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SECTION 5.1 GENERAL SUBMITTAL REQUIREMENTS

- A. Unless otherwise specified in this Ordinance, applications for review and approval may be initiated by: (i) the owner of the property that is subject to the application; or, (ii) the owner's authorized agent(s); or (iii) a person with a contract to purchase the subject property.
- B. When an authorized agent files an application on behalf of a property owner, the agent shall provide the Administrator with written documentation that the owner of the property has authorized the filing of the application.
- C. In certain instances, i.e., revocation of a ~~Special Use Permit~~, a governing board may initiate an application. When such a petition is filed, it is being done without prejudice toward the final outcome. Revocations must follow the same process that was used for the approval.
- D. All uses, signs, structures, buildings, or other improvements addressed by this Ordinance shall be in compliance with this Ordinance and all other applicable federal, State, and local codes and ordinances as regulated and enforced by those agencies.



SECTION 5.2 SITE PLAN REVIEW

The purpose of these requirements is to promote orderly development in Gaston County and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this ordinance, site plans for certain uses or land shall be submitted to and reviewed by the Land Use Administrator prior to the issuance of a zoning permit.

SECTION 5.2.1 DEVELOPMENT AND USES REQUIRING A SITE PLAN

Site plan review shall be required for all uses and development other than single or two family dwelling units and their accessory structures. Provided however, the Administrator may waive site plan requirements when they determines that the submission of a site plan or parts thereof would serve no useful purpose.

SECTION 5.2.2 PROCEDURE FOR PREPARATION

- A. Site plans or any portion thereof shall be prepared to scale. Due to the detail of the content required of a site plan drawing, it is encouraged, but shall not be required, to be prepared by an engineer, architect, landscape architect or land surveyor who is authorized by the State of North Carolina to practice as such;
- B. Site plans shall be prepared to a scale that can be reviewed and the administrator can identify all requirements of this ordinance have been met. The administrator may request additional inset details or deem plans unreviewable and has the authority to deny the proposal and request revisions based on the following:
 - 1. Drawing is not to scale or stated scale
 - 2. The drawing is drawn in such a way the scale is too small or too large
- C. A complete set of civil drawings may be submitted or individual sheet(s) that delineate, note, or label clearly the required standards of this ordinance to facilitate the review and approval of the site plan;
- D. All horizontal dimensions shown on the site plan shall be in feet; decimal fractions of a foot to the closest one hundredth of a foot



(0.00); and all bearings in degrees, minutes and seconds;

- E. Reserved.
- F. The number of required copies or format of the site plan for submittal may vary depending on the use.

SECTION 5.2.3 REQUIRED INFORMATION ON SITE PLANS

- A. Location of the tract on an insert map, the north arrow, and such information as the names and numbers of adjoining roads, streams, subdivisions, or other landmarks, sufficient to clearly identify the location of the property.
- B. Delineation of the tract boundary with distances. It is encouraged but shall not be required that a boundary survey of the tract by bearings and distances certified by a licensed land surveyor or engineer be included with the site plan.
- C. Sidewalks and curbs and gutters to be installed along public street frontages, parking lots, or buildings shall be clearly delineated to include the following type of information: width, length, depth, material type {impervious (include square footage) or pervious}, handicap access routes, structure ingress/egress landing or sidewalks, grading details (degree of finished slope).
- D. All existing property features (labeled), such as: property lines, roads/easements, utilities, watercourses, buildings, sign, lighting, and natural vegetation/landscaping.
- E. Existing zoning (including any overlays) on the tract and on adjoining properties.
- F. Reserved.
- G. Reserved.
- H. Reserved.
- I. All proposed buildings shall show/label: location, general use, number of floors and height, dimensions, floor area, building number, ingress/egress locations; and where applicable, the number, size and type of dwelling units.
- J. All off-street loading spaces, parking and walkways shall indicate the type of surfacing, dimensions, angle of stalls, width of aisles,



pedestrian safety precautions/walkways, and a specific schedule showing the number of parking spaces provided.

- K. Submit an approval letter, paperwork, or permit verifying the approval of water/sewer utilities (public or private) services.
- L. Proposed streets, alleys, and driveways shall have delineated/stated: Name (if applicable and per Appendix A), right-of-way widths, surface material, NCDOT approval (or proof of submission for approval), engineered stamped letter that design meets NCDOT standards (if private roadway), sight triangles, and other details deemed necessary by the Administrator.
- M. NCDEHNR (local or higher level) approval letter for compliance with Storm Water and/or Erosion Control.
- N. Reserved.
- O. Screening/Buffering/Landscaping shall be shown/labeled per Chapter 11.
- P. Delineation of any flood hazard areas as shown on the FEMA maps.
- Q. Location, type, size, material and height of fencing, and retaining walls where required under the provision of this or any other County, State or Federal ordinance.
- R. Outdoor lighting system location, orientation, height, and elevation detail.
- S. The location and dimensions of proposed recreation areas, open space and required amenities and improvements.
- T. The location, character, size, height and orientation of proposed signs.
- U. Verify Thoroughfare dedication per section 9.19 if density credits are to be applied.

SECTION 5.2.4 COMPLIANCE WITH OTHER REGULATIONS

All features and elements of the site plan shall be in accordance with federal, state, and local ordinances/regulations including but not limited to:

- A. Gaston County Environmental Health Department



- B. Gaston County Natural Resources / NCDEHNR
- C. North Carolina Department of Transportation
- D. North Carolina Residential Code / Building Code

SECTION 5.2.5 PROCEDURE FOR PROCESSING

The Administrator shall review all site plans submitted to their office. The Administrator shall verify the completeness and compliance with this zoning ordinance

Except under abnormal circumstances, within fourteen (14) working days of the receipt of the site plan, the Administrator shall approve, subject to conditions, or disapprove the site plan and notify the applicant in writing of the action taken. In cases when the site plan approval is subject to conditions or when the site plan is denied approval, the Administrator shall set forth in writing any conditions or changes which might make the site plan acceptable.

SECTION 5.3 ZONING PERMIT

No building, sign or other structure (except as otherwise noted in this Ordinance) shall be erected, moved, extended, enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the Administrator has issued a zoning permit for such work.

- A. Expiration of Zoning Permit: Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the issue date, or if the work authorized by the permit is suspended or abandoned for a period of at least one (1) year.
- B. Records: The Administrator shall maintain a record of all zoning permits on file at their office, and copies shall be made available upon request to interested parties.
- C. Conditions for Approval: Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differs from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Chapter 18 of this Ordinance.



- D. Zoning Permit Not Required: Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:
1. Street construction or repair.
 2. General maintenance or of electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way (Essential Services Class 1).
 3. Signs, as indicated in Chapter 12 of this Ordinance.
 4. Mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump houses, doghouses, remodel, and accessory structures that do not require a Building Permit.
- E. In cases where a preexisting zoning violation has been cited in accordance with Section 18.1, a new zoning permit, for work not related to the violation, shall not be issued until the preexisting violation is brought into compliance.
- F. Reserved.

SECTION 5.4 BUILDING PERMIT

No structure that is governed by the State Building Code may be erected, added to, structurally altered, moved, occupied or demolished until the Gaston County Building Inspections Department has issued a building permit for such work. A building permit shall be issued only for work that conforms to the requirements and standards of this Ordinance (and all other applicable ordinances) and the terms and conditions of any other permits, approvals, or variances granted pursuant to this Ordinance.

SECTION 5.5 RESERVED

SECTION 5.6 RESERVED

SECTION 5.7 RESERVED



SECTION 5.8 TEMPORARY USE PERMIT

SECTION 5.8.1 PURPOSE

Temporary Use Permits are a mechanism to allow a use on a short-term basis and to permit certain seasonal and transient uses that otherwise may not be allowed. Certain temporary uses are allowed subject to the issuance of a temporary use permit by the Administrator; others are allowed without a permit but are nonetheless subject to all applicable regulations contained herein.

SECTION 5.8.2 TABLE OF ALLOWED TEMPORARY USES

- A. All temporary uses will be subject to the requirements contained in Section 5.8.3. Table 5.8-1 shows a list of allowed temporary uses and is shown below. Additional supplemental requirements for individual temporary uses are also indicated and are found in Section 5.8.4.
- B. Otherwise, if a temporary use is not listed in Table 5.8-1 the use may only be granted a zoning permit after: (i) a public hearing has been conducted by the Board of Adjustment, and (ii) the Board of Adjustment has made the following determinations:
 - 1. The proposed use will not materially endanger the public health, welfare and safety; and
 - 2. The proposed use will not have a substantial negative effect on adjoining properties.

In approving such permit, the Board of Adjustment may authorize conditions regarding the duration of the use, hours of operation, signage, lighting, and any other factors deemed necessary by the Administrator. Such conditions shall be made part of the permit issued. Violations of such conditions shall be considered a violation of this Ordinance.



