3% of the length of the façade wall. The recesses shall extend for at least 20% of the length of the façade wall.
5. In order to ensure that building entrances are clearly visible and identifiable to pedestrians, façades that have entrances shall have arcades, awnings, canopies, overhangs, windows, and/or other features along no less than 60% of the length of the wall.
6. Flat roofs shall include parapet walls. Additionally, all rooftop mechanical equipment is to be screened from sight from public rights-of-way, private roads, and public sidewalks.

#### Outdoor Storage:



All outdoor storage items shall be completely screened in an enclosed structure around the entire area designated for outdoor storage and shall be a material and color that is an extension and visually consistent with the primary building on the site.

Screening of Trash and Recycling Collection Facilities:

1. All trash and recycling collection facilities shall be completely screened from public view. This screening shall enclose the entire facility and be visually consistent with the primary building on the site.
2. The entrance to the facility shall be gated and a color that is compatible with the enclosure screening material. The gate must be an opaque screening and must be closed at all times other than when the trash and recycling are being collected.

Screening of Utility Equipment:

All on-site utility equipment should be screened from public view to the maximum extent practicable. Utility equipment that is not attached to the building must be screened by vegetation that fully screens the equipment. Utility equipment that is attached to the building shall be painted to match the surface color of the façade.

Pedestrian Facilities:

1. Sidewalks must be provided between streets, parking areas, and buildings to ensure safe, direct, and convenient access to building entrances.
2. Crosswalks shall be constructed of a contrasting material such as pavers and stamped concrete.
3. Pedestrian pathways are required for all uses that are subject to these Special Requirements and shall be constructed in accordance to Section 8.10.
4. Bike racks must be accessible, in a highly visible location, and sited close to the main building entrance.

Signage:

See Article IX Section 9.20(3)(h) for specifics concerning wall signs for Big Box retail and shopping centers. See Article IX, Section 9.20(1)(e) and (f) for specifics concerning freestanding signs for Big Box retail and shopping centers. Along with the requirements of Article IX of the Ordinance, all freestanding signage must be consistent with the architectural character of the building.

**SR 40. Single-Family Attached Housing District (R-AH)**

For the purposes of this Special Requirement, Single-Family Attached Housing shall be defined as a building with 2 or more residential units that are attached side by side.

In approving a Special Use Permit for a Single-Family Attached Housing development, the City Council may modify any standard or requirement of this Section where in the Council's opinion equal or better performance will result. In modifying any standard or requirement the evaluation shall be made with regard to the overall performance in carrying out the purposes of this Ordinance. In approving a modification the Council may prescribe such reasonable and appropriate conditions and safeguards as will in its opinion assure performance and the maintenance of the purposes of this Ordinance.

Definition:

Townhouse. A structure or structures located on a lot with 2 or more dwelling units. Each structure or structures have separate units that are attached by a party wall to 1 or more other dwelling units.

General Requirements:

1. The bulk, scale, and front yard setback of infill development shall be similar to and consistent with the surrounding neighborhood around all adjoining single-family residential property boundaries.
2. The maximum impervious surface coverage area is 50%.
3. All streets within the interior of the development shall be public streets as defined in this Section.
4. The interior streets should be reflective of a single-family detached housing community public street system, as opposed to looped systems which may appear disjointed and confusing.
5. A Traffic Impact Analysis (TIA) will be required for all Single-Family Attached Housing developments that are larger than 50 units.
6. All utilities within the development shall be located underground. Nothing in this section shall require the placement of off-site electric utilities underground in conformance with the provisions of NCGS 160D-804(h).
7. All outdoor lighting should be arranged to reflect away from adjoining property owners. Lighting plans shall be reviewed and endorsed by the local electric utility provider.

