

Section 7 Supplementary Requirements

7.1 Supplementary Requirements for Specific Uses

7.1.1 Application

No permitted use, minor special use, or major special use shall be operated or designed so that a conflict occurs with the standards established in this Section. In cases where the use is a minor or major special use, standard approval procedures found in this ordinance shall apply.

7.1.2 Existing Structure

If any existing building or other structure for a use listed in this Section is extended or enlarged or reconstructed, the supplementary requirements shall apply to such extended, enlarged or reconstructed portions.

7.1.3 Violations

Violations of these requirements shall be deemed violations of this ordinance. The provisions of Section 20 regarding violations shall apply.

7.1.4 Coordination with Major and Minor Special Uses

When a use is listed as a major or minor special use in the applicable zoning district, standard approval procedures for major and minor uses shall apply in addition to the supplementary requirements of this Section.

7.1.5 Supplementary Requirements for Certain Uses

When the following uses are allowed by the zoning district, they shall be subject to the additional requirements specified in this Section.

7.2 Accessory Buildings and Structures

Accessory buildings and structures, not including accessory dwellings (See Section 7.3 (1)), shall be subject to the following additional requirements:

1. The building shall not be located in any front yard. The only exception shall be when the lot is over 2 acres in size, in which case the building may be located in front but not in the required front yard.
2. The building shall not be located in any required side yard space, and accessory buildings in the Residential 5 (R-5) shall be no closer than 3 feet to any property line. Accessory buildings in the remaining zones shall be no closer than 5 feet to any property line. Any accessory buildings located less than 5 feet from the property line shall construct a wall meeting North Carolina Building Code Standards for fire obstruction on that side of the building facing the property line.
3. Accessory buildings in the rear or side yards of corner lots whose rear or side yards are adjacent to a front yard of the adjacent lot, shall maintain a setback equivalent to the required front yard setback of the adjacent lot and outside the required rear yard of the lot where the accessory building is to locate.
4. In residential areas the height of an accessory building shall not exceed 15 feet when the building is within 10 feet of the property line.
5. No accessory building shall be utilized unless the primary structure is also utilized.
6. If an accessory building is structurally attached to the primary structure by a wall or roof, it shall be deemed a part of the primary structure.

7.3 Accessory Dwellings

When allowed, accessory dwellings shall be subject to the following additional requirements:

1. The accessory dwelling is located within the primary dwelling or meets the locational and dimensional requirements for accessory structures.
2. Only one accessory dwelling is allowed. The primary dwelling must be located on a lot which meets the minimum area requirements of the zoning district, but need not meet the minimum dimensional requirements for the zoning district.
3. The owner of the property must occupy either the primary or the accessory dwelling.
4. The heated floor area of the accessory dwelling shall not be less than 400 square feet.
5. In addition to the requirement of a minimum floor area of 400 square feet, the accessory dwelling shall not exceed a maximum of 30% of the floor area of the primary dwelling.

Interpretation: Examples of accessory dwelling square footage are:

- a. A 1,333 square foot primary dwelling is needed for a 400 square foot accessory dwelling. (30% of 1,333 = 400 square feet.
 - b. A 2,000 square foot primary dwelling is needed for a 600 square foot accessory dwelling.
6. The property shall retain a single family appearance from the street.
 7. One additional off-street parking space shall be provided. The space may not be located in the required yard spaces.
 8. Accessory dwellings in the RD district may exceed the maximum floor area of 30% of the floor area of the primary dwelling on lots of 4 acres or larger. In such cases, the square footage of the accessory dwelling may be up to 50% of the square footage of the primary dwelling. All other requirements regarding accessory dwellings shall apply.

7.4 Adult Establishments

When allowed, adult establishments shall be subject to the following additional requirements:

City Jurisdiction:

1. No property associated with the use shall be closer than 1,000 feet to a property line of a residential zone. No building or structure associated with the use shall be closer than 50 feet to a property line of an adjacent non-residential zone or use.
2. No property associated with the use shall be closer than 1,000 feet to a pre-existing place of worship, state licensed day care facility, public or private school, public park, or library.
3. The minimum straight line distance between the property lines of two adult establishments shall be 2,000 feet. No two adult establishments shall be located within the same building.
4. Measurements shall be made from the property line of the proposed adult establishment to the property line or zoning district line as noted above, and from the property line of any separate parking lots used for the adult establishment.
5. Proposed adult establishments which, at the time of adoption of this section, have an approved and continuously valid Site Plan, Use Permit, building permit or zoning vested right may be constructed in accordance with the approved plan and in accordance with the standards in effect at the time of approval.

County Jurisdiction:

When allowed, adult establishments shall be subject to the following additional requirements:

1. No property associated with the use shall be closer than 1,000 feet to a property line of a residential zone. No building or structure associated with the use shall be closer than 50 feet to a property line of an adjacent non-residential zone or use.
2. No property associated with the use shall be permitted within 1,500 feet of a pre-existing place of worship, day care facility, public or private school, park or library.
3. The minimum straight line distance between the property lines of two adult establishments shall be 2,000 feet.
4. Measurements shall be made from the property line of the proposed adult establishment to the property line or zoning district line as noted above, and from the property line of any separate parking lots used for the adult establishment.

7.5 Amateur Wireless Facility

Non-commercial, amateur, ham radio or citizen's band antenna supporting structures, antennas or antenna arrays with an overall height less than 50 feet in Residential districts or with an overall height less than 70 feet in all other zoning districts may be developed in accordance with Standards for Accessory Buildings and Structures in this Section and the following additional requirements. Said facility shall be accessory to a legal, principal use on site (e.g. residence).

1. Structures, including towers, shall meet the setback requirements for accessory uses for the zoning district in which the proposed facility shall be located, but in all events shall be at least 100% of the tower height.
2. Applicant shall commit in writing that the facility will be erected in accordance with manufacturer's recommendations.

7.6 Bed and Breakfast Inns

When allowed, bed and breakfast inns shall be subject to the following additional requirements:

1. An approved floor plan shall be kept on file with the Inspections Department.
2. The owner shall reside on site. An owner shall be an individual with a 25% or greater interest in the inn.
3. The use is considered a commercial activity and requires site plan approval.
4. Parking shall not be detrimental to nearby properties due to excess noise, odor, glare or other factors.
5. Nothing which contributes to the historic nature of the neighborhood in which the bed and breakfast inn is located may be removed to provide additional space for the inn or parking for the inn.
6. There shall be no other bed and breakfast inn within 400 feet of the property. This distance requirement may be reduced by the approving authority with a determination that public health, safety and welfare shall be preserved. Inside the corporate limits, the inn shall be located only in an historically significant structure.
7. There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
8. No interior modifications shall be injurious to the historic character of the structure, including but not limited to, floors, woodwork, chair rails, stairways, fireplaces, windows, doors, cornices, festoons, moldings, and light fixtures.
9. Breakfast shall be served on the premises only for guests and employees of the inn. Rooms may not be equipped with cooking facilities. No other meals shall be provided on the premises.
10. Parking shall not be allowed in any front yard.
11. Signs shall conform to the requirements of the Sign Section of this ordinance.

7.7 Boarding Houses, Rooming Houses, and Commercial Dorms

When allowed, boarding houses, rooming houses, and commercial dorms shall be subject to the following additional requirements:

1. A site plan is required for boarding houses, rooming houses, and commercial dorms.
2. The site plan shall include as an additional requirement an approved floor plan showing the number of rooms and the proposed number of tenants. The floor plan shall be kept on file with the Inspections Department.
3. Off-street parking shall be provided in conformance with the standards of this ordinance (Section 9).
4. In granting any use permit, the approving body shall find that the use will not be detrimental to adjacent uses due to noise, glare, traffic or other factors.
5. In cases where the use is a minor or major special use, the approving body may require additional conditions to protect public health, safety, and welfare.