TABLE 5.8-1 ALLOWED TEMPORARY USES		
TEMPORARY USE	PERMIT NEEDED?	OTHER REGULATIONS
Real Estate Sales Office/Model Sales Home	Yes	5.8.4 (A)
Sale of Goods Other Than Agricultural Products	Yes	5.8.4 (B)
Sale of Agricultural Products	No/Yes	5.8.4 (C)
Garage/Yard Sales	No	5.8.4(E)
Special Outdoor Event	Yes	5.8.4 (F)
Construction Trailers	Yes	5.8.4 (G)
Temporary RV's and Manufactured Homes	Yes	5.8.4 (H)
Temporary RVs for Workers for Construction Projects	Yes	5.8.4 (I)

SECTION 5.8.3 GENERAL REQUIREMENTS FOR TEMPORARY USES

Unless otherwise specified, all temporary uses shall be subject to the following requirements:

- A. All temporary signs associated with the temporary use shall be removed when the activity ends.
- B. The temporary use may not violate any applicable conditions of approval that apply to a principal use on the site.
- C. If the site is undeveloped, it shall contain sufficient land area to allow the temporary use to occur, as well as any required parking and traffic movement that may be associated with the temporary use without disturbing any required landscaping, screening, natural plantings or other required protective resources.
- D. If the site is developed, the temporary use shall be located in an area that does not negatively impact existing buffers, landscaped areas, required natural plantings, traffic and pedestrian circulation, or



significantly impact parking space availability. (NOTE: The Administrator shall have the authority to allow the placement of certain temporary uses in required off-street parking areas and may allow that use to occur upon determining that the use, given its nature, location, time-frame, and anticipated amount of pedestrian or vehicular traffic, would not unduly cause harm by locating in such an area and that existing off-street parking provided on-site is sufficient to accommodate both the existing principal and temporary uses simultaneously.)

- E. Tents and other temporary structures shall be located so as to not interfere with the normal operation of any permanent use on the site.
- F. In approving a temporary use permit, the Administrator may impose other requirements that they deem reasonable and necessary to ensure that:
 - 1. The proposed use will not endanger the public health, welfare or safety; and,
 - 2. The proposed use will not have a substantial negative effect on adjoining or nearby properties.
- G. Prior to the issuance of a temporary use permit, the applicant shall provide proof of the property owner's or an agent of the property owner's permission to occupy such property for the requested temporary use.
- H. All temporary uses shall comply with the permit requirements contained in Table 5.8-1 and conditions contained in Section 5.8.4 and any other requirements applicable to the use in question.
- I. A sketch plan showing setbacks, parking, ingress / egress, and other required information as determined by the Administrator.
- J. Unless otherwise noted, setbacks for any structures housing the temporary use shall be the same as what is required for the principal structure. The Administrator may grant relief to the setback requirements on a case-by-case basis, upon determination that:
 - 1. The placement of the structure would be in harmony with other structures both on the lot in question and nearby lots;
 - 2. Placement of the structure at the required setback would serve no useful purpose; and,



3. The placement of the structure at an alternative location on the lot would not impact the public's health, welfare and safety.

SECTION 5.8.4 SPECIFIC REGULATIONS FOR CERTAIN TEMPORARY USES

A. Temporary Real Estate Sales Office / Model Sales Home

1. If a modular home is used, it shall be built to the applicable commercial building code standard. Manufactured homes built to HUD standards shall not be used as a sales office. All sales offices shall be in compliance with all applicable building code standards.
2. The applicant shall locate the structure on an approved lot within a subdivision containing twenty-five (25) lots or more as indicated in the recorded final plat; agents shall use the structure for the sale of the lots within that subdivision.
3. If the structure is permanently placed on the lot, it must meet applicable setback regulations for the lot; otherwise, the Administrator shall have the ability to waive or modify one (1) or more setback requirements for the placement of the temporary structure.
4. *The applicant shall provide off-street parking for at least three (3) vehicles. Spaces do not need to be paved. Also, the applicant must have one (1) paved handicap space per North Carolina building code.*
5. The applicant may use a wall sign no larger than sixteen (16) feet in area.
6. Upon termination of the temporary real estate office or model sales home, the structure shall be converted and used for residential purposes or be removed from the property.
7. The maximum duration for such uses is: Temporary Real Estate Sales Offices – One (1) Year; Model Homes – Three (3) Years. The Administrator shall have the authority to issue renewals for each in one (1) year increments, provided substantial progress is being made in the selling and marketing of the lots / homes within the subdivision.

B. Sale of Goods Other Than Agricultural Products AND Other Than



"Garage/Yard Sales"

1. Receipt of a municipal "peddler's or business license" shall not exempt a merchant from needing to obtain a temporary use permit for such sales.
2. The proposed display and sales of goods shall not occur within two-hundred (200) linear feet of an occupied residential dwelling unit located in a residential zoning district.
3. The temporary sales of goods for civic, charitable, educational, or religious purposes shall only be allowed on a lot located in a Commercial or Office zoning district or on a developed lot in a Residential zoning district that contains a civic, public, charitable, educational or institutional use (e.g., church, school, etc.) Provided, however, the Administrator may allow such sales to take place on public property including: public parks, public street rights-of-ways, or any other political subdivision of the State of North Carolina. Approval from the County Manager, as well as other public officials, as deemed necessary by the Administrator shall also be required.
4. Such sales shall be allowed from 8:00 AM to 10:00 PM, EST, only or, if there is a principal use on the lot, the same hours of operation as the principal use, whichever is more restrictive. The Administrator may allow exceptions to these regulations for lots that contain principal uses with limited hours of operations.
5. Sales at any one site are allowed a maximum of thirty (30) days per calendar year;

C. Sales of Agricultural Products

1. The sale of agricultural products is exempt from permits if meeting the North Carolina General Statutes for exclusions. GS 143-138(b4)1b: Any structure used for the display and sale of produce, no more than one thousand (1,000) square feet in size, open to the public for no more than one-hundred eighty (180) days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.
2. The County will require zoning and building permits if the proposed structure does not meet the exemption outlines above.



- D. Reserved.
- E. Garage/Yard Sales
 - 1. Garage/yard sales shall be allowed during daylight hours only.
 - 2. Garage/yard sales shall be limited to household goods.
 - 3. Such sales shall be allowed on any lot in a Residential zoning district or on any public, charitable, educational or institutionally developed lot in other zoning districts.
 - 4. Garage sales may take place on any one (1) site no greater than six (6) days per calendar year.
- F. Special Outdoor Events
 - 1. The Administrator shall share temporary use permit applications for special events with local police, fire and emergency services, and the County manager for review. All agencies will be given up to twenty-one (21) days to provide their comments. Based on the comments received, the Administrator can either approve, approve with modifications, or deny the permit.
 - 2. If an event is set to last for more than thirty (30) consecutive days in a calendar year, the Administrator shall require a special use permit per Section 5.11. Applicant shall meet all the requirements outlined in Section 5.11 except the following shall substitute the regulations found in Section 5.11.5(B):
 - a. The proposed use will not endanger the public health, welfare or safety.
 - b. The proposed use will not have a substantial negative effect on adjoining or nearby properties.
 - 3. Events may be held between 8:00 AM to 10:00 PM, EST, unless, given the nature of the event, the Administrator (or the approval body, in the issuance of a Special Use Permit) allows for other hours of operation if they determine that extended hours will not have a substantial negative impact upon adjoining and nearby properties and that all necessary public safety concerns have been addressed.
 - 4. Special events may take place on any one (1) site no greater



than seven (7) events per calendar year.

G. Construction Trailers

Construction trailers shall be allowed as follows:

1. The construction trailer is located at a building site that has a valid building permit.
2. The construction trailer is be located at least ten (10) feet off any street right-of-way or property line.
3. The construction trailer is removed from the site within ten (10) days of the issuance of a certificate of occupancy.

H. Temporary RV's and Manufactured Homes

1. Disasters

- a. In the event of a disaster, which results in the destruction of an owner-occupied single-family dwelling (i.e., receives damage greater than fifty (50) percent of its assessed tax value as indicated on the most current tax listings) a RV / Class C manufactured home may be placed on the lot containing the dwelling unit that was destroyed / damaged. However, an RV may be placed on an adjacent lot with property owner's written approval, when it is not feasible or practical to be on the lot of the damaged / destroyed dwelling, as determined by the Administrator. The purpose of allowing such RV / manufactured home on said lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is repaired. The RV must be of adequate size and designed in such a manner that it will function as a dwelling unit for a temporary period of time, to be determined by the Administrator.
- b. Such RV / manufactured home may be placed only in the side or rear yard (in relation to the structure to be replaced or repaired) and shall be located no closer than twenty (20) feet to another principal residential structure on another lot and no closer than ten (10) feet to any side or rear lot line on the lot in question. An RV allowed on an adjacent lot shall meet these same



requirements. When an RV is permitted on an adjacent lot which does not have a principle structure, then the RV shall meet the principle structure setbacks.

- c. The Administrator shall be given the authority to issue a temporary use permit for up to six (6) months for the temporary RV / manufactured home. Such permit may be renewed on a one-time only basis [for a period of no greater than nine (9) months] by the Administrator if he determines that construction of a new dwelling unit is proceeding in a diligent manner.
- d. Notwithstanding the above if, at any time a temporary or permanent certificate of occupancy is issued for the repaired or reconstructed dwelling, the RV / manufactured home shall be removed from the site within thirty (30) days of such issuance.

