

#### **4.4 SUPPLEMENTAL STANDARDS**

This Section contains the supplementary standards for the specific uses that are identified in the Use Table (Table 4.2.2). In the case of conflict with other provisions of this Ordinance, the more restrictive standard shall apply, unless otherwise specifically provided.

##### **4.4.1 Residential Uses**

- A) *Reserved*

B) **Congregate Living Facility**

A congregate living facility use shall comply with the following standards:

- 1) *Potable water supply and sewage disposal systems.* Potable water supply and sewage disposal systems shall be provided for a congregate living facility;
- 2) *Compatibility / handicap access.* The facility shall:
  - a) Be physically designed to conform to and be compatible with the general architectural character of the neighborhood in which it is proposed to be developed in terms of its height, bulk, materials and style; and
  - b) Comply with all regulations regarding handicapped access pursuant to federal and State law;
- 3) *Reserve land for conversion other permitted use.* Additional land shall be reserved that is sufficient in area to meet future parking standards if the facility is converted to any other permitted use, based on the standards in Sec. 8.3 *Off-street Parking and Loading*. The boundaries of the reserve parking area shall be identified;
- 4) *Drop-off area.* A safe drop-off area shall be established for group transportation, such as vans or similar vehicles;
- 5) *Food dispensing and consumption.* The facility shall provide and continuously maintain central facilities for daily food dispensing and consumption. Individual kitchen facilities may be provided in the living quarters of a congregate living facility;
- 6) *Limited amount of commercial uses.* A limited amount of commercial uses may be developed as permitted accessory uses in a congregate living facility. Such uses shall be limited to retail and congregate living personal service uses designed to serve exclusively the residents of the facility, such as a barber or beauty shop, small convenience retail sales and banking services. No more than 10% of the gross floor area of the facility shall be dedicated to such commercial uses. There shall be no exterior signage or other indication of the existence of these commercial uses that may attract nonresidents; and
- 7) *Conversion to conventional dwelling units.* Prior to conversion to conventional dwelling units, a structure designed to accommodate a congregate living facility shall, if necessary, be structurally modified to comply with the standards of this Ordinance. Congregate living facilities that are converted to other uses, including other residential uses, shall comply with all standards in effect at the time of application.

C) **Family Care Home**

No new family care home is permitted within a one-half mile radius of an existing family care home.

D) **Reserved**

E) **Manufactured Home**

A manufactured home use shall comply with the following standards:

- 1) *Single family dwelling unit.* It shall only be occupied as a single family dwelling unit;

- 2) *Twenty-four feet in width.* It shall be a minimum of 24 feet in width (measured along the narrowest axis);
- 3) *Length.* Its length shall not exceed its width by three times (measured along the longest axis, excluding towing apparatus, wheels, axles and transporting lights);
- 4) *Set-up.* The set-up of the manufactured home shall be consistent with the predominant number of units in the surrounding neighborhood, and shall be in accordance with the standards established by the North Carolina Department of Insurance;
- 5) *Skirting material.* Opaque or semi-opaque skirting material shall be installed under the perimeter of the manufactured home; it shall be constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One and Two Family Dwellings;
- 6) *Exterior.* The exterior of the manufactured home shall consist of one or more of the following materials:
  - a) Vinyl or metal siding (whose reflectivity does not exceed that of white paint);
  - b) Cedar or other wood siding;
  - c) Weather resistant press board siding;
  - d) Stucco siding, brick or stone siding, which shall be comparable in appearance and durability to the exterior siding commonly used in the standard residential construction of the surrounding neighborhood;
- 7) *Pitch of roof.* The pitch of the roof shall have a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run;
- 8) *Roof covering.* The roof shall be finished with a roof covering that meets the minimum standards of the Federal Housing Administration;
- 9) *Eaves projection.* All roof structures shall provide an eaves projection of a minimum of six inches, which shall include a gutter;
- 10) *Entrance and exit.* Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home, shall be installed or constructed in compliance with the standards of the North Carolina Building Code, and attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. Use of wood stairs without a porch is prohibited at any entrance to a manufactured home;
- 11) *Size.* The size of the manufactured home shall be compatible with the homes in the surrounding neighborhood. The length and size shall be no smaller than the average unit in the neighborhood; and
- 12) *Utilities.* All manufactured homes not connected to a Town utility system shall present proof of utility approval by the Wake County Department of Environmental Services.