7.8 Broadcast Antennae, AM/FM/TV/HDTV Broadcast Facility

Broadcast antenna-supporting structure and/or towers, including replacements, which contains antennas/towers that transmit signals for radio and television communications shall be subject to the Standards for Accessory Buildings and Structures [Section 7] and the following additional requirements:

1. An antenna, antenna array and/or antenna supporting structure for AM/FM/TV/HDTV facilities licensed by the Federal Communications Commission shall only be permitted in the RD, CBD, I-1, I-2, I-3, RSCH, and RAD zoning districts and shall require in all instances a Major Special Use Permit.
2. Any antenna supporting structure, equipment enclosures and ancillary structures shall meet the setback requirements for Wireless Communication Facilities found elsewhere in Section 7.
3. The entire antenna-supporting structure or tower and all appurtenances shall be designed pursuant to the wind speed design requirements of ASCE 7-95, including any subsequent modification to those specifications.
4. Any facility shall be illuminated in accordance with FAA requirements to provide aircraft obstruction lighting, where required. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e. the longest duration between flashes) allowable by the FAA. No strobes or other lighting shall be permitted unless required by the FAA.
5. Landscaping and buffering shall be required around the perimeter of the wireless equipment compound, as required by the Standards for Wireless Communication Facilities found elsewhere in Section 7.
6. The only signage that is permitted upon an antenna-supporting structure/tower, equipment enclosures, or fence (if applicable) shall be informational, and for the purpose of identifying the antenna-supporting

structure, (such as ASR registration number) as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable).

7. New antenna-supporting structures/tower shall be configured and located in a manner that shall minimize adverse effects including visual impacts on adjacent properties subject to the criteria and Standards for Wireless Communication Facilities found elsewhere in Section 7.

7.9 Car Washes, Automatic and Self-Service

When allowed, car washes shall be subject to the following additional requirements:

1. Stacking lanes with the capacity for up to 5 vehicles shall be provided for vehicles waiting to use automatic car wash facilities and 2 vehicles per bay for self-service car washes.
2. No storage or repair of vehicles shall be allowed within the car washing facility.
3. The associated lanes and driveways shall be covered with an all weather surface. Provisions shall be made for an on-site drainage system to capture water used to wash vehicles. The drainage plan shall be evaluated to determine that the water from the facility will not have a detrimental effect on adjacent property or streets.
4. The use shall provide a safe access to the street. Access shall only be through defined driveway locations.
5. A sight obscuring wall or hedge shall be provided adjacent to residential property in conformance with Section 10.
6. Additional conditions may be added by the approving authority as necessary in order to protect the welfare of the neighborhood and adjacent properties.

7.10 Clubs or Lodges (Non-profit)

When allowed, clubs or lodges shall be subject to the following additional requirements:

1. All structures shall be located at least 30 feet from property lines. This distance may be reduced to 15 feet if a masonry wall at least 6 feet high is provided.
2. No outdoor public address systems shall be allowed.
3. Parking shall not be located in the front yard. The exception shall be when the lot is 2 acres or larger, in which case parking may be in the front but not in the required front yard.

7.11 Concrete Plants

Where allowed, concrete plants shall be subject to the following additional requirements:

1. Property boundaries facing public streets shall be fenced with a six foot high fence and the fence shall be 2/3 screened by vegetation at planting, and shall meet the standards for Screens in Section 10.
2. Property boundaries shall not be within 100 feet of property zoned residential, however, intervening highways, streets, railroads, and similar rights-of-ways shall be included in the 100 foot measurement.
3. Vehicle use areas, material storage areas, and structures shall be set back at least 10 feet from the property boundary. Vehicle use areas and material storage areas shall be defined with some type of edging. Vehicle use areas shall follow requirements regarding dust-free surfacing found elsewhere in this ordinance. If vehicle use areas, material storage areas or structures are existing on the effective date of this amendment (August 18, 1997), the same shall be deemed to be conforming although they do not comply with the requirement contained in this section to be set back at least 10 feet from the property boundary.
4. Outdoor storage areas shall be screened in conformance with requirements found elsewhere in this ordinance, and in no case shall be visible from residential areas or public roads.
5. The site must be at least 4 acres in size and must have access on a major thoroughfare, minor thoroughfare or freeway as defined in the subdivision ordinance.
6. The property may not be adjacent to an existing hospital, day care facility, primary or secondary school, place of worship, convalescent center, or assisted living center.
7. In its review, the approving body may, because of location and magnitude of the use and associated traffic, add additional requirements regarding, hours of operation, run off, noise, trucking routes and size of loads, restoration of the site, and other standards which the approving body feels necessary to protect the general welfare of the citizens.
8. The site shall comply with Department of Engineering storm water standards.

7.12 Conference Centers or Retreat Houses

When allowed, conference centers and retreat houses shall be subject to the following additional requirements:

1. Housing and meals shall be provided for participants and caretakers only.
2. The intensity of the use shall not be detrimental to adjacent properties due to traffic, parking, noise, refuse or other factors.
3. Parking shall not be located in the front yard. The exception shall be when the lot is 2 acres or larger, in which case parking may be in the front but not in the required front yard.

7.13 Conversions of Single Family Dwellings to Contain Additional Dwellings

A pre 1945 single family dwelling with a lot area of at least 3,000 square feet per dwelling unit may be converted to a multi-unit building but shall be subject to the following additional requirements:

1. No more units may be allowed than are allowed by the underlying zoning district.
2. Site plan approval shall be required. The site plan shall include as an additional requirement a floor plan showing rooms and indicating the expected number of tenants. The location of parking shall also be depicted.
3. Off-street parking shall be provided in conformance with this ordinance. No parking shall be allowed in the required front yard space (Section 9).
4. Off-street parking shall be provided in conformance with this ordinance. No parking shall be allowed in the required front yard space (Section 9).

7.14 Correctional Facilities

When allowed, correctional facilities shall be subject to the following additional requirements:

1. In order to accommodate outdoor recreational facilities and to allow for potential building expansion, the site size for facilities located outside the CBD zone shall be a minimum of 1 acre in size or the minimum of the zoning district, whichever is larger. Facilities within the CBD zone have no minimum size.
2. The facility shall be established at least 650 feet from the nearest property which is residentially zoned or used.
3. The facility shall not be established within 1,320 feet [1/4 mile] of a public or private school, day care, or place of worship.
4. Site development shall be in conformance with the landscaping and dimensional requirements of the zoning district.
5. The approving body may deny the permit when the use would be detrimental to nearby properties or may add conditions or safeguards to the approval in order to protect the health and welfare of citizens.

7.15 Day Care Facilities

1. The facility shall meet all state requirements for standards, licensing and inspections.
2. The facility shall meet the following space requirements if children are the primary clients of the use.
Outdoor play space: 100 square feet per child, and children at the facility for after school care, excluding children between 0 and 12 months of age. Parking areas may not be counted toward play spaces. All outdoor play space shall be useable for play purposes [as an example, streams, marsh land or other unsuitable areas shall not be credited toward the play space requirement]. Outdoor play areas must be fenced in accordance with the Standards for Fences found in Section 8.1 shall be located within the side or rear yard. However, the Development Review Board [DRB] may approve outdoor play space within the front yard but outside of the required front yard if the DRB finds that such play area is safe, not detrimental to the neighborhood, accessible, and generally compatible with surrounding properties.
Indoor space: at least 35 heated square feet per child. The heated space shall not include hallways and bathrooms, closets, utility rooms, and offices.
3. Driveways and drop off areas shall be provided so that traffic associated with the use does not impede the flow of traffic on adjacent streets. All required parking shall be in the rear or side yards. Required parking may be located in the front yard if the DRB finds that such parking is safe, not detrimental to the neighborhood, accessible, and generally compatible with surrounding properties.

4. Buffer requirements found in Section 10 of this ordinance shall apply. The Board of Adjustment, and the DRB may make modifications to or reductions of the buffer and landscape standards in accordance with ordinance Section 10.6 [Subsection: "Variations"] Any decisions to modify the buffer and landscape standards shall be included in the formal record of the approving body.
5. When a use permit is required, the approving authority may deny the use permit, or add additional conditions and safeguards as necessary to protect the health and welfare of the day care clients, adjacent properties, or the neighborhood, Conditions may include a reduction in the maximum number of individuals to be cared for on site to less than that allowed by state or federal regulations. When the facility is located within an industrial area, the Fire Marshall shall review the proposal prior to approval and make a recommendation.