Dimensional Requirements:

1. The maximum density within the Single-Family Attached Housing district is 8 units per acre.
2. A 50 foot setback is required from the thoroughfare and shall be landscaped per the requirements of this Section.
3. The front yard setback for interior streets is 15 feet as measured from the public right-of-way.
4. The front yard setback for single structure single-family attached units, such as a duplex or triplex, etc., along an existing public right of way is 35 feet. If a single structure Single-Family Attached Housing development is infill development, the newly constructed structure must conform to the same front setback as existing structures located on either side of the property.
5. The side and rear yard setback is 20 feet as measured from adjoining property lines.
6. The maximum building height is 35 feet or 3 stories.
7. The maximum building length is 150 feet.
8. The minimum separation between buildings shall be 20 feet.

Streets, Parking, and Walkways:

1. Interior streets shall have a minimum 32 feet of public right-of-way.
2. All interior streets must be constructed with curb and gutter.
3. The minimum street width shall be 24 feet as measured from face of curb.
4. Sidewalks shall be located on 1 side of the street for streets that are 24 feet in width. Sidewalks are required on both sides of the street for streets that are wider than 24 feet. The sidewalk must be 5 feet wide.
5. A minimum 2 foot grass strip should be located between the curb and the sidewalk for utility and mailbox placement.
6. Street stub outs to adjoining property shall be provided wherever feasible.
7. If the developer chooses off-street parking as opposed to driveways, the following standards must be met:
  - a. The off-street parking area must be maintained by a private association.

- b. The off-street parking area must be separated from the public right-of-way by a private drive.
  - c. The off-street parking area must be paved. The City does encourage pervious paving materials.
  - d. Walkways must connect the off-street parking area to building units as well as to the sidewalk along the public street.
  - e. Off-street spaces shall be provided in accordance to the following schedule:
 

1 Bedroom Units	1.8 spaces per unit
2 Bedroom Units	2.0 spaces per unit
3 Bedroom Units	2.4 spaces per unit
Additional Bedrooms	0.5 spaces per additional unit
  - f. Dimensional requirements for off-street parking spaces shall be in accordance with Section 8.11 of the Zoning Ordinance.
  - g. No off-street parking area should be located within 50 feet of the thoroughfare.
  - h. No more than 10 parking spaces can be in a continuous row without being separated by a landscaped island as defined in this Section.
  - i. No off-street parking area should be located within the side and rear yard setback or buffer areas.
8. Developments along a thoroughfare that are 100 units or less shall have at least 1 access point to the thoroughfare. Developments along a thoroughfare that are more than 100 units shall have at least 2 access points to the thoroughfare.
  9. Walkways shall be constructed to provide links between residential buildings, off-street parking areas, mail kiosks, solid waste disposal, and adjoining sidewalks and greenways.
  10. A double driveway is required for developments that are along the thoroughfare. The entire entranceway shall be no more than 80 feet wide. The entranceway shall include a minimum 110 square feet landscaped median consisting of grass, mulch, and shrubs. A monument sign may also be located in this landscaped area as per this Section. For developments of 20 or more units, three traffic lanes must be provided at the entrance: 1 for entry and 2 for exits.

Design Standards:

1. All developments shall provide a detailed design elevation for review.

2. To provide for variation and distinction of each individual unit, the following standards are required:
  - a. Building designs and/or color schemes that create variety and do not look monotonous if replicated throughout the development.
  - b. Offsets in the building face and roof a minimum of 12 inches.
  - c. A minimum of 2 types of high quality building materials on each unit and/or a different color scheme for each unit.
3. Garages are encouraged to be designed so that they are not the predominant feature on the front of the building.
4. Front porches are encouraged on the front of all units.
5. All rooftop equipment shall be screened from view of the street.
6. The façade of accessory structures should be similar to the primary structure.

#### Open Space Standards:

Dedicated open space shall be provided based on the following schedule:

1. Developments of less than 100 units – minimum 10% of the development excluding required setbacks and buffer areas.
2. Developments of more than 100 units – minimum 1 acre for each 100 units excluding required setbacks and buffer areas.
3. The open space should be dedicated to a private association.
4. In any case where the City Council agrees to accept open space from the developer, the dedication shall count to serve this open space requirement assuming it meets the minimum requirements from paragraph 1 and 2.