2. Family Medical Needs

- a. On any lot containing an existing single-family dwelling or Class A, B or C Manufactured Home, a temporary use permit may be issued for not more than one (1) manufactured home or RV to be placed on a residential lot as an accessory use. The Administrator may grant the permit.
- b. Such permit shall only be granted where conditions exist requiring care for an immediate family member due to medical reasons. The temporary use permit may only be granted after the Administrator has determined each of the following:
 - i. That the manufactured home or RV is an accessory use to a principal residential use;
 - ii. That there exists a medically related need for the proximate care of an immediate family member (this finding must be substantiated by a certificate of need from a medical doctor or similar evidence.) As used herein, proximate care shall mean the same level of care that would normally necessitate living in the same dwelling as the care provider or in a domiciliary care facility that provides basic day-to-day living needs, (e.g., feeding, bathing, and other such functions)].



- iii. That the person(s) responsible for providing the care will live in either the principal dwelling or the manufactured home and that the person(s) needing the care shall live in the structure not occupied by the person(s) providing the care;
 - iv. That the person(s) in need of care is an immediate family member of the person(s) to be responsible for providing the care;
 - v. That the manufactured home or RV will have adequate access to public water and sewer or a well and septic tank as verified by permits from the Gaston County Health Department;
 - vi. That the manufactured home or RV will be placed in the rear or side yard and will be no closer than twenty (20) feet from any property line.
 - vii. That the manufactured home or RV used is a Class B or C manufactured home.
- d. Any temporary use permit initially issued by the Administrator shall be valid for one (1) year but may be renewed by the Administrator on a year-to-year basis if all of the findings indicated above continue to exist. Irrespective of the above, any permit issued shall automatically terminate within thirty (30) days after any of the reason(s) justifying the permit cease to exist. Such permit is granted to a particular owner on the basis of circumstances peculiar to that owner and it shall automatically terminate should the person needing care (or immediate family members) no longer reside on the premises.
3. During construction of a single family residence
- a. A manufactured home or RV is allowed under this subsection.
 - b. The manufactured home must meet the requirements of either a Class A, Class B or Class C Manufactured Home.
 - c. The RV must be of adequate size and designed in such



a manner that it will function as a dwelling unit for a temporary period of time, to be determined by the Administrator.

- d. The manufactured home / RV must be used as the principal residence of the owner of the lot on which it is being placed.
 - e. The temporary permit for the manufactured home / RV shall not be issued until the owner of the lot has first secured a building permit for a single family dwelling. The applicant for the temporary use permit must state to the County that the intended use of the dwelling to be constructed on the lot is for his principal place of residence. If the permit for construction of the dwelling becomes invalid, then the temporary permit for the manufactured home / RV shall, at the same time, become invalid and the manufactured home / RV shall be removed.
 - f. The temporary permit for the manufactured home / RV shall initially be granted by the Administrator for a period of six (6) months. The temporary manufactured home / RV permit shall be extended for a nine (9) month period provided the dwelling being constructed has passed the footing inspection by the end of the first six (6) month period. The temporary manufactured home / RV permit shall be extended for another nine (9) month period provided the dwelling being constructed has passed all framing and "rough-in" inspections with fifteen (15) months of the initial granting of said permit. The temporary manufactured home / RV permit shall be extended for a final four (4) month period provided a Certificate of Occupancy has been issued for the dwelling being constructed within two (2) years of the initial granting of the said permit. No further extensions of the temporary permit shall be granted and the manufactured home / RV must be removed before the expiration of the final extension.
- I. Temporary RVs for Workers for Construction Projects lasting Greater than Six (6) Months
- 1. The RV owner must also be the occupant.



2. The RV must be of adequate size and designed in such a manner that it will function as a dwelling unit for a temporary period of time, to be determined by the Administrator.
3. The project must maintain a valid Building Permit.
4. The Zoning Permit must be renewed every six (6) months.
5. The RV must be removed within thirty (30) days after the completion of the project or the Building Permit is no longer valid.
6. Only allowed in an approved space within an existing Manufactured Home Park or in a Camping/RV Park.

SECTION 5.9 RESERVED

SECTION 5.10 VESTED RIGHTS CERTIFICATE

Pursuant to NCGS 160D-108 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a vested rights certificate which shall entitle said landowner to develop property in accordance with an approved site specific development plan. The procedure for establishing a vested right is set forth in this section.

SECTION 5.10.1 DEFINITIONS

For the purpose of this section only, the following definitions shall apply:

- A. Landowner
Any owner of a legal or equitable interest in real property, including such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan in the manner allowed by this Ordinance.
- B. Property
All real property is subject to the zoning regulations of this Ordinance.
- C. Vested Right
The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.



SECTION 5.10.2 EFFECT OF APPROVAL

- A. To apply for vested right, a landowner shall first submit to the Administrator a site-specific development plan. The plan shall be submitted in completed form to the Administrator and processed in the same manner, except as herein provided, as a Special Use Permit per Section 5.11 of this Ordinance.
- B. Once a public hearing has been held, the governing board shall issue the vested rights certificate for a period of no less than two (2) years if it has evaluated an application and determined that:
 - 1. The use meets all required specifications of this Ordinance, and
 - 2. The use, as approved, will protect the public health, safety and welfare. Conditions, if any, placed on the site-specific development plan by the County shall be adequate to satisfy this requirement.
- C. If the County issues a vested right certificate for site specific development plan for a period of more than two (2) years and up to five (5) years, this shall be based on one (1) or more factors so described in Section 5.10.3.
- D. If the use or development for which a vested rights certificate is submitted is a special use, the County may approve the vested rights certificate at the same time with the approval of the Special Use Permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a Special Use Permit without the Special Use Permit having first been issued.

SECTION 5.10.3 EFFECT OF APPROVAL

- A. The effect of approval of a vested rights certificate shall be to vest the site specific development plan for a period of two (2) to five (5) years from the date of approval. Any vesting for a period of greater than two (2) years shall be at the request of the applicant and where the governing board determines that such greater period of vesting is needed due to: (i) the sizing and phasing of the development; or (ii) the level of investment; or (iii) the need for the development; or (iv) economic cycles; or (v) the market of conditions, building permits for all phases of the development cannot be secured within two (2) years.



- B. An approved vested right certificate shall confer upon the landowner a vested right, the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.
- C. A vested right, once established as herein provided, shall preclude any zoning action by the County that would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development plan except under the following conditions:
 - 1. The affected landowner provides written consent to the – County of his desire to terminate the vested right; or,
 - 2. The County determines, after having advertised and held a public hearing per Section 5.16.3(C) of this Ordinance, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan; or,
 - 3. Compensation is made by the County to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,
 - 4. The County determines, after having advertised and held a public hearing per Section 5.16.3(C) of this Ordinance, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the County of the site specific development plan; or,
 - 5. Upon the enactment or promulgation of a State or Federal law or regulations that precluded development as contemplated in the site-specific development plan. In such case the County may [after having advertised and conducted a public hearing per Section 5.16.3(C) of this Ordinance] modify the affected provisions upon a finding that the change in State or Federal law has had a fundamental effect on the plan.
- D. Once a vested right certificate is granted for a particular site-specific development plan, nothing in this Ordinance shall preclude the



County from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

SECTION 5.10.4 REVOCATION OR EXPIRATION OF A VESTED RIGHT

In addition to the revocation provisions cited in Section 5.10.3, a revocation of a vested rights certificate may occur if the governing board determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the UDO. The vested right shall otherwise expire at the end of the approval period established by the governing board.

SECTION 5.10.5 REVOCATION OF BUILDING PERMIT

A building permit issued by Gaston County may not be revoked because of the running of time on a piece of property for which a vested rights certificate has been approved and the vested right period has not otherwise expired.

SECTION 5.10.6 ESTABLISHMENT OF VESTED RIGHTS

The establishment of a vested right on a piece of property for a site specific development plan shall not preclude the County from establishing and putting into place one (1) or more overlay districts which may impose additional restrictions on said property, provided such restrictions do not affect the allowable type or intensity or use. Otherwise such regulations shall become effective with respect to the subject property upon the expiration or termination of the vested right certificate. The County may also enforce on the property additional regulations (adopted during the time the vested right certificate was in effect) that are general in nature and applicable to all property subject to the regulations of this Ordinance.

SECTION 5.11 SPECIAL USE PERMIT

SECTION 5.11.1 PURPOSE

There are many uses identified in Table 7.1-1 that are “uses by right” and that are allowed “by right” in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, there are some uses in these districts that are “special uses” and are subject to the issuance of a Special Use Permit. The purpose of having special uses is to ensure that these uses are compatible with surrounding development and are in keeping with



the purposes of the general zoning district in which they are located. There may be some uses that prior to adoption of this Ordinance were allowed as “uses by right” but now are allowed subject to a Special Use Permit. For these uses, any expansion or modification to the uses would be subject to the issuance of a Special Use Permit.