7.16 Drive-In Theaters

When allowed, drive-in theaters shall be subject to the following additional requirements:

1. The site shall have access to a major or minor thoroughfare.
2. The projection screen shall not be visible from any public street within 1,500 feet.
3. No central loudspeakers shall be permitted.
4. Accessory uses such as snack bars associated with the theater shall be designed for use by patrons of the drive-in theater only.
5. Vehicle areas shall be visually shielded so that lights will not shine onto adjacent property.
6. Vehicle stacking lanes shall be available outside the theater entrance and shall have sufficient capacity to prevent obstruction of the traffic by theater patrons.
7. Adjacent properties shall not be adversely affected by the use due to noise, lights, traffic or other factors. A landscape screen shall be established in conformance with Section 10.
8. Use of the theater property for day time uses including but not limited to flea markets shall require a permit from the Board of Adjustment.

7.17 Drive up Window Restaurants and Catering in the Neighborhood Commercial (NC) District

Drive up window restaurants and catering shall be permitted in the Neighborhood Commercial (NC) district when the Board of Adjustment finds that the use will not adversely affect neighboring properties due to noise, traffic, or other factors and the use is appropriate given adjacent land uses and land use plans. In addition:

1. Only on drive up window lane shall be permitted per business.
2. The proposed location of the drive up window and associated stacking lanes shall have been reviewed by the Transportation Department having jurisdiction and determined to be designed so as not to interfere with the service level of public streets, pedestrian traffic, nor on or off site parking spaces. The Transportation Department may recommend that the BOA limit access points, require traffic islands, require merge lanes, or other improvements to assure traffic safety.
3. Where no street separates the restaurant and residentially zoned property, at least 75 feet of separation shall be maintained between the residential lot line and the drive up window and between the residential lot line and the communications equipment for customers.
4. The drive up window and any communications equipment for customers shall be located so as not to be seen from the ground level of any adjacent residentially zoned property. A wall or berm meeting standards found elsewhere in this ordinance may be used to obscure views.
5. The drive up window shall meet the performance standards for all drive up windows which are found in Section 8 of this ordinance.

7.18 family Care Homes and Group Homes

The drive up window shall meet the performance standards for all drive up windows which are found in Section 8 of this ordinance:

The home shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjacent properties as a result of traffic, noise, refuse, parking or other activities.

The home shall maintain a residential appearance which is compatible with the neighborhood.

The home shall meet all state requirements, and all applicable housing and building code requirements.

7.19 Garden Centers and Other Businesses with Permanent Outdoor Displays of Merchandise

When allowed, those displays such as Garden Centers or Home Building Supplies, not including Vehicle Sales and rentals or Heavy Equipment Sales and rentals, shall be subject to the following additional requirements:

1. The area displaying the merchandise shall be an accessory to an enclosed retail sales or rental area which is the primary retail business area. The outdoor display area shall be immediately adjacent to the primary sales or rental area and shall be shown on an approved site plan.
2. The merchandise shall not be located in the front yard.
3. The area displaying the merchandise must be screened from any adjoining residential use or zone. Refer to buffer Section 10 for additional information.
4. Permanent displays may not block sidewalks or parking areas, and may not impede vehicular or pedestrian traffic.

7.20 Golf Courses and Driving Ranges

When allowed, golf courses and driving ranges shall be subject to the following additional requirements:

1. No maintenance building or club house shall be closer than 100 feet to any residential use.
2. Driving ranges shall be located so that adjoining properties are not adversely affected by the activity due to, noise, glare, traffic or other factors.
3. Supporting commercial activities shall be designed for patrons of the golf course or driving range only.
4. Lighting shall be shielded so as to cast no direct light on adjacent properties.

7.21 Hazardous and Low Level Nuclear Material Disposal and Storage Areas (When not an Accessory Use)

When allowed, these facilities shall be subject to the following additional requirements:

1. The use shall comply with all federal regulations and state regulations including the N.C. Solid Waste Management Act (Article 13B NCGS 130-166.16) for design, siting, construction materials, treating, and monitoring.
2. The use shall be located at least 1,500 feet from any residential property.
3. The area shall be enclosed by a fence or wall at least 6 feet high. Entrance and exit shall be through a gate which shall be locked during non-business hours. A landscape screen shall be provided in conformance with Section 10.
4. Maps and engineering drawings shall be provided showing proposed drainage, proposed sewer system design, the depth of the water table, soil composition, all existing surface water, and all existing uses within 1/4 mile of the property line.
5. The approving body may deny the permit when the use would be detrimental to adjacent properties or may add any conditions or safeguards to the permit it feels necessary in order to protect the health and welfare of citizens.

7.22 Home Occupations

When allowed, home occupations shall be subject to the following additional regulations:

1. On residential properties, except those properties covered by the standards of Item B of this Subsection.
 - a. Only family members residing on the premises and one nonresident employee shall engage in the home occupation.
 - b. The home occupation shall be clearly incidental to the primary use as a residence. The total square footage devoted to the home occupation, shall not exceed 25% of the floor area of the livable portion of the dwelling or 400 square feet, whichever is less. Internal alterations or construction modifications not customary in dwellings shall be prohibited. Exterior modifications to the dwelling to accommodate the home occupation shall be prohibited.
 - c. No accessory buildings or outside storage shall be used in connection with the home occupation.
 - d. No display of goods, products or services shall be visible off site.
 - e. Home occupation signs shall be in conformance with Section 12 [Signs allowed without a Permit]. At time of adoption of this amendment (9/02) sign size is limited to one wall sign not exceeding 3 square feet.
 - f. Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located.
 - g. Handmade items, foodstuffs, and crafts made on the premises may be offered for sale.
 - h. Professional services such as offices of an accountant, architect, beautician, engineer, lawyer, or medical practitioner shall be permitted provided other requirements of home occupations are met.
 - i. Professional services such as offices of an accountant, architect, beautician, engineer, lawyer, or medical practitioner shall be permitted provided other requirements of home occupations are met.
 - j. No goods, products or commodities bought or secured for the express purpose of resale shall be sold at retail or wholesale on the premises. Catalog and electronic business orders may be received for goods, products or commodities bought or secured for the express purpose of resale at retail and wholesale when the products are received and shipped from the premises to fulfill catalog or electronic business orders.
 - k. No machinery that causes noises or interference with radio or television reception shall be permitted.

- l. No hazardous materials as defined in Section 2, may be manufactured, stored, processed or disposed of on the premises.
 - m. No equipment or process shall be used in connection with the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable off-site.
 - n. Vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation. Only one commercially licensed vehicle shall be allowed. This vehicle may not exceed 1-ton capacity.
 - o. Any home occupation use permits that were granted prior to the adoption of this ordinance shall remain valid.
2. On properties zoned Rural District (RD) containing at least 10 contiguous acres receiving a Minor Special Use Permit from the Board of Adjustment, all of the provisions of Item A of this Subsection shall apply except as modified as follows:
- a. Only family members residing on the premises and three nonresident employees shall engage in the home occupation.
 - b. The home occupation shall be clearly incidental to the primary use as a residence. The total square footage devoted to the home occupation, shall not exceed 25% of the floor area of the livable portion of the dwelling or 1,250 square feet, whichever is less. Internal alterations or construction modifications not customary in dwellings shall be prohibited.
 - c. An accessory building or an accessory dwelling may be used for all or a portion of the floor area of the home occupation but the combined total square footage devoted to the home occupation whether located in the dwelling, an accessory building, an accessory dwelling, or a combination thereof, may not exceed the limits described in Item B.2 of this subsection. The accessory building may not be located closer to the front property line than the closest side of the primary dwelling to the front property line; nor closer to the side property line than the closest side of the dwelling to the side property line or 100 feet, whichever is a lesser distance, and not closer than 75 feet to the rear property line.
 - d. The Board of Adjustment may deny the minor use permit when the home occupation would be detrimental to adjacent properties or may add any conditions or safeguards to the permit it feels necessary in order to protect the health and welfare of citizens.
 - e. Any home occupations utilizing the provisions of Section B shall cease operations if the parcel size is reduced to less than 10 acres.

7.23 Hospitals and convalescent Centers

When allowed, hospitals and convalescent centers shall be subject to the following additional requirements

- 1. **Hospitals:**the lot shall have access to a major thoroughfare. Side and rear yards shall be at least 25 feet or the minimum required by the zoning district, whichever is greater. Building setback shall be at least 50 feet.
- 2. **Convalescent Centers:**the minimum lot area shall be 500 square feet for each bed. All yards shall be at least 25 feet or the minimum required by the zoning district, whichever is greater.
- 3. **Service Facilities:**such as gift shops, snack bars and personal service shops may be provided if the facilities are completely within the building and designed to serve patrons of the facility and their visitors only.