#### Landscaping Standards:

1. Thoroughfare Planting Yard
  - a. A berm is required along the entire yard that fronts the thoroughfare. The berm must be a minimum of 3 feet high.
  - b. The yard shall contain 3 canopy trees and 7 understory trees per 100 linear feet of planting yard. The yard shall also contain 25 shrubs per 100 linear feet of planting yard. The terms canopy tree, understory tree, and shrub are defined in

Section 10.2. The city's Recommended Tree Species List for planting is found in Section 10.13.

- c. Any area in the thoroughfare yard not planted with trees or shrubs should be grassed or mulched.

## 2. Interior Street Planting Yard

- a. 1 canopy tree shall be planted every 50 feet along the interior streets and adjacent to the public right-of-way.

## 3. Buffer Yard from Adjoining Property

Whenever 2 or more multi-family buildings or 5 or more multi-family residential dwelling units are proposed to be located directly abutting property which is used for single-family residential purposes or which is zoned for single-family residential use, the multi-family use shall provide screening in accordance with the following standards:

- a. A minimum 20 foot perpetually maintained natural or planted buffer yard shall be provided along all property lines directly abutting a single-family used or zoned lot.
- b. The buffer yard shall contain 3 canopy trees and 5 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper when planted. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper when planted.
- c. The buffer yard shall also contain 15 shrubs per 100 linear feet of buffer yard.
- d. All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch of a minimum depth of 3 inches.

Protection of existing trees that are proven to be healthy and appropriate for screening is mandatory in required buffer strips and is to be used as credit toward a portion of the buffer required by this Section.

Landscaped islands in off-street parking areas shall have an unobstructed width dimension of not less than 7½ feet and shall not be less than 110 square feet in area. Each landscaped island shall be protected by curbing or parking barriers and contain at least 1 canopy tree.

Alternative Screening Methods as defined under Section 10.6 may be used if it is determined by the Zoning Administrator that the application of the landscaping standards in this Ordinance are inappropriate or ineffective.

### Solid Waste Facilities:

In the case where curb-side pickup of solid waste is not feasible, the developer shall install solid waste storage facilities consisting of a minimum 10 foot by 20 foot concrete pad with vehicle apron and a minimum 6 foot high opaque fence on the sides and rear of the facility with a gated front. 2 bollards are also required to protect the fence. The facility shall not be in any required front setback from the thoroughfare, or side or rear yard setback from adjoining property.

### Mail Kiosks:

When mail kiosks are used as opposed to a mailbox at each unit, the kiosk shall not be located in any front setback from the thoroughfare, or side or rear setback from adjoining property. The Postmaster shall have the authority to review and alter the placement of any kiosk to suit the needs of the United States Post Office.

### Sign Standards:

1 monument-type ground sign shall be provided for each entranceway from a thoroughfare. The maximum height shall be 6 feet above ground level (prior to any berm construction). The maximum copy area shall be 32 square feet. Signs may be located in the front planting yard.

### Stormwater Standards:

Requirements for control of stormwater runoff are found in Archdale's Stormwater Ordinance.

## **SR 41. Wind and Solar Energy Systems**

Wind and solar energy are clean and renewable energy sources. The purpose of this Ordinance is to provide for the regulation of the construction and operation of Wind and Solar Energy Facilities in the City of Archdale, subject to reasonable conditions that will protect the environment, public health, safety, and welfare. Zoning permits are required for all energy systems. Additionally, a Special Use Permit is required for all large energy systems.

### Definitions:

**Accessory Solar Energy System:** Any solar collector or other solar energy device, or any structural design feature, mounted on a building or on the ground, and whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating or for electricity.

**Applicant:** The person or entity filing an application under this Ordinance.

**Environmental Assessment:** A detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

**Facility Operator:** The entity responsible for the day-to-day operation and maintenance of the Energy Facility.

**Facility Owner:** The entity or entities having controlling or majority equity interest in the Energy Facility, including their respective successors and assigns.