SECTION 5.11.2 PROCEDURES

A pre-application meeting between the applicant and the Administrator shall be required in order to familiarize the applicant of the procedure for securing approval of a Special Use Permit. The Administrator shall accept no Special Use Permit application for review without such meeting having first occurred unless the Administrator determines that such meeting would not serve any meaningful purpose and waives the meeting requirement.

Procedures for application submittal are as follows:

- A. A complete Special Use Permit application that is signed by the applicant and which is accompanied by a submittal fee (in accordance with a fee scheduled approved by the Governing Board) shall be filed with the Administrator.
- B. The application shall be accompanied by a drawing or plan as outlined in Section 5.2.
- C. In the course of evaluating the proposed special use, the Board of Adjustment may request additional information from the applicant in order to assist in the review process. A request for such additional information shall stay any further consideration of the application by such agency. Such additional requested information may include (but shall not be limited to) the following:
 1. A traffic impact analysis, if required, shall be in compliance with the requirements as defined in Chapter 9.
 2. An environmental impact statement that includes some or all of the following:
 - a. A cover sheet that provides, in summary form, a description of the proposed project;
 - b. A statement of purpose and need of the project;
 - c. For projects proposed by public entities, a list of alternatives of the proposed project;



- d. A succinct description of the environment affected by the project;
 - e. A discussion of short and long term consequences of the project on the environment including any adverse environmental impacts which cannot be avoided; and,
 - f. A list of means that could be employed to mitigate any negative effects on the environment caused by this project.
- D. Reserve.
- E. Any completed application submitted shall be heard by the appropriate Board for approval within one hundred-eighty (180) days. After the expiration of an application, a new application may be submitted following the current regulations in place at the time of the new application submittal.

SECTION 5.11.3 PUBLIC HEARING NOTIFICATION

- A. In order for a Special Use Permit to be considered for approval, a public hearing must be held by the Board of Adjustment. Any complete application shall be submitted to the Administrator at least thirty (30) working days prior to the public hearing. This shall be sufficient time period for the staff to review the application and produce a staff report and to ensure that all applicable notification requirements can be met. Notification of the public hearing shall be as follows:
 - 1. A notice shall be published in a newspaper having general circulation in Gaston County once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the hearing.
 - 2. The Administrator shall post at least one (1) notice on the site for the proposed special use or an adjacent public street or highway right-of-way at least ten (10) days prior to the public hearing. Where multiple parcels are included within the application, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the date and time of the hearing, case number and contact telephone number to obtain more information. The notice shall be removed only after final action has been taken



on the matter.

3. A notice of the public hearing shall be sent by first class mail by the Administrator to the applicant and to all adjacent property owners (as defined in Section 2.7) at least ten (10) days prior to the public hearing.

SECTION 5.11.4 RESERVED

SECTION 5.11.5 FINAL DECISION

A. Conduct of Public Hearing

1. The Board of Adjustment public hearing shall be held in a quasi-judicial manner. In approving an application for a Special Use Permit, the Board of Adjustment may attach fair and reasonable conditions to the approval. Such conditions shall be limited to those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Adjustment. In no instance shall any of these conditions be less restrictive than any requirements that would pertain to that particular development found in the zoning district in which the property is located except for minor modifications as indicated in Table 5.15-1 and except where otherwise specifically allowed in this Ordinance. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development. The Board of Adjustment may not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. Such conditions shall be mutually agreeable by the County and the petitioner.

B. Burden of Proof

1. The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions that Subitems b and d below require. If any person submits competent, material, and substantial evidence allegedly contrary to any of the facts or conditions listed in Subitems a and c below, the burden of proof for overcoming such evidence shall rest with the applicant.



2. The Board of Adjustment may only issue a Special Use Permit if it has evaluated an application and found each of the following findings in the affirmative:
 - a. The use will not materially endanger the public health or safety if located where proposed and developed according to plan;
 - b. The use meets all required conditions and specifications;
 - c. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity; and,
 - d. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Land Use Plan and other plans for the physical development of the County as adopted by the Board of Commissioners.

C. Additional Review Criteria / Findings of Fact

In addition to the findings of fact listed in Section 5.11.5(B), certain uses require the consideration of additional review criteria. Before a Special Use Permit may be issued for said uses, the findings of fact listed in Section 5.11.5(B) along with those pertaining to that individual use must each be found in the affirmative. [NOTE: in certain instances the findings contained in Section 5.11.5(B) shall be substituted with those so indicated.]

D. Effect of Approval

1. If an application for a Special Use Permit is approved, the owner of the property shall have the ability to (i) develop the use in accordance with the stipulations contained in the Special Use Permit or (ii) develop any other use listed as a "permitted use" for the general zoning district in which it is located. Such approval, however, does not immediately authorize development activity, as the property owner will need to file for and secure a zoning permit, in accordance with Section 5.3, in order to proceed with development. The Administrator shall ensure that any development plans submitted with such zoning permit request are consistent with the terms and conditions of the Special Use Permit approved



for such property or for any other use by right allowed in the underlying zoning district.

2. Following approval of a Special Use Permit authorizing specified permitted uses and/or specified development conditions, the County will obtain applicant/landowner's written consent to conditions to ensure enforceability. The County shall file and record a copy of the SUP in the office of the Register of Deeds for Gaston County.

E. Binding Effect

1. Any Special Use Permit herein authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Board of Adjustment. All conditions contained in the Special Use Permit shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns, unless subsequently changed or amended as provided for herein. However, the Administrator may approve minor changes in the detail of the approved application. A "minor change" to the approved Special Use Permit shall be deemed to be a change which:
 - a. Will not alter the basic relationship of the proposed development to adjacent property;
 - b. Will not increase the gross floor area of any nonresidential use by the smaller of ten (10) percent or ten-thousand (10,000) square feet (Note: Such limitations shall be cumulative and shall be based on the gross floor area of the Special Use Permit as originally approved);
 - c. Will not decrease the off-street parking ratio below the minimum number of parking spaces required by this Ordinance;
 - d. Will not increase the height of any structure to the extent that additional usable floor space could be added; or
 - e. Will not result in an increase in the number of dwelling units constructed;
 - f. Will not alter the uses permitted.



2. Further changes to the development may be made only by the Board of Adjustment in accordance with Section 5.11.2 through 5.11.5 of this Ordinance.
3. No certificate of compliance for a use listed as a special use shall be issued for any building or land use on a piece of property which has received a Special Use Permit for such particular use unless the building is constructed or used, or the land is developed or used, in conformity with the Special Use Permit. In the event that only a segment of a proposed development has been approved, the certificate of compliance shall be issued only for that portion of the development constructed or used as approved.

F. Period of Validity of Special Use Permit

Unless the Board of Adjustment issues a Special Use Permit, which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit (or certificate of compliance) within twenty-four (24) months from date of issuance of the Special Use Permit. If a building permit or certificate of compliance is not issued at the end of said time period, the Special Use Permit shall automatically expire and shall be deemed rescinded. Such rescission shall not occur if the applicant has secured the vesting of a site development plan (in accordance with Section 5.10) for a period of greater than twenty-four (24) months. The County shall file and record a copy of the SUP in the office of the Register of Deeds for Gaston County.

SECTION 5.11.6 TWELVE-MONTH LIMITATION ON REAPPLICATION

- A. If a request for Special Use Permit is denied, a similar application for the same property or any portion thereof shall not be filed until the expiration of a twelve (12) month period from the date of denial. This waiting period shall not be applicable where the application for a Special Use Permit is determined by the Administrator to be substantially different from (i.e., not similar to) the original application.
- B. Notwithstanding, the Administrator may allow resubmission of a similar application within said twelve (12) month period if it determines that since the date of action on the prior petition:
 1. There has been a significant change in the zoning district classification of an adjacent piece of property; or,
 2. The governing board has adopted a plan that changes public



policy regarding how the property affected by the proposed special use should be developed; or,

3. Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can accommodate comfortably the intensity of development allowed under the proposed classification; or,
4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the twelve-month restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

SECTION 5.11.7 PETITION WITHDRAWAL

- A. An applicant who has submitted a complete application for a Special Use Permit may withdraw the application prior to a final decision being rendered.
- B. If said petition is withdrawn at least two (2) working days prior to the Board of Adjustment public hearing, a similar petition submitted by that property owner (or his agent) shall not be accepted by the Administrator within one-hundred (180) days of the date of withdrawal.
- C. If said petition is otherwise withdrawn prior to a final decision being rendered, a similar petition submitted by that property owner/or his agent shall not be accepted by the Administrator within one (1) year of the date of withdrawal. Any new application shall be accompanied by the appropriate fee.

SECTION 5.11.8 CHANGE IN SPECIAL USE PERMIT

Any request to materially change [i.e., undergo a change other than one listed as a "minor change" in Section 5.11.5(E)] to the Special Use Permit once it has been issued shall require the issuance of a new Special Use Permit. All notification and procedural steps and requirements as outlined in Sections 5.11.2 through 5.11.5 shall be followed.

SECTIONS 5.11.9 APPEALS

- A. An appeal to the decision of the Board of Adjustment shall be filed with the Clerk of Superior Court in the nature of certiorari no later than thirty (30) days after said decision has been filed in the



Administrator's office and as otherwise provided for in NCGS 160D-406. Staff will presume that notice of determination sent by mail are received on the third business day after determination was sent.