7.24 Hotels and Motels

When allowed, all hotels and motels, except hotels and motels in the CBD District, shall be subject to the following additional requirements:

- 1. The parcel shall be accessed by a major or minor thoroughfare.
- 2. Where the property line of the hotel or motel is adjacent to property in a residential zone or use, all hotel and motel buildings and parking shall be located at least 50 feet within the property line of the hotel or motel. A sight obscuring hedge or berm shall provide a screen between the hotel or motel and property in residential use or zone in conformance with Section 10.
- 3. 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 zone or use.

7.25 Kennels

See "Veterinary Establishments and Kennels"

7.26 Manufacture and Storage of Chemicals, Petroleum Products, Explosives, and Allied Products (When not an Accessory Use)

When allowed, the manufacture and storage of chemicals, petroleum products, explosives and allied products as a primary use shall be subject to the following additional requirements:

1. The site shall be utilized in a manner that shall not pose a hazard off-site. All plans shall be reviewed by Fire and Emergency staff prior to approval in order to determine that existing services provide adequate protection for citizens.
2. The boundary of the property shall be at least 1,500 feet from any residential use or zone.
3. The use shall be totally enclosed by a security fence or wall at least 8 feet high or enclosed within a fire proof building.
4. A landscape screen shall be provided in conformance with Section 10.
5. The applicant shall include documentation that the use shall conform to the industrial standards found in the Performance Standards Section of this ordinance (Section 8).
6. The approving body may impose additional standards or safeguards it feels necessary in order to protect the general welfare of the citizens.
7. For the purposes of this ordinance, service stations, dwellings, or research laboratories are not considered uses involved in the manufacture and storage of chemicals or petroleum products.

7.27 Manufactured Home Sales

City Jurisdiction

1. Separation from residential: A landscaped buffer shall be provided between a manufactured home sales facility and any residentially zoned or used property. The buffer shall contain plant materials that conform to the standards for a Class 5 buffer [80 foot].
2. Landscaping: In addition to the landscaping requirements found elsewhere in the Zoning Ordinance, the following landscaping shall be provided.

* between the manufactured homes used for display and any street: Either, a) a hedge which is at least 24" in height; or b) plantings which meet the requirements for plantings for vehicle sales lots [10.4.2(3e)].

*adjacent to nonresidential zoned or used property: Landscaping which conforms to the requirements for landscaping on the perimeter of parking lots. Adjustments to the landscaping which results in the same or better performance, shall be allowed by the Development Review Board [DRB].

3. Floodways: Manufactured home sales facilities shall not be located within the floodway fringe.
4. Site plan: In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off site views. Other accessory uses, for example, rental vehicles or storage building sales may not locate on the site unless the use has been designated on the site plan. All travel lanes, access lanes, storage areas, pedestrian areas, parking spaces and display home footprint spaces shall covered with a dust free, all weather surface. The approving authority may add additional conditions to the site plan to protect the health, safety and welfare of the public.
5. Parking: Parking spaces shall be provided at a rate of 5 per 1000 square feet of office space.
6. Lot coverage: The maximum lot coverage allowed is 80%.
7. Setbacks: The nearest edge of the manufactured homes shall be set back from the ultimate right of way of all adjacent streets, at least 25 feet or the distance of the front yard requirement of the zoning district, whichever is greater; and at least 10 feet from adjacent nonresidential property lines or the requirements of the zoning district, whichever is greater. Office structures shall observe the setback requirements of the zoning district in which they are located.
8. Storage and repair: Storage and repair activities shall be screened from off-site views. Replacement or discarded parts and accessories shall also be screened from off-site views.
9. Signs: Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display home may have a sign not to exceed 3 square feet in area which gives information about the home.
10. Display homes: A minimum separation of at least 10 feet shall be maintained between display homes. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material and/or landscaping around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

7.28 Museums

1. Specific features of the museum which may impinge on residential property or uses, including but not limited to parking lots, loading areas, or places of public assembly, shall be required to provide a landscaped buffer between the feature and the residential zones or uses. The width of the buffer shall be determined at time of approval. In determining buffer width and landscape materials, consideration shall be given to the type of feature, the existing landscape, and the nature of the residential zone or uses.
2. The site size shall be large enough to accommodate all necessary parking on site. On-street parking shall not be used in meeting parking needs.
3. The applicant shall demonstrate that the proposal will not be detrimental to adjacent properties and that features will be incorporated into the design to protect adjacent properties should any noise, light, or drainage. have off site effects.

4. The site shall have direct access to a street which is adequately sized to accommodate traffic generated by the museum.

7.29 Nightclubs

When allowed, night clubs and similar establishments shall be subject to the following additional requirements:

1. Requirements for all zoning districts.
 - a. No outside storage or activities shall be located on the site. Temporary outdoor events shall only be allowed under the provisions of a temporary use permit found elsewhere in this ordinance.
 - b. No abandoned, wrecked, or inoperable vehicles shall be located on the site.
 - c. Night clubs or similar establishments shall not be detrimental to adjacent properties due to factors such as but not limited to, noise, glare, or refuse.
 - d. If the location of a nightclub or similar establishment requires a use permit, the approving body shall consider the design of the sign [placement, color, height, size, design] and may impose additional conditions on the design beyond those contained in the Sign Section of this ordinance Section 12].
 - e. Within the City of Durham, requirements of other City ordinances may apply. [For example, City Code Chapter 4, Section 4-5 et seq. regarding prohibitions against locating a poolroom, bowling alley, skating rink, etc. within 250 feet of a church, school, hospital, funeral home, or public library.]
 - f. The applicant shall demonstrate that no pre-existing place of worship is located within 250 feet of the proposed night club or similar establishment. Measurements shall be made from the property line of the proposed night club or similar establishment, and from the property line of any separate parking lots to be used by the night club or similar establishment.
2. Additional requirements for the GC zoning district:
 - a. A minor special use permit shall be required in the GC zoning district for night clubs and similar establishments unless the applicant can demonstrate that no pre-existing residentially zoned or used property is located within 200 feet of the proposed night club or similar establishment, including property located on the other side of the street from the night club or similar establishments.

Measurements shall be made from the property line of the proposed night club or similar establishment to the residential property line, and from the property line of any separate parking lots used for the night club or similar establishment.
 - b. The applicant shall demonstrate that no other night club or similar establishment is located within 250 feet of the proposed night club or similar establishment. Measurements shall be made from the property line of the proposed night club or similar establishment, and from the property line of any separate parking lots to be used by the night club or similar establishment.

7.30 Places of Worship

When allowed, churches and other places of worship shall be subject to the following additional requirements:

1. In residential districts churches and other places of worship shall have adequate lot size to meet the yard requirements of the zoning district in addition to the area used to meet parking requirements. Yard space may not be counted toward required parking spaces.
2. The parking lot landscaping standards found elsewhere in this ordinance apply.
3. Belfries or steeples shall be exempt from the height requirement.
4. At site plan approval, additional conditions may be imposed to protect nearby property from any detrimental effects due to traffic, noise or other factors.

7.31 Public Parks and Playgrounds

When allowed, parks and playgrounds shall be subject to the following additional requirements.

1. **Required Buffer and Plantings:**Public parks shall meet buffer width and planting standards of Section 10 of this ordinance. (Class 2-20 feet)
2. **Parking Lot Landscaping Standards:**Parking lot landscaping shall meet the requirements of Section 10, provided however, on sites greater than 2 acres, the shrub requirements of Section 10 titled: "Landscaping within Parking Areas", shall not apply if the parking areas are located 100 feet or more from property lines, and at least 25% of the total site area is left in natural vegetation. In addition, parking lot landscaping requirements on all sites may be considered for adjustment at time of site plan approval when site size, site orientation, natural features, adjacent uses, topography or public safety and welfare would warrant modifications to the requirements of Section 10.
3. **Hours:**Outdoor activities shall conclude by 11:00 p.m. and lights for outdoor recreational facilities shall be turned off by 11:15 p.m.
4. **Site Plans:**A site plan meeting the requirements of Section 17 of the ordinance shall be required.