**Participating Landowner:** A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Energy Facility.

**Public Road:** A full passage right-of-way.

**Solar Energy:** Means radiant energy (direct, diffuse, and reflected) received from the sun.

**Solar Energy System, Large:** A solar collection system that generates electricity from sunlight to be sold-for-profit to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to a number of properties and consumers.

**Solar Energy System, Roof-Mounted:** A solar collection system that is installed upon or is part of the roof of a building or structure located on the subject property. Systems integrated as awnings or attached to the roofs of porches, sheds, carports, and covered parking structures also fall under this distinction.

**Solar Energy System, Small:** An accessory solar collection system that generates energy from sunlight for direct consumption on the subject property and/or for inter-connection to the electric utility power grid to offset energy use on the subject property, in accordance with current state net-metering laws.

**Shadow Flicker:** The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

**Wind Power:** The conversion of wind energy into another form of energy.

**Wind Energy System, Large:** A wind energy conversion system consisting of 1 or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of more than 20kW.

**Wind Energy System, Small:** An accessory wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20kW. Multiple systems located on agricultural farms as defined in the City of Archdale Zoning Ordinance are also considered small wind energy systems even if the aggregate kW exceeds 20, provided the primary intent is to generate power to reduce on-site consumption.



Wind Energy System, Small Roof-Mounted: Any small wind energy system designed to be mounted on the roof of a structure. There must be a 1 foot clearance between the turbine and the roof of the structure.

Wind Turbine or Windmill: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires, and pad transformer.

Wind Turbine Height: The height above grade to the tip of the turbine blade when it reaches its highest elevation.

### I. Small Wind Energy Systems:

Small wind energy systems shall be a permitted use by right in all zoning districts, subject to the requirements set forth in this Section. Small wind energy systems include both pole and roof mounted systems.

1. Wind Turbine Height: Height shall be limited to 135 feet for tower mounted turbines. The height of roof mounted turbine is measured from the ground level of the structure from which it is mounted. The maximum allowable heights for a roof mounted wind turbine shall be 15 feet above maximum building height allowed in the zoning district.
2. Setback: The base of the wind turbine shall not be closer to surrounding property lines than the height of the wind turbine. No wind turbine shall be located closer than 1.5 times the height of the wind turbine to a public road. In addition, no wind turbine shall be located closer to an inhabited structure on adjacent property than 1.5 times the height of the wind turbine.
3. Permit Requirements: A zoning and building permit shall be required and zoning permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower certified by a licensed professional engineer, which includes standards for ice/wind loading, shall also be submitted. This analysis may be supplied by the manufacturer.
4. Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-applicability shall be submitted with the application.
5. Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

6. Appearance: Small wind energy towers shall maintain a galvanized finish or be painted to conform the tower color to the surrounding environment to reduce visual obtrusiveness. No wind tower should have any signage, or writing or pictures, that may be construed as advertising placed on it at any time. In addition no flags, streamers, or decorative items may be attached to the wind energy system tower or turbine.
7. Removal of Defective or Abandoned Wind Energy Systems: Any wind energy system that is not functional shall be repaired by the owner or removed. In the event that the City becomes aware of any wind energy system that is not operated for a continuous period of 6 months, the City will notify the landowner by registered mail and provide 45 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the City deems the timetable for corrective action as unreasonable, the City shall notify the landowner and such landowner shall remove the turbine within 120 days of receipt of said notice.

## II. Large Wind Energy Systems:

Large wind energy systems shall be a use permitted in the R-40, M-1, and M-2 zoning districts with a Special Use Permit. Large wind energy systems are subject to a review and to the requirements of this Section II as well as Section I, except that the height limits in Section I(1) may be increased if approved as necessary by the City Council.

1. Permit Application: A person seeking a site permit for a wind turbine over 20 kW shall file an application with the Archdale City Planning and Zoning Board for review as follows.