SECTION 5.12 RESERVED

Special Exceptions issued prior to January 1, 2021 will be treated as Special Use Permits. Moving forward, anything that would have originally required a Special Exception will require a Minor Modification, which can be approved by the Zoning Administrator.

SECTION 5.13 ADMINISTRATIVE APPEALS / INTERPRETATIONS

Except as provided herein, the Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Administrator and apply such interpretation to particular fact situations. In addition, the Administrator may ask the Board of Adjustment to interpret the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.

Any decision made by the Administrator relative to Chapter 13 shall first be appealed to the Planning Board per Section 13.6. Any such decision made by the Planning Board may be appealed to the governing board in accordance with Section 13.6.

The Administrator, or zoning official, who made the administrative decision must appear as a witness in the appeal process.

SECTION 5.13.1 FILING OF APPEAL; EFFECT OF FILING

- A. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board aggrieved by the order, requirement, or decision made by the Administrator. A complete application including a fee, in accordance with a fee schedule approved by the governing board, shall be filed with the Administrator within fifteen (15) days from the date the decision being appealed was made. The Administrator may ask for an interpretation of the Zoning Map at any time.
- B. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the Administrator certifies to the Board of



Adjustment that, in his/her opinion by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order granted by the Board of Adjustment or the Gaston County Superior Court on notice to the Administrator, with due cause shown.

SECTION 5.13.2 ACTION BY THE BOARD OF ADJUSTMENT

- A. Upon receiving the application materials from the Administrator, the Board of Adjustment shall hold a quasi-judicial public hearing on the appeal. Notice of the public hearing shall be per Section 4.5.10 of this Ordinance.
- B. Upon conclusion of the public hearing, the Board of Adjustment shall adopt a resolution that either reverses, affirms, or modifies the contested action. Similarly, the Board of Adjustment shall have the ability to make an interpretation of the zoning district boundaries as shown on the Zoning Map. In making such a decision, the Board of Adjustment shall have all the powers of the with respect to the action being contested or decision being made.

SECTION 5.13.3 EFFECT OF REVERSAL OR MODIFICATION

In the event that the Board of Adjustment reverses or modifies a contested action, all subsequent actions taken by the Administrator with respect to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment.

SECTION 5.13.4 EFFECT OF INTERPRETATION

Upon a ruling regarding an interpretation of the Official Zoning Map, said map shall be altered to accurately depict the Board of Adjustment's ruling and all uses of land on the affected properties shall thereafter be in harmony with the rules of regulations of the appropriate zoning district(s) for such properties.

SECTION 5.14 VARIANCES

The procedures for processing applications for variances are shown below, except as stated elsewhere in this Ordinance.



SECTION 5.14.1 PURPOSE

The variance process is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create practical difficulties or unnecessary hardships. This process is not intended so that variances can be granted so as to merely remove inconveniences or financial burdens that the requirements of this Ordinance may otherwise impose on property owners. Rather, it is intended to provide relief where the requirements of this Ordinance render land unduly difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is being requested. Any state or federal requirements may not be varied through the granting of a variance. Furthermore, use variances (i.e., the allowance for a use to be developed in a zoning district where that use is otherwise not allowed) may not be granted by the Board of Adjustment.

SECTION 5.14.2 VARIANCE SUBMITTAL PROCEDURE

- A. An application for a variance may be filed only by the owner of the lot(s) upon which the variance is sought or by an agent of such owner. The application shall be processed and a public hearing called and advertised as set forth in Sections 4.5.9 and 4.5.10 of this Ordinance.
- B. Any completed application submitted shall be heard by the appropriate Board for approval within one hundred-eighty (180) days from the date of submittal. After the expiration of an application, a new application may be submitted following the current regulations in place at the time of the new application submittal.

SECTION 5.14.3 RESERVED

SECTION 5.14.4 ACTION BY THE BOARD OF ADJUSTMENT

- A. In considering an application for a variance, the Board of Adjustment shall review the application, the approval criteria set forth in Section 5.14.5 and all testimony and evidence received at the public hearing.
- B. After conclusion of the public hearing, the Board of Adjustment shall have the following options:
 - 1. Approve the application for a variance as requested; or,



2. Approve the application for a variance with fair and reasonable conditions attached that the Board of Adjustment feels are necessary to satisfy one or more of the findings contained in Section 5.14.5; or,
 3. Deny the variance application.
- C. Unless otherwise authorized by the Board of Adjustment and included in its decision to grant a variance, any order of the Board of Adjustment in granting a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained within twenty-four (24) months from the date of the Board of Adjustment's decision.

SECTION 5.14.5 VARIANCE APPROVAL CRITERIA

The Board of Adjustment may grant a variance only having first held a public hearing on the matter and having found that each of the following findings exist:

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made on the property.
- B. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstance, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

SECTION 5.14.6 VARIANCE APPROVAL

- A. The concurring vote of four-fifths (4/5) of the Board of Adjustment shall be necessary to grant a variance.



- B. Following approval of a variance, the County shall expeditiously file and record a copy of the variance in the office of the Register of Deeds for Gaston County.
- C. Once the Board of Adjustment approves a variance, the applicant shall follow the procedures found elsewhere in this Ordinance for securing the requisite permit to proceed with the development of his property. All orders, decisions, determinations and interpretations made by the Administrator under those procedures shall be consistent with the variance granted by the Board of Adjustment.

SECTION 5.15 MINOR MODIFICATIONS

SECTION 5.15.1 DEVELOPMENT AND ZONING DISTRICT STANDARDS

A. Purpose

1. As part of the review and approval process set forth in the Ordinance, the Administrator is hereby authorized to approve minor modifications to certain development standards where such modifications are incidental and do not have significant impact on adjacent properties. The “minor modification” process is seen as a way to:
 - a. Grant minor modifications that would not significantly alter the relationship of a building or structure to neighboring properties;
 - b. Allow building encroachments into required setbacks that may be commonly found elsewhere in the County;
 - c. Address minor and insignificant construction errors which have occurred in the past and which could only otherwise be alleviated through the issuance of a variance.
2. The list of situations for which the Administrator is authorized to apply a “minor modification” is listed in Section 5.15.1 (B). Unless specifically listed there (or elsewhere in the Ordinance) any other modifications to the terms of this Ordinance shall require the issuance of a variance by the Board of Adjustment.



B. Minor Modifications Allowed

Table 5.15-1 indicates those minor modifications that are suitable for approval by the Administrator.

TABLE 5.15-1: MINOR MODIFICATION TABLE		
STANDARD THAT MAY BE MODIFIED	MODIFICATION ALLOWED	SUBSECTION
Façade and HVAC Encroachment- Placement of Eaves, Gutters, Cornices, Bay Windows, and HVAC Equipment	An eave, bay window or external HVAC equipment may extend into the required front, side or rear yard by no greater than three (3) feet, but in no case closer than five (5) feet to an adjoining property line. ¹	
Handicap Ramp Encroachment- Placement of Handicap Ramps	A ramp designed to accommodate handicapped persons may extend into a required front, side or rear yard, but in no case closer than five (5) feet to an adjoining property line. ¹	
Uncovered and Unenclosed Decks, Porches and Terraces	Such decks, porches and terraces which are not in any part more than six (6) feet above the finished grade level shall not project more than twenty-five percent (25%) into any required yard setback. ¹	
At-grade Driveways, Paths, Walks or Uncovered Concrete Slabs	May be placed in any required setback.	
Other Yard or Height Encroachments	One (1) foot or ten (10) percent of the required yard standard, whichever is less. ^{1, 2}	
Reduction in the Required Amount of Landscaping or Buffering Plant Materials	Refer to Section 11.1.2F	
Accessory Structures	An accessory structure may exceed its maximum area requirement by up to three (3) percent.	



TABLE 5.15-1: MINOR MODIFICATION TABLE (CONT.)		
STANDARD THAT MAY BE MODIFIED	MODIFICATION ALLOWED	SUBSECTION
Nonconforming Uses	Expansion of nonconforming use per Sections 3.5.1(C) and Section 3.5.4(C)	5.15.1(B)(1)
Nonconforming Structures	Expansion of certain nonconforming structures in accordance with Section 3.5.5(B)	5.15.1(B)(2)
Family Care Homes	Provision for two (2) or more family care homes to be located within one-half (1/2) mile of each other per Section 8.1.6	5.15.1(B)(3)
Extended Operating Hours	Extend operating hours for certain non-residential uses in Residential zoning districts per Section 9.20.	5.15.5(B)(4)

¹ In no case shall the Administrator have the authority herein to allow for a building encroachment into any of the following: 1. Street or railroad right-of-way; 2. Street or utility easement; 3. Designated floodplain or floodway areas; 4. Encroachment into another lot or parcel; 5. Encroachment into land that lies in another local government's planning jurisdiction, unless approval from that local government is given to do so.

² The Administrator shall only be able to grant such modification if the petitioner can demonstrate that the modification required was not the result of a deliberate action to circumvent the terms of this Ordinance.