5.
 - a. Parks facilities shall maintain a minimum setback of 10 feet. A 50 foot setback shall be maintained for all structures, picnic areas, playgrounds, basketball courts and athletic fields from property lines adjacent to residentially zoned or used property. Setback requirements may be reduced at time of site plan approval when conditions warrant a reduction. Possible conditions include, but are not limited to, building orientation, topography, distance to off site improvements, physical obstructions, developability of the park site or developability of the adjacent site, or natural features.
 - b. Lighted facilities (such as tennis courts, ball fields, basketball courts) shall maintain an 80 foot setback from property lines adjacent to residentially zoned or used property. This setback may be reduced at time of site plan approval if the site plan depicts measures used to reduce light and glare onto adjacent residentially zoned or used property. Possible measures include, but are not limited to directional lighting, lower fixture heights, berms, vegetation, and fences. In addition, the site plan shall include documentation from registered professional with experience in lighting certifying that the lighting does not exceed 1 foot candle at the property line of adjacent residentially zoned or used properties.

7.32 Public Utility Facilities

When allowed, public utility facilities shall be subject to the following additional requirements:

1. Transmission line rights-of-way shall be exempt from buffer requirements; however, transformers, electric substations, and structures shall meet the buffer and screening requirements found in Section 10 of this ordinance.
2. Storage yards when allowed shall be screened in conformance with Section 10.
3. Public utility stations or structures in residential areas shall maintain residential setbacks, be fenced, and either be screened from view or assume a residential appearance.

7.33 Quarries

When allowed, quarries shall be subject to the following additional requirements:

1. The application for the use shall include a plan for restoration procedures and methods to insure financing of the restoration of each cell once the use as a quarry ceases.
2. A landscape screen shall be established in conformance with Section 10.

7.34 Recreation, Commercial Recreation Facilities on Natural Sites

Note: See Section 2 for definition of Commercial Recreation Facilities on Natural Sites.

When allowed, shall be subject to the following additional requirements:

1. The use shall not change or modify the existing natural landscape except for accessory services or parking areas. Only accessory services and parking related exclusively to the recreational operations shall be allowed. Movable walls, barricades, wooden structures, or similar features are permitted as a part of the recreational use. Permanent structures except for service facilities shall be prohibited.
2. Services facilities shall be restricted to individuals participating in the recreational activity. Total building floor area shall be a maximum of 750 square feet. The building[s] shall be located at least 100 feet from all property lines.
3. The site shall be at least 5 acres in size.
4. All activities shall take place at least 100 feet from any property line adjacent to a residential zone or use. A minimum Class 5 buffer shall be required adjacent to any residential use or zone.
5. The use shall not be detrimental to adjacent properties due to noise, refuse, traffic or other factors.
6. Parking shall not be detrimental to nearby properties due to noise, glare, congestion or other factors. Entrances to off-street parking shall be through clearly defined driveways.
7. The use shall not be permitted to locate adjacent to any existing place of worship, day care or school.
8. No outdoor storage shall be allowed.
9. No outdoor public address system shall be used.
10. The use of the site for night activities shall require an additional use permit from the Board of Adjustment.
11. The approving authority may add additional conditions to protect public health, safety and welfare.

7.35 Recreation Activities, Commercial Outdoor (Including Batting Cages and Miniature Golf)

When allowed, outdoor commercial recreation activities shall be subject to the following additional requirements:

1. The use shall have access to a major or minor thoroughfare. No direct access points through a residential street shall be allowed.
2. Adjacent residential uses shall be protected from adverse effects of the use, including but not limited to noise, refuse, traffic, dust and glare. A landscape screen shall be established in conformance with Section 10.
3. Banners, flags, and streamers shall be prohibited unless allowed by the sign standards of this ordinance.

4. Lighting shall be shielded so that the source of the illumination does not cast direct light off-site.

7.36 Resource Extraction Facilities

When allowed, resource extraction facilities shall be subject to the following additional requirements:

1. The application for the use shall include a plan for restoration procedures and methods to insure financing of the restoration once the operation ceases.
2. A landscape screen shall be provided in conformance with Section 10.

7.37 Retirement Centers and Life Care Centers

When allowed, retirement centers and life care communities shall be subject to the following additional requirements:

Interpretation: Residential suites or assisted living units are considered to be rooms or suites with bathrooms but without cooking facilities designed for habitation by 1 or 2 individuals in a project designated for senior housing. They shall be permitted to be constructed at the same density as the base density for dwelling units. In some situations described in this Section, the density of these units may be increased to twice the base density

1. The dwelling unit density shall not exceed the dwelling unit density of the underlying zoning district [for the purposes of this section, called the "base density" except in the following circumstances:
 - a. If the retirement center or life care community has the following on-site common use facilities: dining, recreation, health care, and a convalescent center; the density for any associated multifamily units shall not exceed 2 times the allowed multifamily base density for the zone.
 - b. If the retirement center or life care community has the following on-site common use facilities: dining, recreation, health care, a convalescent center, and multifamily units; the density for any associated single family detached units shall not exceed 1.5 times the allowed multifamily base density of the zone.
2. Convalescent care portions of the facility shall meet convalescent center standards found in Section 7, labeled "Hospital and Convalescent Centers".

7.38 Salvage Operations and Yards and Junkyards

When allowed, salvage operations and yards shall be subject to the following additional requirements:

1. The salvage operations and yards shall be enclosed by a fence and shall be screened from view. The fence shall be 8 feet high, measured from the lowest point of grade. The fence shall be maintained in good condition. No stored materials shall be visible from ground level immediately outside the fence.
2. The applicant shall demonstrate that the stored materials will not pose a danger to surrounding properties, or residents, due to noise, runoff, animal or insect populations or other factors.
3. A landscape screen shall be provided in conformance with Section 10.
4. Existing salvage yards and junkyards on parcels with zoning that permits the use, which were in operation prior to January 1, 1994, and do not comply with the provisions above, shall have until January 1, 2006, to provide a fence consistent with the requirements of 1 (above).

Existing salvage yards and junkyards on parcels with zoning that does not permit the use, which were in operation prior to January 1, 1994, shall have until January 1, 2009, to come into full compliance with all requirements of the Zoning Ordinance or shall be required to cease operation.

7.39 Satellite Dishes

Satellite dishes (Earth Stations) that are less than one meter (39.37 inches) in diameter in residential districts and less than two meters in diameter in all other zoning districts shall be permitted. Satellite dishes exceeding these dimensions shall be subject to the Accessory Structures of Section 7 and the following additional requirements:

1. Receipt of a Minor Special Use Permit.
2. If attached to a roof or building, a letter certifying the roof's and building's structural stability shall be written and sealed by a licensed engineer, prior to any approval of a roof-mounted satellite earth station. Roof-mounted satellite earth stations that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.
3. No commercial messages shall be placed on the dish.

7.40 Service Stations and Vehicle Repair Shops

When allowed, service stations and vehicle repair shops shall be subject to the following additional requirements:

1. In zoning districts where trucks or other vehicles are displayed as an accessory use for rent, the site plan shall indicate the area to be used to display rental vehicles. Spaces for rental vehicles shall be in addition to any

parking spaces required for operation of the other activities. Rental activities may not occupy more than 50% of the site area.

2. Fuel pumps shall be at least 15 feet from property lines. Canopies shall be at least 5 feet from property lines.
3. Any repair, servicing, maintenance, or other work on vehicles shall be conducted within an enclosed structure which does not exceed 20 feet in height.
4. Storage of vehicles for 15 days or more or junking of vehicles shall be prohibited. Vehicle sales shall also be prohibited.
5. Replacement parts and accessories shall be stored inside. Discarded parts shall not be stored outside.
6. Vehicles associated with the use shall not be stored or repaired within federal, state, or local public rights-of-way, including streets and sidewalks.
7. Uses not covered by an existing site plan shall organize the off-street parking areas to provide adequate customer parking and access for emergency vehicles.
8. Nothing in this subsection shall be construed as allowing properties designated as service stations or vehicle repair shops to be involved in disassembling, tearing down, or scrapping of a vehicle or to permit one vehicle to be scavenged or stripped for parts for use on another vehicle.
9. Vehicle stacking lanes in addition to the required parking spaces shall be provided when businesses perform services such as oil changes on successive vehicles. Stacking space for at least 4 vehicles shall be provided on the site. Parked vehicles and vehicles waiting for service may not block sidewalks, driveways, or streets.
10. A sight obscuring wall or hedge shall be provided adjacent to residential property in conformance with Section 10. The landscaping plan shall also be designed to reduce clear views through the building from the right of way.
11. A spill prevention and counter measures plan will be provided with the site plan that will include at a minimum.
 - a. Cleanup procedures for spills occurring inside and outside the building.
 - b. Counter measures for use in preventing spills from entering the storm water collection system.
 - c. Routine cleanup procedures for work areas and parking areas. Wash down water shall not be permitted to enter the storm water collection system. [Please note the standards of Section 8 regarding Waste Products].
12. Additional conditions may be added by the approving authority as necessary in order to reduce the visual impact of the site on nearby properties and to protect the health, safety, and welfare of nearby properties. These may include but are not limited to additional buffering, additions to the landscape plan to reduce unsightly views, and other such measures.