An applicant for a site permit must provide the following background information regarding the applicant:

- a. A letter of transmittal signed by an authorized representative or agent of the applicant.
- b. The complete name, address, telephone number, and e-mail address of the applicant and any authorized representative.
- c. The signature of the person who prepared the application, if prepared by an agent or consultant of the applicant.
- d. The role of the permit applicant in the construction and operation of the wind power project.
- e. The identity of any other wind power project located in the State in which the applicant, or a principal of the applicant, has an ownership or other financial interest; the operator of the wind power project if different from the applicant;

and the name of the person or persons to be the permittee if a site permit is issued.

2. The applicant shall describe in the application how the proposed wind power project furthers State policy to site such projects in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.
3. The permit applicant shall include the following information about the site proposed for the wind power project and any associated facilities:
  - a. The surveyed boundaries of the site proposed for the wind power project.
  - b. The location of other wind turbines in the general area of the proposed wind power project.
  - c. The applicant's land rights within the boundaries of the proposed site.
4. The permit applicant shall provide the following information regarding the design of the proposed wind power project:
  - a. A project layout, prepared by a design professional, including a map showing the proposed location of the turbine(s).
  - b. A description of the turbine(s) and tower(s) and other equipment proposed to be used in the wind power project, including the name of the manufacturers of the equipment.
  - c. A description of the project electrical system, including transformers at both low voltage and medium voltage.
  - d. A description and location of associated facilities.
5. An applicant for a site permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:
  - a. Demographics, including people, homes, and businesses.
  - b. Noise.
  - c. Visual Impacts.
  - d. Public services and infrastructure.
  - e. Cultural and archaeological impacts.

- f. Recreational resources.
  - g. Public health and safety, including air traffic, electromagnetic fields, and security and traffic.
  - h. Hazardous materials.
  - i. Land-based economics, including agriculture, forestry, and mining.
  - j. Tourism and community benefits.
  - k. Topography.
  - l. Soils.
  - m. Geologic and groundwater resources.
  - n. Surface water and floodplain resources.
  - o. Wetlands.
  - p. Vegetation.
  - q. Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site.
  - r. Wildlife.
  - s. Rare and unique natural resources.
6. The permit applicant shall describe all of the following:
- a. The manner in which the wind power project, including associated facilities, will be constructed.
  - b. How the wind power project will be operated and maintained after construction, including a maintenance schedule.
  - c. The anticipated schedule for completion of the wind power project, and shall identify the expected date of commercial operation.
  - d. The energy expected to be generated by the wind power project.

7. The permit applicant shall include the following information regarding decommissioning of the wind power project and restoring the site:
  - a. The anticipated life of the wind power project.
  - b. The estimated decommissioning costs in current dollars.
  - c. The method and schedule for updating the costs of decommissioning and restoration.
  - d. The method of ensuring that funds will be available for decommissioning and restoration.
  - e. The anticipated manner in which the wind power project will be decommissioned and the site restored.
8. The permit applicant shall include in the application a list of all known federal, state, and local agencies or authorities, and titles of the permits they issue that are required for the proposed wind power project.

### III. Small Solar Energy Systems:

Small solar energy systems shall be permitted as an accessory use by right in all zoning districts, subject to the requirements set forth in this Section. Solar energy systems include ground, pole, and roof mounted systems.

1. Energy: The energy generated by the small solar energy system shall be used for direct consumption on the subject property and/or for inter-connection to the electric utility power grid to off-set energy use on the subject property, in accordance with current state net-metering laws.
2. The construction of the small solar energy system shall be in accordance with an approved building permit application. If the small solar energy system is to be inter-connected to the local utility power grid, a copy of the conditional approval from the local utility must be provided prior to or at the time of application for the required building permit.
3. Setback: Ground- or pole-mounted solar energy systems shall be placed so that no individual component of the solar system may extend into the side or rear setback. Solar energy systems may be placed no closer than 10 feet from the rear lot line (except on double frontage lots as defined in Section 3.10 of this Ordinance) and 10 feet from side lot lines. Ground- or pole-mounted solar energy system shall only be allowed in rear yards.
4. Ground-Mounted Small Solar Energy Systems:

- a. The total height of the solar energy system, including any mounts shall not exceed 12 feet above the ground when orientated at maximum tilt. If the solar energy system is intended to provide power for outdoor lighting, the system shall not extend higher than the permitted height of the structure to which it is attached and/or inter-connected to.
  - b. Shall be mounted onto a pole, rack, or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions.
  - c. Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.
  - d. Any glare generated by the system must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.
  - e. It shall be demonstrated that the small solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state designated scenic road, or historic resources.
  - f. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
  - g. No ground-mounted small solar energy systems shall be affixed to a block wall or fence.
5. Roof-Mounted Small Solar Energy Systems:
- a. Roof-mounted small solar energy systems shall include integrated solar shingles, tiles, or panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush or frame-mounted solar panels attached to the roof surface.
  - b. Separate flush or frame-mounted small solar energy systems installed on the roof of a building or structure shall not:
    - 1. project vertically above the peak of the sloped roof to which it is attached; or
    - 2. project vertically more than 5 feet above a flat roof installation.
  - c. The combined height of a roof-mounted system and the principal structure to which it is attached may not exceed the maximum height for the relative zone, in which it is located, as described in article VII.

- d. It shall be demonstrated that the placement of the system shall not adversely affect safe access to the roof, pathways to specific areas of the roof, and safe egress from the roof.
  - e. Any glare generated by the system must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.
6. Appearance:
- a. The small solar energy system shall remain painted or finished the color or finish that was originally applied by the manufacturer.
  - b. All signs, other than the manufacturer's identification, installer's identification, appropriate warning signs, or owner identification on a small solar energy system shall be prohibited. Not more than 1 manufacturer label bonded to or painted upon the solar energy system shall be permitted.
7. Code Compliance: A small solar energy system shall comply with all applicable construction and electrical codes.
8. All obsolete or unused systems shall be removed within 12 months of cessation of operations without cost to the City. Reusable components are to be recycled whenever possible.
9. Violations: Subsequent to the effective date of this Ordinance, it is unlawful for any person to construct, install, or operate a small solar energy system that is not in compliance with this Article or with any condition contained in a building permit issued pursuant to this Article.

#### IV. Large Solar Energy Systems:

Large solar energy systems shall be a use permitted in the R-40, M-1, and M-2 zoning districts with a Special Use Permit. Large solar energy systems are subject to a review and to the requirements set forth in this Section.

1. Energy: The electricity generated by the large solar energy system shall be sold for profit to a wholesale electricity market through a regional transmission organization and an inter-connection with the local utility power grid and/or for direct distribution to a number of properties and consumers.
2. The construction of the large solar energy system shall be in accordance with an approved building permit application. If the large solar energy system is to be inter-connected to the local utility power grid, a copy of the conditional approval from the local utility must be provided prior to or at the time of application for the required building permit.

3. Setback: Ground-mounted large solar energy systems shall be setback a minimum of 100 feet from any property line.

4. Ground-Mounted Large Solar Systems:

- a. The total height of the solar energy system, including any mounts, shall not exceed 25 feet above the ground when orientated at maximum tilt.
- b. Shall be mounted onto a pole, rack, or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions.
- c. Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.
- d. Shall be fully screened from adjoining properties and adjacent roads by a buffer yard. The location of this buffer yard must take shading into account so it does not affect the system's efficiency.
- e. Any glare generated by the system must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.
- f. It shall be demonstrated that the large solar energy system shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state designated scenic road, or historic resources.
- g. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
- h. No ground-mounted large solar energy systems shall be affixed to a block wall or fence.