1. Expansion of a Nonconforming Use [Sections 3.5.1(C) and 3.5.4(C)]
 - a. The nonconforming use will not occupy any additional lands beyond the boundaries of the lot upon which said nonconforming use was located as of the date said use became nonconforming. The lot boundaries to be used to determine this shall be those existing at the time the use became nonconforming; and
 - b. The expansion will not result in a negative effect on any adjoining property; and
 - c. The expansion will be in harmony with the general purpose and intent of this Ordinance and will not be harmful to the neighborhood or otherwise be detrimental to the public welfare.



2. Expansion of a Nonconforming Structure [Section 3.5.5(B)]
 - a. The expansion will not result in a negative effect on any adjoining property.
 - b. The expansion will be in harmony with the general purpose and intent of this Ordinance and will not be harmful to the neighborhood or otherwise be detrimental to the public welfare.
3. Family Care Homes to be Within One-half (1/2) Mile of Each Other (Per Section 8.1.6)
 - a. Such reduced separation will not result in the clustering of family care homes that could promote the segregating and isolation of handicapped persons instead of the integration and interaction of handicapped persons with the community mainstream.
4. Extended Operating Hours for Certain Non-residential Uses in Residential Zoning Districts (Per Section 9.20)
 - a. The nature of the use is such that limiting the hours of operation for that use in that particular location would result in a practical difficulty or unnecessary hardship; and
 - b. The use is in such location that it would not have a significant negative impact on surrounding and/or nearby property owners and cannot yield a reasonable return or cannot be put to reasonable use unless relief is granted; and
 - c. In balancing the public interest and the interest of the property owner, the grant of relief in the form of extended operating hours is required by considerations of justice and equity.

C. Procedures

The Administrator may approve a minor modification in conjunction with a site plan review, the issuance of a zoning permit, or certificate of compliance. The Administrator may not approve a request for a minor modification in cases where the development application must go to the Board of Commission or Board of Adjustment for approval or to another approval body even in cases where the requested modification is small



enough to be granted by the Administrator. In such cases, the Administrator shall transmit his/her recommendations with respect to the minor modification and the designated approval body shall have the authority to approve such minor modification in conjunction with their approval process.

D. Approved Final Subdivision Plats

1. Purpose

The Administrator is hereby authorized to approve minor modifications to approved and recorded final plats where such modifications are incidental and do not have significant impact on affected and adjacent properties. Such modifications shall not result in any lessening of any requirements that are otherwise called for in this Ordinance. Rather, the minor modification process is designed to address minor infrastructural changes that may not have been anticipated at the time of final plat approval.

NOTE: Changes to a subdivision plat that involve the combination or recombination of lots, where the resultant lots are not increased and meet all of the Ordinance requirements, shall not be considered a "subdivision" per NCGS 160D-802. Provisions for making such changes are addressed in Section 13.2 of this Ordinance.

2. Types of Subdivision Plat Modifications Allowed

Changes to a recorded subdivision plat that may be authorized by the Administrator include those that are a result of minor field alterations to accommodate physical site conditions involving interior features of the site design that involve the relocation of streets, easements, utilities and other infrastructural improvements.

3. Process

- a. The applicant shall present a copy of the recorded subdivision plat along with a paper copy of the modified plat with: (i) the modifications clearly identified and labeled, and (ii) the lots that are affected by such modifications. A written statement that gives reason as to why such modifications are needed shall accompany this.
- b. If any of the lots so identified have been sold to other parties, a signed statement from each of the affected



property owners shall accompany such plat. Each such statement shall: (i) list the modifications that are proposed and (ii) indicate their agreement with and support of the proposed subdivision plat modifications.

Once this information has been received, the Administrator shall have the ability to administratively approve the subdivision plat, send the plat to the TRC for their review and decision, or reject the plat amendment. The plat amendment may be approved by the Administrator (and/or the TRC) if determined that the proposed amendment(s): (i) does not violate any of the standards contained in this ordinance; (ii) will be beneficial to the residents of the subdivision and/or the community as a whole; and, (iii) will create conditions essential to the public health, welfare or safety.

SECTION 5.16 CHANGES TO THE OFFICIAL ZONING MAP

SECTION 5.16.1 AUTHORITY

Upon compliance with the provisions of this Chapter, the Board of County Commissioners shall have the authority to amend or repeal the zoning classification of any parcel of land, as indicated on the Official Zoning Map.

SECTION 5.16.2 INITIATION OF A ZONING MAP AMENDMENT

- A. Any person, board, department or commission may apply for a change in zoning district boundaries (rezoning), with the following limitations:
1. Applications for Conditional District zonings, as set forth in Section 5.16.5 of this Ordinance may be initiated only by the property owner or his authorized agent (refer to Section 5.1);
 2. Applications for third party rezonings (i.e., rezoning of a piece of property to another general zoning district by a person other than the property owner or the property owner's authorized agent) shall not be considered, except if the County initiates the rezoning petition.



- B. An amendment to the Official Zoning Map may be initiated by filing a complete and signed application with the Administrator. Before any application is accepted, the applicant must meet with the Administrator to discuss, in general, the procedures and requirements for a zoning amendment request. During the conference, the Administrator will identify the submittal requirements. The Administrator may waive the pre-application requirement, on a case-by-case, where due to the size of the tract being petitioned for rezoning or the likely impact that such rezoning might have, such conference would not serve any useful purpose.

SECTION 5.16.3 ZONING MAP AMENDMENT PROCESS – GENERAL DISTRICT REZONING

When considering a petition for the reclassification of property to a general zoning district, neither the Planning Board nor the Board of Commissioners shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district.

A. Filing of Petitions; Determination of Completeness

For a reclassification of property proposed by any person or entity other than the Planning Board or Board of Commissioners, such petition shall be on an application form prescribed by the Administrator, signed by the applicant and accompanied by the fee in accordance with a fee schedule adopted by the governing board. Said application form and fee shall be filed with the Administrator. Said fee shall be waived for any petition submitted by any official or agency acting on behalf of the Gaston County or the State of North Carolina. No application shall otherwise be considered complete unless accompanied at the time of submittal by said fee. An application will otherwise be deemed complete if it is:

1. Submitted on the proper form;
2. Includes all mandatory information;
3. Includes all necessary supporting materials specified; and,
4. Includes the designated fee



B. Content of Application

1. Each non-adjacent parcel of land for which rezoning is requested shall be deemed a separate application, and said application fee shall accompany each application. For the purpose of this section, land located and adjacent on either side or to the rear and all property located directly across any street, railroad, body of water, jurisdictional boundary line, or public right-of-way from the subject property shall be deemed to be adjacent. Also refer to the definition of "adjacent property" in Section 2.7.
2. Each application for a rezoning of land shall be accompanied by two (2) copies of a map, drawn to scale, with the following information either shown on the map or accompanying it:
 - a. The subject property plus all adjacent properties;
 - b. If the property is in a subdivision of record, a map of such portion of the subdivision that would relate the subject property to the closest street intersection;
 - c. A survey and written description of the property(ies) proposed for rezoning shall accompany the map for rezoning requests that do not address the entire parcel and where one (1) or more of the exterior boundaries of the rezoning request do not follow readily identifiable mapped features (e.g., street or railroad rights-of-way, easements, bodies of water, etc.);
 - d. The present and proposed zoning classification of the lot(s) in question; and,
 - e. The property identification number(s) of the lot(s) in question as issued by the Gaston County Tax Department.

C. Submittal and Review Procedures

1. In order for an amendment to the Official Zoning Map to be made by the Board of Commissioners, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board review shall take place after a public meeting held by the Planning Board to discuss the proposal. This legislative hearing, once opened, may be continued to a later date. Any complete application shall be submitted to the Administrator



at least thirty (30) working days prior to the legislative hearing. Notification of the legislative hearing shall be as follows:

- a. A notice shall be published in a newspaper having general circulation in Gaston County once a week, for two successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the legislative hearing.
 - b. A notice of the proposed zoning map change shall be sent by first class mail by the Administrator to the applicant and owners of all adjacent properties as indicated on the most up-to-date records of the Gaston County Tax Department at least ten (10) but not greater than twenty-five (25) days prior to the legislative hearing.
 - c. The Administrator shall post at least one (1) notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten (10) days prior to the legislative hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the case number the legislative hearing date, time at which it is to be held, and contact telephone number. The notice shall be removed only after final action has been taken on the matter.
2. Any legislative hearing notice published or mailed shall state the nature of the legislative hearing, the date, time, and place at which the hearing is to occur, and who to call and/or see for more information.
 3. The first class mail notice required per Section 5.16.3(C)(1)(b) may be waived if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners. Under such circumstances, the County may elect to mail such first class notices or elect to publish notice of the hearing as provided in NCGS 160D-601. The advertisement shall not be less than one-half (1/2) of a newspaper page in size. The newspaper advertisement shall be effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper's



circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. In addition to the newspaper notice, the County shall post one (1) or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