- F) **Townhouse**  
Such use shall require a Special Use Permit if located within the Small Town Character Overlay District.
- G) **Multi-Family or Apartment**
- 1) All multi-family or apartment developments with one or more dumpsters or a trash compactor must provide a recycling area and a cardboard dumpster; both shall be screened with similar materials to the dumpster or compactor enclosure;
  - 2) The overall enclosure design must comply with the standards found in the *Town of Apex Standard Specifications and Standard Details*.
- H) **Nursing or Convalescent Facility**  
A nursing or convalescent facility use shall comply with the following standards:
- 1) *Ambulance service.* If ambulance service is required, a nursing or convalescent facility use shall have access from a collector road designed to minimize the adverse effects on adjacent land. The environment created for a nursing or convalescent facility use should be of a pronounced residential nature and should be designed to minimize any adverse conditions that might detract from the primary convalescent purpose of the facility;
  - 2) *Frontage.* The minimum frontage for the lot on which the nursing or convalescent facility is located shall be 100 feet, or the minimum requirement of the district, whichever is greater;
  - 3) *Sleeping rooms.* Sleeping rooms shall be no less than 100 square feet for each patient;
  - 4) *Central kitchen.* The preparation of food shall be accomplished at a central kitchen facility under the auspices of a trained nutritionist. Meals can be served to persons in their rooms; and
  - 5) *Meets state requirements.* The facility shall comply with all state licensing requirements.
- I) **Security or Caretaker Quarters**  
A security or caretaker quarter use shall comply with the following standards:
- 1) *General.* No more than one security or caretaker quarters use shall be developed upon the same lot as a permitted commercial or industrial use;
  - 2) *Use.* The security or caretaker quarters use shall be for the exclusive use of and shall be occupied only by a guard, custodian, caretaker, owner, manager, or employee of the owner of the principal use, and the family of the same. Such person shall be actively engaged in providing security, custodial, or managerial services upon the premises;
  - 3) *Not permitted with temporary use.* Unless otherwise provided in this Ordinance, a security or caretaker quarters use shall not be permitted in association with a temporary use;
  - 4) *No substandard lot.* A security or caretaker quarters use shall not be established upon a substandard lot, nor shall the development of such quarters cause a site to violate this Ordinance; and

- 5) *Principal use must survive.* A security or caretaker quarters use shall continue only so long as the principal use that it is meant to serve remains active. Upon termination of the principal use, the right to have the caretaker or security quarters shall end, and the quarters shall immediately be discontinued. Once discontinued, such quarters shall not be reestablished except in conformity with this section.

J) ***Townhouse, detached***

A detached townhouse use shall comply with the following standards:

- 1) *Maintenance.* A property owners association shall be established and shall maintain everything on the outside of the townhouses, including but not limited to landscaping, siding, roofing, porches, trim, mailboxes, driveways, and alleys.
- 2) *Alleys and Driveways.* Each detached townhouse lot shall be required to either be rear loaded from an alleyway, or in the absence of an alley, garages must be placed in the rear with a shared driveway from the front. Alleys shall comply with the standards found in Sec. 7.2.1.H.2.
- 3) *Utilities.* Public utilities may be located in the alleyway within a public utility easement or in the public street.
- 4) *Dimensional criteria.* Detached townhouses shall meet the following requirements in addition to the requirements set forth in Sec. 5.1.1 "Table of Intensity and Dimensional Standards" "Residential Districts":
  - a) Minimum lot size is 26' wide and 110' deep.
  - b) Front setback is a minimum of 10' and a maximum of 15'.
  - c) Side setback shall be a minimum of 3'.
  - d) Garages, if provided, shall be located a minimum of 13' off rear property line in the rear yard.
- 5) *Parking.* A minimum of two (2) on-site parking spaces shall be provided per townhouse and shall be located in the rear yard. Parking spaces within garages do count toward the off-street parking requirement.
- 6) Such use shall require a Special Use Permit if located within the Small Town Character Overlay District.

**4.4.2 Public and Civic Uses**

A) ***Cemetery***

An accessory building in a cemetery use shall be located not less than 300 feet from any lot line.

B) ***Church or Place of Worship***

- 1) A church or place of worship in the B2 Downtown Business District shall be freestanding, shall not be located on North Salem Street between Center Street and Chatham Street, and shall not be located on Commerce Street.
- 2) Churches shall not include homeless shelters unless they are approved as a special use pursuant to Sec. 2.3.5 *Special Use Permit*.