5. Roof-Mounted Large Solar Energy Systems:

- a. Roof-Mounted large solar energy systems shall include integrated solar shingles, tiles, or panels as the surface layer of the roof structure with no additional apparent change in relief or projection (the preferred installation), or separate flush or frame-mounted solar panels attached to the roof surface.
- b. Separate flush or frame-mounted large solar energy systems installed on the roof of a building or structure shall not:



1. project vertically above the peak of the sloped roof to which it is attached; or
  2. project vertically more than 5 feet above a flat roof installation.
  - c. The combined height of a roof-mounted system and the principal structure to which it is attached may not exceed the maximum height for the relative zone, in which it is located, as described in article VII.
  - d. It shall be demonstrated that the placement of the system shall not adversely affect safe access to the roof, pathways to specific areas of the roof, and safe egress from the roof.
  - e. Any glare generated by the system must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.
6. Appearance:
- a. The large solar energy system shall remain painted or finished the color or finish that was originally applied by the manufacturer.
  - b. All signs, other than the manufacturer's identification, installer's identification, appropriate warning signs, or owner identification on a large solar energy system shall be prohibited. Not more than 1 manufacturer label bonded to or painted upon the solar energy system shall be permitted.
7. Code Compliance: A large solar energy system shall comply with all applicable construction and electrical codes.
8. All obsolete or unused systems shall be removed within 12 months of cessation of operations without cost to the City. Reusable components are to be recycled whenever possible.
9. Violations: Subsequent to the effective date of this Ordinance, it is unlawful for any person to construct, install, or operate a large solar energy system that is not in compliance with this Article or with any condition contained in a building permit issued pursuant to this Article.

## **SR 42. Electronic Gaming Operations**

**Definition:** The provisions of this Section shall apply to any Electronic Gaming Operation, as defined herein.

**“ELECTRONIC GAMING OPERATIONS”** Any for-profit business enterprise, where as a principal use persons use electronic machines, including but not limited to computers and gaming terminals, to conduct games, whether games of odds or chance or games of skill or

dexterity, where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played, by predetermined odds, or by any other method. Electronic Gaming Operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines, or cybercafés. This definition does not include any lottery approved by the State of North Carolina.

**Purpose:** It is hereby found and declared that the reasonable regulation of Electronic Gaming Operations is necessary to protect the health, safety, and welfare of the people of the City of Archdale, and the provisions herein are ordained for the purpose of regulating and restricting certain activities of establishments engaged in Electronic Gaming Operations.

**Unlawful Electronic Gaming Operations Prohibited:** Electronic Gaming Operations that violate any provision of Article 37 of Chapter 14 of the North Carolina General Statutes are prohibited within the City of Archdale.

**Requirements For Electronic Gaming Operations As A Permitted Use:** As to those Electronic Gaming Operations that do not violate any provision of Article 37 of Chapter 14 of the North Carolina General Statutes, in addition to the requirements of any other City ordinance that might apply, the following standards shall also be applied to all requests for approval of such Electronic Gaming Operations within the City of Archdale:

1. Electronic Gaming Operations are not allowed as an accessory use.
2. AGE RESTRICTIONS: No person or entity engaged in an Electronic Gaming Operation shall allow, permit, or condone the presence of any person under the age of 18 on the premises of any Electronic Gaming Operation.
3. ALLOWED LOCATIONS: Electronic Gaming Operations shall be in a free-standing, single-occupancy building located at a minimum distance of One thousand (1,000) feet, measured in a straight line in any direction from the closest point of the building or parking lot of the proposed Electronic Gaming Operation to a property line of any of the following:
  - (a) A residence, a parcel of real property in residential use, or any residentially zoned lot line.
  - (b) A place of worship or other religious institution.
  - (c) A day care center or facility.
  - (d) A public or private school.
  - (e) A public park, playground, or library.
  - (f) Another Electronic Gaming Operation.
4. HOURS OF OPERATION: No Electronic Gaming Operation as defined herein shall engage in business before 8:00 a.m. or after 12:00 a.m.

5. MAXIMUM NUMBER: The maximum number of terminals, computers, machines, or gaming stations within an Electronic Gaming Operation is twenty (20).
6. PARKING: Electronic Gaming Operations shall provide and maintain no less than one (1) parking space per every terminal, computer, machine, or gaming station within such Electronic Gaming Operation, plus one (1) parking space per every employee of such Electronic Gaming Operation.
7. OPERATIONS: No alcohol may be served or consumed on any premises occupied by an Electronic Gaming Operation.