D. Planning Board Action

1. Once the Planning Board public meeting has been concluded, the Planning Board shall have thirty (30) days to submit a recommendation to the Board of Commissioners regarding the proposed change. Said recommendation shall address whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the Board of Commissioners and any other officially adopted plan that is applicable along with other matters that the Planning Board deems appropriate and a statement as to why the Planning Board considers its recommendation to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation from the Planning Board.
2. The Planning Board recommendation shall be as follows:
 - a. Grant the rezoning as requested;
 - b. Grant the rezoning with a reduction of the area requested;
 - c. Grant the rezoning to a more restrictive general zoning district or districts;
 - d. Grant the rezoning with a combination of Subsections (b) and (c) above; or,
 - e. Deny the rezoning.
3. The list of general zoning districts in descending order of restrictiveness is as follows, with RLD being the most restrictive and I-3 being the least restrictive:
 - a. RLD (most restrictive)
 - b. R-1
 - c. R-2



- d. R-3
- e. RS-20
- f. RS-12
- g. RS-8
- h. RMF
- i. OM
- j. TMU
- k. OLC
- l. O-1
- m. NBS
- n. C-1
- o. CBD
- p. UMU
- q. C-2
- r. C-3
- s. GPX
- t. I-U
- u. I-1
- v. I-2
- w. I-3 (least restrictive)

E. Governing Board Action

Once the legislative hearing has been conducted and: (i) the Planning Board has submitted its recommendation or (ii) the thirty (30) day review period has expired, whichever comes first, the Board of Commissioners shall render a decision on the petition. The decision of the Board of Commissioners shall be in the form of any of the various options listed in Section 5.16.3(D)(2) and (3). Alternately, the Board of Commissioners may send the application back to the Planning Board for further study and consideration. (NOTE: Such resubmittal by the Board of Commissioners to the Planning Board may not occur more than one time for any rezoning request.) If a resubmittal to the Planning Board occurs, the Planning Board shall hear the case and have an additional thirty (30) day period (from the date it re-reviewed the application) to resubmit a recommendation to the Board of. Any final decision made by the Board of Commissioners shall be accompanied by a statement that addresses: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (ii) other matters that the Board of Commissioners deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest.

F. Petition Withdrawal



An applicant who has submitted a complete application for a zoning map amendment may withdraw that application prior to a final decision being rendered by the Board of Commissioners. Such withdrawal may be made under the following guidelines:

1. If said petition is withdrawn at least two (2) working days prior to the Board of Commissioners' legislative hearing, a similar application shall not be accepted by the Administrator within one hundred-eighty (180) days of the date of withdrawal.
2. Otherwise, if said petition is withdrawn less than two (2) working days prior to a final decision being rendered, a similar application shall not be accepted by the Administrator within one (1) year of the date of withdrawal.
3. Notwithstanding the above, the Administrator may allow a similar application to be submitted prior to the expiration of said time periods having first determined:
 - a. There has been a significant change in the zoning district classification of an adjacent piece of property;
 - b. The Board of Commissioners has adopted a plan that changes public policy regarding how the property affected by the proposed change would be developed;
 - c. Construction or expansion of a road, water line, sewer line, or other such facility has occurred to serve the property and can comfortably accommodate the proposed zoning classification;
 - d. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies the waiver of said time restrictions. This, however, shall not include a change in property ownership; or,
 - e. The proposed zoning map amendment is substantially different from that which was previously proposed and, if such amendment were approved, would effect a change substantially different than that contained in the previous application.
4. Notwithstanding the above, any amendment petition initiated by the Planning Board or Board of Commissioners shall be exempt from any time restraints on resubmittal.

G. Petition Resubmittal



If the Board of Commissioners has denied an application for the rezoning of a parcel of land to a general zoning district, a similar application shall not be accepted by the Administrator for a period of one (1) year following the date of such denial. Notwithstanding, the Administrator may accept such submittal within said one-year period if he makes any one of the findings listed in Section 5.16.3(F)(3) of this Ordinance.

H. Application Submission Period

Any completed application submitted shall be heard by the appropriate Board for approval within one hundred-eighty (180) days from the date of submittal. After the expiration of an application, a new application may be submitted following the current regulations in place at the time of the new application submittal.

SECTION 5.16.4 (REMOVED) ZONING MAP AMENDMENT PROCESS – PARALLEL CONDITIONAL USE DISTRICTS (PCUP)

The parallel conditional use rezoning process has been removed as an option with the adoption of Resolution 2019-247, by the Board of Commission on August 27, 2019.

SECTION 5.16.5 ZONING MAP AMENDMENTS – CONDITIONAL DISTRICTS (CD)

Conditional Districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. A Conditional District zoning allows particular uses to be established in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of a nature or scale that they have significant impacts on both the surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan and other long range plans. It should be interpreted that a Conditional District zoning application be applicable in all underlying zoning districts and regulated uses where permitted by right or by Special Use Permit (SUP). When applying for a (CD) where a special use is listed in the Use Table, a Special Use Permit



(SUP) is not required in addition to the (CD).

A. Application

1. Petitioning for a Conditional District is a voluntary procedure and can be initiated only by the owner(s) of the property(ies) in question or by their authorized agent. Every application for the rezoning of property to a Conditional District must be accompanied by a site plan, drawn to scale containing all of the information outlined in Section 5.16.6 of this Ordinance. The Administrator shall schedule a meeting with the applicant, prior to any Public Information Meeting (PIM) being advertised and/or held to review the rezoning application and site plan to make sure that it meets, all minimum requirements of this Ordinance.
2. No application shall be considered complete unless it is accompanied by a fee, in accordance with a fee schedule approved by the governing board for the submittal of an application for rezoning to a Conditional District. Said fee shall be waived for any application submitted by any official or agency acting on behalf of the Gaston County or the State of North Carolina.
3. The Administrator may require the petitioner to submit more than one (1) copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the Conditional District zoning process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. The Planning Board or Board of Commissioners may request additional information as they deem necessary.
4. The deadline for submittal shall be forty five (45) working days prior to the public meeting with the Planning Board. Applications with proposed projects comprised of fifty (50) acres or more shall have a deadline submittal of ninety (90) working days prior to the public meeting with the Planning Board.

B. Public Information Meeting

1. Once the complete application has been submitted to the Administrator and fees paid prior to the public meeting on the rezoning request, two (2) Public Information Meetings (PIMs) shall be scheduled and held. Such meetings shall occur prior



to any recommendation by the Planning Board and approval by the Board of Commissioners. The PIMs are designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the following requirements:

- a. The applicant shall provide an agenda, schedule, location, and list of participants such as landscape architects, engineers, etc. to answer questions from citizens and service providers for the PIMs in cooperation with the Administrator.
- b. It is recommended that the first PIM last 2-4 hours, depending on the nature of the proposed development and its location. A minimum of one (1) hour should be scheduled during normal business hours to allow service providers and other public agencies (such as public works officials, NCDOT, NCDENR, QNRC, etc) to participate as needed and to allow for citizens to drop in at a convenient time throughout the period. It is recommended (but not mandated) that this portion of the PIM take place at the proposed development site.

In addition, a second one (1) hour minimum PIM should be scheduled at a conveniently located meeting site agreed upon by the applicant and the Administrator.

A PIM may last for different amounts of time, depending on the nature of the development, its location, and the number of parties involved and/or attending the meeting.

- c. Notice of the PIMs shall be given as follows:
 - i. A public notice shall be sent by the applicant to a newspaper having general circulation in the County not less than ten (10) days nor more than twenty-five (25) days prior to the date of the PIM.
 - ii. A notice shall be sent by first class mail by the applicant to the owners of all properties that lie within two hundred (200) feet as measured from the exterior boundaries of the proposed development.



The applicant shall furnish the County with a list of the mailing labels that depict the names and addresses of the owners of all properties within the said two hundred (200) foot area. Such notice shall be sent not less than ten (10) days prior to the date of the PIM. The notification shall contain information regarding the PIM time and location(s) as well as a general description of the proposal.

- iii. With respect to Subsection ii above, the applicant shall provide to the County proof of the paper notice and mailings.
 - iv. A PIM notification sign shall be posted by the County in a conspicuous place at the property not less than ten (10) days prior to the PIM. The sign shall indicate date, time, and location(s) of the PIM. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the PIM.
- d. The Administrator will keep notes of comments received during the PIM. A summary of the comments made shall be included in any staff report prepared by the Administrator relative to the rezoning request.
2. Following the PIM, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. One (1) or more revised copies of the application shall be submitted to the Administrator for review. No additional fee shall be required to be paid for making such changes provided the Administrator receives the revised application within seven (7) days following the PIM. If a revised application is not received during said seven (7) day period, the Administrator shall review the original application submitted.

C. Administrator Approval

The Administrator shall have up to seven (7) days following any revision of the application to make comments. If the Administrator forwards no comments to the applicant by the end of any such seven (7) day period, the application shall be submitted to the Planning Board for their review without any further comment.



D. Plans and Other Information to Accompany Petition

1. Every application for the rezoning of property to a Conditional District requires a site plan, drawn to scale containing all of the information outlined in Section 5.16.6 of this Ordinance.
2. Other information may be required by the Administrator relative to the rezoning request.