Existing vehicle repair shops on parcels with zoning that permits the use, which were in operation prior to January 1, 1994, and do not comply with the provisions above, shall have until January 1, 2006, to provide an opaque screen (a fence or wall at least 6 feet but no more than 8 feet in height, with a vegetative cover that, at maturity, covers 75% of the fence or wall, between the fence or wall and the property line) to fully screen the operations of the vehicle repair shop. Such fences shall not be located within any sight distance triangles at any intersection, but shall be set back to provide unimpeded vision clearance for vehicular traffic.

Existing vehicle repair shops on parcels with zoning that does not permit the use, which were in operation prior to January 1, 1994, shall have until January 1, 2009, to come into full compliance with all requirements of the Zoning Ordinance or shall be required to cease operation.

7.41 Swimming Pools

When allowed, swimming pools shall be subject to the following additional requirements:

1. Community pools, private club pools, or outdoor pools in multifamily complexes shall locate the pool and decking at least 100 feet inside the property lines adjacent to a single family residential zone or use, and at least 50 feet from any property line adjacent to a nonresidential zone or use.
2. *City Jurisdiction:* Private swimming pools as well as the decking and equipment associated with the pool on single family, duplex, and triplex lots shall not be located in the front or side yards and not be closer than 5 feet to the rear property line. The pool shall be completely enclosed by an opaque fence at least 6 feet in height if any portion of the pool or pool decking is within 20 feet of a property line. Pools not within 20 feet of the property line shall be enclosed with an opaque fence that is at least 4 feet in height. The exterior walls of the residence or buildings may be incorporated as a portion of the fence to create a fully enclosed area around the pool. All fence openings into the pool area shall be equipped with self-closing and self-latching gates. These regulations shall apply to in-ground and above ground swimming pools which have a water depth over 24 inches or have a surface area of at least 100 square feet.
County Jurisdiction: Private swimming pools as well as the decking and equipment associated with the pool on single family lots shall not be located in the front or side yards and not be closer than 5 feet to the rear property line. The pool shall be completely enclosed by an opaque fence at least 6 feet in height if any portion of the pool or pool decking is within 20 feet of a property line. Pools not within 20 feet of the property line shall be enclosed with an opaque fence that is at least 4 feet in height. The exterior walls of the residence or buildings may be incorporated as a portion of the fence to create a fully enclosed area around the pool. All

fence openings into the pool area shall be equipped with self-closing and self-latching gates. These regulations shall apply to in-ground and above ground swimming pools which have a water depth over 24 inches or have a surface area of at least 100 square feet.

3. All pools shall be screened from view from the street and adjacent residential property.
4. Security measures shall be installed to prevent access to the pool when it is not intended to be used.
5. When the pool is adjacent to off-site residences, the playing of music on a public address system is prohibited. Informational announcements are permitted. This requirement may be waived if a permit has been issued for a special event.

7.42 Transfer Stations

In the County jurisdiction, Transfer stations are only allowed in I-3 and must receive a Major Use Permit. In the City jurisdiction, permanent transfer stations that meet the requirements below are allowed in I-2 and I-3 districts. Transfer stations not able to meet such requirements may also be established in these districts if they receive major special use permit approval.

1. The transfer station shall only handle waste that can be legally handled or disposed of in a municipal solid waste landfill facility. This limitation shall not preclude use of the transfer station site for collection, processing, storage, and transfer of recyclable materials or for other waste reduction activities.
2. The transfer station shall only handle waste that was deposited, or formerly would have been deposited, at either a municipal solid waste landfill facility or municipal transfer station located on property adjacent to the proposed transfer station.
3. The transfer station entrance driveway shall be located on a major thoroughfare located within 2,000 feet of an interstate highway interchange.
4. There shall be at least 500 feet of separation between the transfer station facility [building and vehicular use areas adjacent to the building] and the nearest residential structure.
5. There shall be a natural or planted Class 5 buffer meeting the requirements of Section 10 [Landscaping Standards] between the transfer station facility [building and vehicular use areas adjacent to the building] and the nearest residential structure. Such buffer shall not be reduced by the approving authority.
6. The facility shall meet all requirements found in the "Additional Requirements" Section of the either the I-2 or I-3 zone, whichever is appropriate.
7. The use shall be in compliance with all other Code requirements, including but not limited to, Section 10, [Buffering and Landscaping Requirements], Section 8 [Performance Standards].
8. State requirements regarding transfer stations shall be met and the facility shall operate in conformity with such requirements.

7.43 Vehicle and Heavy Equipment Sales and Rentals

1. Customer and employee parking and vehicles or equipment on display shall not be parked on federal, state, or local public rights-of-way, including streets and sidewalks.
2. Junked or inoperable vehicles or equipment shall not be allowed to accumulate on the premises unless such vehicle is within a completely enclosed building. A vehicle covered with a car cover does not constitute an enclosure.
3. Vehicle or equipment repairs made on-site shall be subject to the same restrictions under Section 7.37 Service Stations and Vehicle Repair Shops.
4. Uses not covered by an existing site plan shall organize the off-street parking areas to provide adequate customer parking and access for emergency vehicles.
5. Nothing in this subsection shall be construed as allowing properties designated as Heavy Equipment Sales and Rental establishments to be involved in disassembling, tearing down, or scrapping of a vehicle or to permit one vehicle to be scavenged or stripped for parts for use on another vehicle.

7.44 vehicle Repair Shops

See "Service Stations"

7.45 Veterinary Establishments and Kennels

When allowed, veterinary establishments and kennels shall be subject to the following additional requirements:

1. A 300 foot separation shall be maintained between the outdoor areas where animals are kept and any property line of a residential use in a residential zone unless the operator of the establishment can demonstrate that the area or building in which the animals are kept will not allow sound to be transmitted to the residential property. No separation is required between such outdoor areas and a residential use in a non-residential zone; however a minimum 6-foot tall fence or wall shall be installed and maintained between such outdoor areas and the property line of the adjacent residential use.

7.46 Wireless Communication Facilities for Transmitting and Receiving Electronic Signals

When allowed, such WCFs and associated equipment shall be subject to the following additional requirements:

A. Purpose

The purpose of this section is to:

1. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility.
2. Encourage the location and colocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna-supporting structures.
3. Encourage coordination between suppliers of wireless communication services in the City and County of Durham.
4. Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the City and County.
5. Protect the unique natural beauty and rural character of the City and County while meeting the needs of its citizens to enjoy the benefits of wireless communications services.
6. Encourage the use of public lands, buildings and structures as locations for wireless telecommunications infrastructure as a method to establish a precedence of quality concealment products that will minimize the aesthetic impact of related infrastructure which generating revenue for the City or County.

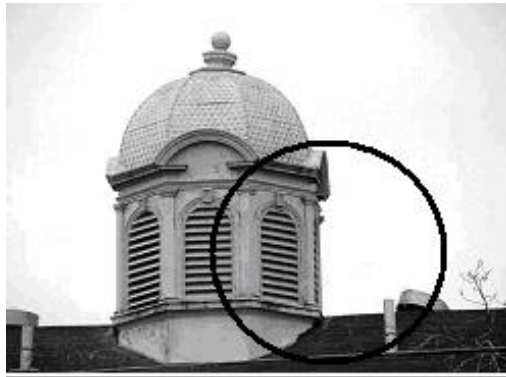
B. Siting Alternatives Hierarchy

Siting of a Wireless Communications Facility (as defined in Section 2.2) shall be in accordance with the following siting alternatives hierarchy:

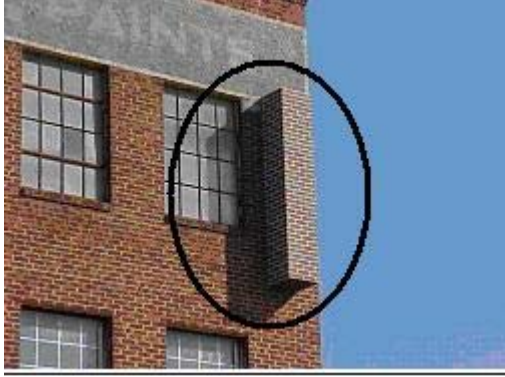
- a. Concealed Attached Wireless Communications Facility.
 - a. On City or County-Owned property.
 - b. On other publicly owned property.
 - c. On privately owned property.