**SR 43. Yard Sales**

“Yard sale” shall mean a sale from a residence or residential property of personal property which has been owned or used by a person residing on or owning the premises where the sale is conducted. In addition, yard sales may be held on property owned by religious institutions and other civic, non-profit organizations. The term “yard sale” shall include all sales entitled “garage sale”, “lawn sale”, “attic sale”, “moving sale”, “rummage sale”, etc.

1. Yard Sale Permit Required: It shall be unlawful for a person to conduct a yard sale in the City without first obtaining from the City a permit to do so, to be known as a “Yard Sale Permit”.
2. Issuance of Permit:
  - a. A permit shall be issued for a fee of \$5.00 to conduct a yard sale on the premises no more than twice in a 12 month period; provided, however, a permit for a third yard sale shall be issued if satisfactory proof of a bona fide change in ownership of real property.
  - b. A permit shall be issued for the conduct of a yard sale for 2 consecutive days during daylight hours only.
  - c. Each permit issued under this Ordinance must be prominently displayed on the premises upon which the yard sale is conducted throughout the entire period of the permitted sale.
3. Signs:
  - a. Directional signs may not be placed until a yard sale permit has been issued.
  - b. Signs may not be attached to utility poles, public signs, or other public utility structures.
  - c. No signs may be placed in the public right-of-way or in any location that may impede the vision of passing motorists.

- d. All signs shall be removed at the conclusion of the yard sale event.
4. Exceptions:
    - a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
    - b. Persons acting in accordance with their powers and duties as public officials.
    - c. Any person conducting an incidental sale or one or two separate items which such sale is not part of a general sale or a number of items of personal property.
  5. Penalty: Violation of this Section is subject to the penalties found in Article XVI, Sections 16.8 and 16.9.

**SR 44. Outdoor Adventure Recreation**

1. The impact on the natural environment must be kept to a minimum for approved outdoor adventure recreation uses.
2. Only areas designated for buildings, parking, and accompanying infrastructure shall be allowed to be disturbed for development purposes.
3. Developed areas of the property shall adhere to the buffering and screening requirements in Section 10.5 (Commercial/Office Uses) when adjoining a residential use or residentially zoned property.
4. A paved entrance is required for any access from a public road. The paved entrance must be a minimum of 30 feet within the property line.

**SR 45. Outdoor Entertainment**

1. The property shall adhere to the buffering and screening requirements in Section 10.5 (Commercial/Office Uses) when adjoining a residential use or residentially zoned property.
2. All buildings, including the stage or screen, shall be set back at minimum 100' from the property line.
3. Outdoor Entertainment shall adhere to the regulation of noise found in Section 5.3 of the City Code of Ordinances. The level of any music and other noise created by the gathering shall be directed away from any adjoining residence.

4. Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected, and that no direct light is cast upon adjacent properties and roadways.
5. Ingress and egress from a public street shall be so designed and constructed as to provide safe traffic movement and shall be accessed only from collectors or arterials and not from residential streets.
6. A paved entrance is required for any access from a public road. The paved entrance must be a minimum of 30' within the property line.

**SR 46. Live/Work Units**

Definition: "Live/Work Unit" means a structure or portion of a structure that combines a commercial activity allowed in the zoning district with a residential living space for the owner of the commercial business, or the owner's employee, and that person's household. The residential use of the property is secondary or accessory to the primary use as a place of work and must exclusively be located on a separate floor from any commercial activity, and may not be located at street level, either inside or outside of the structure.

1. Live/Work Units are permitted in all commercial zones (HB, B-1, B-2, OI).
2. Any commercial use permitted in the zoning district applicable to the property is permitted in the Live/Work Unit.
3. A Zoning Compliance Certificate is required before any Live/Work Unit may be occupied. At least one resident in each Live/Work Unit shall maintain at all times a valid Zoning Compliance Certificate.