E. Legislative Hearing Notification Requirements

1. Before any property is rezoned to a Conditional District, the Planning Board shall have an opportunity to review and make a recommendation on the application. Planning Board review shall take place after the PIMs are completed and a public meeting has been held by the Planning Board. Notification of the legislative hearing, which is conducted by the Board of Commissioners, shall be as follows:
 - a. A notice shall be published in a newspaper having general circulation in Gaston County once a week, for two successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the legislative hearing.
 - b. A notice of the proposed zoning map change shall be sent by first class mail by the Administrator at least ten (10) days prior to the legislative hearing to the applicant and owners of all adjacent properties as indicated on the most up-to-date records of the Gaston County Tax Department.
 - c. The Administrator shall post at least one notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten (10) days prior to the Planning Board/Board of Commissioners' legislative hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the nature of the legislative hearing and its date, time, and location at which it is to be held. The notice shall be removed only after final action has been taken on the matter. In lieu of any or all of this



information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the conditional district zoning requested.

2. Any legislative hearing notice published or mailed shall state the nature of the public hearing, the date, time, and place at which the hearing is to occur, and who to call and/or visit for more information.

F. Planning Board Review

The Planning Board shall have at least thirty (30) days to make a recommendation on the proposed change, said thirty (30) days being measured from the date of the closing of the Planning Board public meeting. Any such Planning Board recommendation shall be accompanied by statements that address: (i) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (ii) other matters that the Planning Board deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest. If a recommendation is not made during said time period, the application shall be forwarded to the Board of Commissioners without a recommendation.

G. Action by County Board of Commissioners

A decision pertaining to Conditional Districts is a legislative process subject to judicial review using the same procedures and standard of review as applied to general district zoning decisions. Once the legislative hearing has been held, the Board of Commissioners shall take action on the petition. The legislative hearing, once opened, can be continued to a later date and action taken at that time. The Board of Commissioners shall have the authority to:

1. Approve the application as submitted.
2. Deny approval of the application
3. Approve the application with modifications that are mutually agreed to by the applicant and the Board of Commissioners. Such conditions shall be in compliance with Subsection F herein.
4. Submit the application to the Planning Board for further study. The Planning Board shall have up to thirty (30) days from the



date of such submission to make a report to the Board of Commissioners. If no report is issued, the governing board can take final action on the petition. The governing board reserves the right to schedule and advertise a new legislative hearing based on the Planning Board's report.

H. Conditions for Approval of Petition

In approving a petition for the reclassification of a property to a Conditional District, the Planning Board may recommend, and the Board of Commissioners may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to County ordinances and officially adopted Comprehensive Land Use Plan or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board of Commissioners. Such conditions may exceed or relax applicable standards and any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development: (i) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Board of Commissioners deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the Conditional District zoning request.

I. Effect of Approval; Zoning Map Designation

If a petition for a Conditional District is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's zoning classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a Conditional District, the subject property shall be identified on the Zoning Map by the appropriate district designation preceded by the letters (CD) (i.e., (CD/R-1).) The Administrator may make minor changes to the approved site plan administratively without necessitating a need to rezone the property to a different Conditional District classification.

J. Application Submission Period



Any completed application submitted shall be heard by the appropriate Board for approval within one hundred-eighty (180) days from the date of submittal. After the expiration of an application, a new application may be submitted following the current regulations in place at the time of the new application submittal.

SECTION 5.16.6 PROCEDURES

A pre-application meeting between the applicant and the Administrator shall be required in order to familiarize the applicant of the procedure for securing approval of a Conditional District zoning. The Administrator shall not accept any application for review without such meeting having first occurred unless the Administrator determines that such meeting would not serve any meaningful purpose and waives the meeting requirement.

Procedures for application submittal are as follows:

- A. A complete Conditional District zoning application that is signed by the applicant and which is accompanied by a submittal fee (in accordance with a fee scheduled approved by the Governing Board) shall be filed with the Administrator.
- B. The application shall be accompanied by a plan, drawn to scale, that includes or is accompanied by the following:
 - 1. Name, address and phone number of the property owner (or his agent) and the property identification number of the property. (Note: The property owner or their authorized agents are the only two (2) parties who may initiate a request for a Conditional District zoning application).
 - 2. A boundary survey and vicinity map, showing the property's total acreage, general location in relation to adjoining streets, railroads and/or waterways, date and north arrow. The zoning classification of the property in question and contiguous properties shall also be shown.
 - 3. The name and addresses of all owners, tax parcel numbers and existing land uses(s) of all contiguous properties.
 - 4. Proposed use of all land and structures including the number of residential units proposed, if any, and total square footage of nonresidential development.



5. Location of all proposed structures, their approximate area and exterior dimensions, height, and proposed number of structures.
6. A description of all screening and landscaping required by the UDO and/or proposed by the applicant; the delineation of any wooded, landscaped or grassed areas existing prior to development and proposed to remain on the property once the development is completed.
7. All existing easements, reservations and rights-of-way.
8. Proposed phasing, if any, and approximate completion time for the project.
9. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) flood hazard boundary maps for Gaston County.
10. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.
11. A list, if any, of all additional development conditions or standards that differs from those that would normally apply to that use.
12. The Administrator reserves the right to waive the depiction of some or all of the information contained in paragraphs 5 through 10 above, when, in their opinion, such information would serve no meaningful purpose for the particular Conditional District being requested. If the Administrator determines that additional information as set forth in paragraphs 5 through 10 above of this subsection is needed to render a recommendation or decision on the application, they may require the applicant to submit such additional information.

SECTION 5.17 CHANGES TO THE ORDINANCE TEXT

SECTION 5.17.1 AUTHORITY

Upon compliance with the provisions of this Chapter, the Board of Commissioners shall have the authority to amend the text of this Ordinance.



SECTION 5.17.2 INITIATION OF A TEXT AMENDMENT

Any proposed amendment to the text of this Ordinance may be initiated by the governing board, Planning Board, by any owner of a legal or equitable interest in a piece of property located within the geographical boundaries of this Ordinance, by a local government agency, or by any other person in accordance with the procedures set forth herein.

SECTION 5.17.3 FILING OF PETITIONS; DETERMINATION OF COMPLETENESS

Any petition to amend the text of this Ordinance shall be made using an application form prescribed by the Administrator and accompanied by a fee in accordance with a fee schedule adopted by the Board of Commission. Said application form, signed by the applicant and accompanied by the requisite fee shall be filed with the Administrator. Said application fee shall be waived for any petition submitted by any official or agency acting on behalf of the Gaston County or the State of North Carolina. No application shall otherwise be considered complete unless accompanied at the time of submittal by said fee. The completed application shall contain, among other things, a reference to the specific section, subsection, paragraph or item proposed for change, as well as the wording of the proposed change, and the reasons therefore.

SECTION 5.17.4 SUBMITTAL AND NOTIFICATION REQUIREMENTS

- A. In order for an amendment to the text of this Ordinance to be made by the Board of Commissioners, the Planning Board shall have had an opportunity to review and make a recommendation on the application. Such Planning Board review shall take place after a public meeting held by the Planning Board. Any complete application shall be submitted to the Administrator at least twenty-eight (28) working days prior to the public hearing. Notification of the legislative hearing shall be published in a newspaper having general circulation in Gaston County once a week, for two successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the date established for the joint public hearing.
- B. Any legislative hearing notice published shall state the nature of the public hearing(s), the date, time, and place at which the hearing(s) is to occur, and who to call and/or see for more information.



SECTION 5.17.5 PLANNING BOARD ACTION

- A. Once the Planning Board public meeting has been concluded, the Planning Board shall have thirty (30) days from the date the public hearing was completed to make a written recommendation to the Board of Commissioners. If a recommendation is not made during said time period, the application shall be forwarded to the governing board without a recommendation from the Planning Board. Statements that: (i) analyze whether the amendment is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Planning Board deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each recommendation relative to the text amendment request.
- B. A Planning Board recommendation shall be in one of the following manners:
 - 1. Grant the amendment as requested; or
 - 2. Grant the amendment with changes as (recommended) (made); or
 - 3. Reject the amendment.

SECTION 5.17.6 GOVERNING BOARD ACTION

Once the legislative hearing has been conducted and (i) the Planning Board has submitted its recommendation or (ii) the thirty (30) day Planning Board review period has expired, whichever comes first, the Board of Commissioners shall render a decision on the petition. The decision of the Board of Commissioners shall be in the form of any of the various options listed in Section 5.17.5 above. Statements that: (i) analyze whether the amendment is consistent with an adopted comprehensive plan and any other officially adopted plan, and (ii) other matters that the Board of Commission deems appropriate and (iii) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the text amendment request. Furthermore, the Board of Commissioners shall have the authority to make additional amendments to the text change request, based on the proceedings of the public hearing so long as such changes are in keeping with the spirit and intent of the originally requested amendment. Alternately, the Board of Commissioners may send the application back to the Planning Board for further study and consideration. (NOTE: Such resubmittal by the Board of Commissioners to the Planning Board may occur not more than



one (1) time for any text amendment request.) If a resubmittal to the Planning Board occurs, the Planning Board shall hear the case and have an additional thirty (30) day period (from the date of re-referral by the Board of Commissioners) to resubmit a recommendation to the Board of Commissioners.