Concealed Antenna



Concealed Equipment units – Concealed Antenna



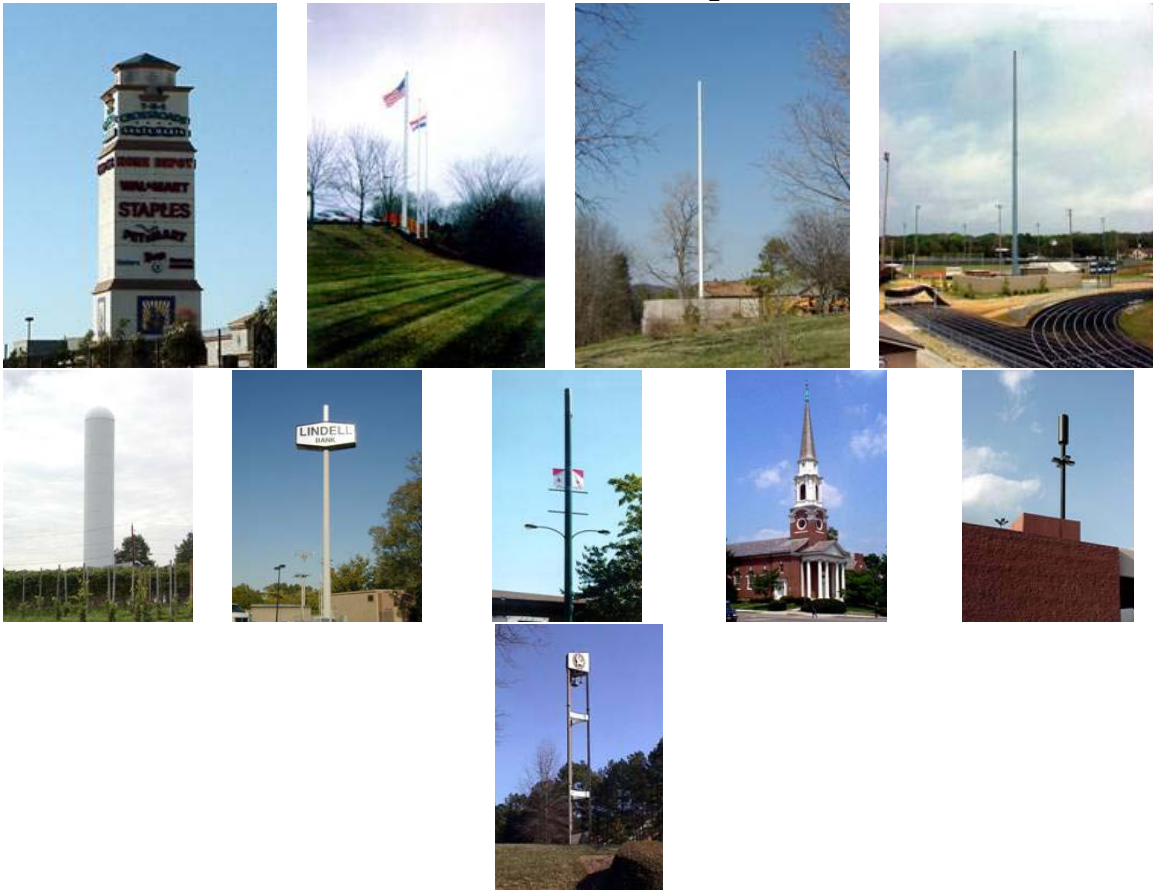
Concealed Antenna

- b. Colocation or Combining on Existing Antenna Supporting Structure Facility
 - a. On City or County-Owned property.
 - b. On other publicly owned property.
 - c. On privately owned property.



- c. Freestanding Concealed or Non-concealed Wireless Communications Facility
 - a. On City or County-Owned property.
 - b. On other publicly owned property.
 - c. On privately owned property.

Concealed Freestanding



The order of ranking preference, from highest to lowest, shall be 1, 2, and 3, and within each of these preferences, a, b, and c. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in 7.46.5, including, but not limited to an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the Geographic Search Area, higher ranked options are not technically feasible, practical or justified given the location of the proposed wireless communications facility and the existing uses of the subject and surrounding properties within 300' of the subject property. Where a freestanding WCF is permitted, the applicant must file relevant information as indicated in 7.46.F.3 and demonstrate higher ranked options are not technically feasible, practical or justified given the location of the proposed wireless communications facility, and the existing land uses of the subject and surrounding properties within 300' of the subject property.

C. Exemptions

1. Non-commercial, amateur radio antennas, non-commercial, amateur, ham radio or citizen's band antenna supporting structures, antennas or antenna arrays with heights greater than as provided for in Standards for Amateur Wireless Facilities shall be regulated in accordance with Standards for Wireless Communication Facilities.
2. Satellite dish antennae.
3. Regular maintenance and/or upgrade of antenna elements of any existing wireless communications facility that does not include the addition of any new antenna elements, feed lines and associated support equipment on the facility or the placement of any new wireless communications facility.
4. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City or County designee; except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.

5. Antenna supporting structures, antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission shall be regulated in accordance with Standards for Broadcast Antenna found elsewhere in Section 7.

D. Uses by District

1. Except as provided in subsections 2 or 3 below, no wireless communications facility shall be allowed in a particular zoning district except in accordance with the following table.

Zoning District*	Concealed	Colocation or Combining on Existing	Non-concealed Attached	Mitigation of Existing	Concealed	Non-Concealed WCF
RD	P	P	P*	P	DRB	MSP
R-20	P	P	P*	P	DRB	MSP
R-15	P	P	P*	P	DRB	
R-10	P	P	P*	P	DRB	
R-8	P	P	P*	P	DRB	
R-5	P	P	P*	P	DRB	
R-3	P	P	P*	P	DRB	
RM	P	P	P*	P	DRB	
RM-CN	P	P	P*	P	DRB	
PDR	P	P	P*	P	DRB	
MU	P	P	P*	P	DRB	MSP
O&I-1	P	P	P*	P	DRB	
O&I-2	P	P	P*	P	DRB	
NC	P	P	P*	P	DRB	
SC	P	P	P*	P	DRB	
GC	P	P	P*	P	DRB	
CBD	P	P	P*	P	DRB	
CT	P	P	P*	P	DRB	
I-1	P	P	P	P	DRB	MSP
I-2	P	P	P	P	DRB	MSP
I-3	P	P	P	P	DRB	MSP
UC	P	P	P*	P	DRB	MSP
RSCH	P	P	P*	P	DRB	MSP
RAD	P	P	P*	P	DRB	MSP

* Non-concealed attached WCFs shall only be allowed on transmission towers and light stanchions subject to approval of the Planning Director.

P - Permitted | DRB - Development Review Board | MSP - Minor Special Use Permit

2. All proposed WCFs within 300' of a designated State of North Carolina Scenic Byway, regardless of type or height, shall be subject to a Major Special Use Permit.
3. In the RD and R-20 districts, non-concealed, freestanding Wireless Communications Facilities shall only be permitted on parcels with a minimum lot size of five acres.

E. General Development Standards

1. Commercial messages shall not be displayed on any WCF. Violations shall be considered zoning violations and shall be corrected under the enforcement provisions of Section 20.
2. Any applicant for facilities under this section shall certify that such proposed facility will comply with all applicable federal regulations regarding interference protection, including but not be limited to adjacent channel receiver [blanket] overload, and intermodulation distortion.
3. Lighting shall not exceed the Federal Aviation Administration [FAA] minimum standard. Any lighting required by the FAA shall be of the minimum intensity and number of flashes per minute (i.e. the longest duration between flashes) allowed by the FAA. Dual lighting standards shall be required and nighttime strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
4. WCFs shall be constructed and maintained in conformance with all applicable building code requirements.

5. The wireless communication facility equipment compound shall not be used for the storage of any excess equipment or hazardous materials, nor be used as habitable space. No outdoor storage yards shall be allowed in a WCF equipment compound.
6. In order to protect the public from unnecessary exposure to electromagnetic radiation, the WCF applicant shall certify through a written statement that the facility meets or exceeds current American National Standards Institute [ANSI] standards as adopted by the FCC. In certain allowed districts, all non-concealed WCFs of 199' feet or less shall require that a Minor Special Use Permit be granted by the Board of Adjustment. The Board of Adjustment may consider reductions to the setback requirements for such WCF as a part of the Minor Special Use Permit approval.
7. Dimensions. When permitted a WCF shall conform to the following dimensional requirements:

- a. Height:

Attached WCF: the top of the WCF shall not be more than 20' above the building. The building or structure shall maintain the normal setbacks of the zone.

Freestanding: (Includes foundations and excludes lighting rods for purposes of dissipation of lighting, or lights required by the FAA that do not provide any support for antennas), in RD or R-20 zones the maximum height shall be 120'. In all other residential zones [concealed freestanding only] the maximum height shall be limited to 25' above the allowable building height of the underlying zoning district. In all nonresidential zones the maximum height shall be 199'.

Mitigation of an existing WCF: The height of a WCF approved as mitigation shall not exceed 115% of the height of the tallest WCF that is being mitigated to a maximum of 199'.

- b. Setbacks:

Concealed freestanding and attached WCF: In Residential zones the WCF shall be subject to the setbacks of the underlying zoning district and shall not be any closer to an adjoining property line than the proposed facility is to any dwelling unit on the property on which it is proposed to be located. In all other zones setbacks shall be subject to the underlying zoning district.

- c. Buffers:

If the proposed WCF is the principal use of the property then landscaping per Section 10 shall be applicable. Additionally a Class 5 buffer shall be provided around the WCF Equipment Compound for freestanding non-concealed WCF in RD and R-20 zones; and a Class 3 buffer around the WCF Equipment Compound in all other zones. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping where approved by the Planning Director. Grading shall be minimized and limited only to the area necessary for the new WCF.

If the proposed freestanding nonconcealed WCF is not a principal use of the property, a landscaped buffer shall surround the base of the WCF Equipment Compound.

If the proposed freestanding nonconcealed WCF is to be located between an existing structure and a public or private street, or in an RD or R-20 zone, a landscape screen shall be provided between the WCF compound and the street and adjacent residential properties.

In residential zones and adjoining public rights-of-way an opaque fence shall surround the wireless equipment compound.

8. Requirements for freestanding WCFs, including those used for mitigation and associated equipment located in districts requiring a special use permit:

1. Non-concealed WCFs, including those used for mitigation, shall be limited to monopole type antenna support structures.
2. All freestanding WCFs up to 120 feet in height shall be engineered and constructed to accommodate at least 2 antenna arrays. All WCFs between 121' and 149' shall be engineered and constructed to accommodate at least 3 antenna arrays. All WCF between 150' and 199' shall be engineered and constructed to accommodate at least 4 antenna arrays.
3. New freestanding antenna-supporting structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties. The applicant shall demonstrate that alternative locations, configurations, and facility types have been examined. A report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers desiring to locate on the proposed, if the applicant is not a service provider, and the reasons these existing facilities cannot be used. Alternative existing facilities include all potentially useable utility distribution towers and other elevated structures within the proposed service area that would provide additional service to the users of the proposed WCF. Documentation included in the

report may include such things as calculations regarding coverage capability of supporting necessary equipment, or other relevant data; lease negotiations; or other information. Technical data included in such documentation shall be certified by a registered engineer or other qualified professional. The report shall include, in narrative form, the feasibility of any alternatives the applicant may have considered and their impact on adjacent properties including but not limited to:

- a. Height
- b. Configuration
- c. Location
- d. Mass and scale
- e. Materials and color
- f. Illumination
- g. Information addressing the following items:
 - i. The extent of any commercial development within the Geographic Search Area of the proposed facility.
 - ii. The proximity of the antenna support structure to any residential dwellings.
 - iii. The proximity of the antenna support structure to any public buildings or facilities.
 - iv. The existence of tall and like antenna support structures within the Geographic Search Area of the proposed structure.

F. WCF Mitigation

WCF mitigation shall accomplish a minimum of one of the following: reduce the number of overall WCFs, reduce the number of nonconforming WCF types, or replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this Section of the Ordinance.

G. Approval Process

The following information must be supplied with the site plan or building permit application for WCFs:

1. Identification of the intended user(s) of the WCF.
2. Certification furnished by a registered engineer that the WCF has sufficient structural integrity to accommodate multiple users, and the number of additional users that can be accommodated on the proposed WCF.
3. Certification by a registered engineer or other qualified professional regarding service gaps or service expansions that are addressed by the proposed WCF ("the proposed service"), and accompanying maps and calculations.
4. The Board of Adjustment, when considering a Special Use Permit for freestanding WCFs shall not be required to make a determination of the electromagnetic field (EMF) effects of the WCF on the health of the public [as specified in Section 13.1.3(3)]. The documentation required by this Section that stipulates that the WCF does not exceed the federal limits for power density levels shall satisfy the applicant's compliance with Sections 13.1.3(3).
5. Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Planning Director may require the applicant to pay for a technical review by a third party expert, the costs of which shall be in addition to other applicable fees. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
6. Evidence submitted to demonstrate that no existing wireless communications facility could accommodate the applicant's proposed facility may consist of any of the following:
 - a. No existing wireless communications facilities located within the geographic area meet the applicant's engineering requirements.
 - b. Existing wireless communications facilities are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height.
 - c. Existing wireless communications facilities do not have sufficient structural strength to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be structurally improved,
 - d. Other limiting factors that render existing wireless communications facilities unsuitable.
 - e. A report of diligent efforts to locate based on the hierarchy established elsewhere in this section.
7. A statement that the proposed facility is the Least Visually Obtrusive, as defined herein, and that the proposed facility conforms with State of the Art, as defined herein, or alternatively, that State of the Art technology is unsuitable for the proposed facility. Costs of State of the Art technology that exceed customary facility development costs shall not be presumed to render the technology unsuitable.
8. In addition to the considerations for Special Use Permits found in Section 13 of this ordinance, the Board of Adjustment in determining whether a WCF is in harmony with the area [as specified in Section 13.1.3(1) or the effects and general compatibility of a WCF with adjacent properties (as specified) in Sections 13.1.4(3) and (9) and Sections 13.2.4(3) and (9)] and may consider the aesthetic effects of the

WCF as well as mitigating factors concerning aesthetics. The approving bodies may disapprove an application on the grounds that the WCFs aesthetic effects are unacceptable, or may condition approval on changes in WCF height, design, style, buffers, or other features of the WCF or its surrounding area. Such changes need not result in performance identical to that of the original application. Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites; the concentration of WCFs in the proposed area; and whether the height, design, placement or other characteristics of the proposed WCF could be modified to have a less intrusive visual impact.

9. If the approving authority determines that the proposed additional service, coverage or capacity to be achieved by the location of the proposed new WCF can be achieved by use of one or more alternative existing wireless communications facilities addressed in Section 7.39.F.3 and Section 7.39.H.6, or by one or more WCFs sited in alternative locations, which better serve the stated purposes set forth in Section 7.39.1 herein, it may disapprove the proposed WCF application. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from all residential areas within 1,500 feet, and from other vantage points chosen by the Planning Department.

H. Interference with public safety communications

1. In order to facilitate the City and County's rules of the regulation, placement, and construction of WCFs and their interaction with the City and County of Durham's Public Safety Communications Equipment, all applicants requesting a permit for a WCF under this section shall agree in a written statement, to the following:
 - a. Compliance with Good Engineering Practices as defined by the FCC in its Rules and Regulation.
 - b. Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference(RFI).
 - c. In the case of co-location of telecommunications facilities, the applicant, together with the owner of the subject site, shall provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the City and County of Durham's Public Safety Communications Equipment.
2. If there is a determination of radio frequency interference, with the City or County of Durham's Public Safety Communications Equipment, the party which caused the interference shall be responsible for reimbursing the City and/or County for all costs associated with ascertaining and resolving the interference, including but not limited to, any engineering studies obtained by the City and/or County to determine the source of the interference.