- 3) Prior to the establishment of a day care facility, pre-school, or school, a Minor Site Plan shall be submitted and approved.
- C) **Day Care Facility**  
Day care facilities in the LI District shall comply with the following standards:
- 1) The day care facility shall not exceed 20% of the gross square footage of the building in which it is located; and
  - 2) The day care facility shall be located at least 1,320 feet from any Gas and fuel, wholesale use.
- D) **Hospital**  
A hospital or medical center use shall comply with the following standards:
- 1) *Lot area.* The minimum lot area shall be five (5) acres or the minimum requirement of the district, whichever is greater; and
  - 2) *Frontage.* The minimum frontage for the lot shall be 300 feet or the minimum requirement of the district, whichever is greater.
- E) **Veterinary Clinic or Hospital**
- 1) *Treatment rooms or kennels.* All treatment rooms or kennels in a veterinary clinic or hospital in the O&I Office and Institutional District, B1 Neighborhood Business District, PC Planned Commercial District, TF Tech/Flex District, and MEC-CZ Major Employment Center District shall be designed and maintained within a completely enclosed soundproof building, and the veterinary clinic or hospital shall be operated in such a way as to produce no objectionable odors outside its walls.
  - 2) Outdoor exercise and bathroom areas shall only be permitted according to the following conditions:
    - a) Such areas shall only be used between the hours of 7:00 am to 10:00 pm.
    - b) Such areas within the Small Town Character Overlay District shall be buffered to ensure compatibility with surrounding land uses by complying with the buffer standards of Sec. 8.2.6 *Buffering*.
    - c) Such areas shall be set back at least 50 feet from the lot line when the adjacent use or zoning is residential.
    - d) Such areas shall be enclosed by a fence at least six (6) feet in height; the fence may be taller per Sec. 8.2.7.B.1 *Fence/Wall Height*.
- F) **Drop-In or Short-Term Child Care**  
Drop-in/short-term child care that also provides Youth or Day Camps shall also meet the requirements of Sec. 4.4.4.E *Youth or Day Camps*.
- G) **Government Service**
- 1) Government service in the B2 Downtown Business District shall be freestanding.
  - 2) Outdoor storage for such use shall comply with the standards for Industrial Uses found in Sec. 4.1.2 *Outside Storage and Sales*.

- 3) A minimum 40' Type A buffer with an opaque fence at least six (6) feet in height shall be provided along all outdoor storage areas adjacent to a conforming residential use or vacant land within a Residential zoning district.

#### 4.4.3 Utilities

##### A) **Chipping and Mulching**

A chipping and mulching use shall comply with the following standards:

- 1) *General.* A chipping or grinding machine shall be set back a minimum of 300 feet from any property line abutting a residential district or use. Outdoor material storage piles shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district or use;
- 2) *Consent from property owners for use.* A notarized letter of approval shall be provided from the property owner verifying consent to use the property for chipping and mulching;
- 3) *Access road.* An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include local streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site;
- 4) *On-site storage of unprocessed material.* On-site storage of unprocessed material shall be limited to 45 days and the pile height of storage material shall be limited to 15 feet. Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential districts. Outdoor material storage piles shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district;
- 5) *Buffered.* The operation shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
- 6) *No encroachment into buffer.* The development shall not encroach into any buffer required by this Ordinance; and
- 7) *Setback.* The minimum required setback shall be the greater of any required buffer or setback (Sec. 8.2.6.B).

##### B) **Communication Tower**

A communication tower use shall comply with the following standards:

- 1) *Interpreted not to violate federal or state law.* These standards shall be interpreted or enforced so as not to violate any provisions of federal or state law, including but not limited to the Federal Telecommunications Act and NCGS 160D-930 to -934 effective December 1, 2007.
- 2) *Stealth communication tower.* A stealth communication tower shall be placed on a building or other permitted structure or as a stand-alone tower. Prior to approval of a stealth communication tower, it shall be demonstrated that:

- a) The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, demonstration there is a binding commitment(s) from one or more FCC licensees to utilize the proposed wireless telecommunication facility;
- b) The proposed facility is co-located or accommodated on an existing communication tower or structure within a three mile radius, or if it is not co-located, the applicant made a good faith effort to co-locate the proposed facility on an existing communication tower within a three mile radius but it is impracticable to do so.
- c) Good faith effort is demonstrated by reasonable offers to purchase rights to co-locate the facility from all owners of existing communication towers within the three (3) mile radius, and owner rejection of the offers or a showing of impracticability;
- d) Impracticability is demonstrated by the following:
  - (i) A written determination (made by a qualified and licensed North Carolina professional engineer) that the equipment needed for operation of proposed facility exceeds the structural capacity of existing towers, and that existing towers cannot be modified to accommodate the proposed facility at a reasonable cost;
  - (ii) A written determination (made by a qualified and licensed North Carolina professional engineer) that the equipment needed for operation of the proposed facility would cause interference materially affecting the operation of the existing towers which cannot be mitigated at a reasonable cost;
  - (iii) A written determination (made by a qualified and licensed North Carolina professional engineer) that the existing towers are not capable of accommodating the proposed facility because of the height requirements of the proposed facility;
  - (iv) A written determination (made by a qualified and licensed North Carolina professional engineer) that the existing towers are not capable of accommodating the proposed facility because of geographic service area requirements, or other factors that make it impossible to locate the proposed facility at an existing tower;
- e) If co-location is impracticable, the new tower is designed:
  - (i) Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and two (2) future users;
  - (ii) To allow for future rearrangement of antennas mounted at varying heights;
  - (iii) To allow co-location of public safety service equipment at usual and customary rates that are in addition to the sites required for future users;

- (iv) To be consistent with the general character of the surrounding area and land uses, in terms of height, bulk, texture and color;
  - f) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant, and maintained in full force and effect until all above ground portions of the tower are removed;
  - g) The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located (See Secs. 5.1.1–5.1.4), except that:
    - (i) The height of the tower shall not exceed 100 feet;
    - (ii) The tower shall be located so as to provide a minimum distance from the tower to all property lines equal to 100% of the height of the tower;
    - (iii) The tower shall be set back a minimum of 75 feet from any existing or planned street right-of-way;
    - (iv) The tower's peripheral supports and guy anchors may be located within required yard setbacks, provided that they shall be located entirely within the boundaries of the property on which the tower is located and shall be located no closer than five feet from any property line, and no closer than 20 feet from a property line if the tower is adjacent to a single-family residential district or residential uses;
    - (v) The tower's supports and peripheral anchors shall be set back a minimum of 50 feet from any existing or planned street right-of-way;
  - h) The tower and all related development complies with the landscaping and buffering standards in Sec. 8.2 *Landscaping, Buffering, and Screening*, and all other relevant development standards in Article 8: *General Development Standards*;
  - i) If located in a residential zoning district, all buildings in the tower complex are designed to appear as residential dwellings;
  - j) The tower does not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration;
  - k) The owner/operator of the tower agrees to submit an annual report to the Planning Director which includes written evidence of licensing by the FCC, the names of the users of the tower, and how many additional users can be accommodated on the tower. Failure to provide evidence of the license shall constitute grounds for revocation of the use; and
  - l) An obsolete or unused stealth communication tower shall be removed within 12 months of cessation of use.
- 3) *Camouflage Stealth Communication Tower.* A camouflage stealth communication tower shall be designed as an integral part of a permitted

existing structure such as but not limited to existing buildings, water towers, or church steeples. Prior to approval of a camouflage stealth communication tower, it shall be demonstrated that:

- a) The structure shall have an additional function other than as an antenna support.
  - b) The structure shall be compatible with the architectural style and character of buildings/structures of the surrounding area. A determination of architectural compatibility shall include, but not be limited to color, materials, and architectural style.
  - c) Communications equipment or devices shall not be readily identifiable.
  - d) It must be demonstrated that the proposed location complies with Sec. 4.4.3.B.2.a. through d.
- 4) *Commercial communication tower.* Prior to approval of a commercial communication tower, it shall be demonstrated that:
- a) The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, demonstrated there is a binding commitment(s) from one or more FCC licensees to utilize the proposed wireless telecommunication facility;
  - b) The proposed facility is co-located or accommodated on an existing commercial communication tower within a three mile radius, or if it is not co-located, the applicant made a good faith effort to co-locate the facility on an existing communication tower within a three mile radius but it is impracticable to do so.
  - c) Good faith effort is demonstrated by reasonable offers to purchase rights to co-locate the proposed facility from all owners of existing communication towers within the three mile radius, and owner rejection of the offers or a showing of impracticability;
  - d) Impracticality is demonstrated by:
    - (i) A written determination (made by a qualified and licensed North Carolina professional engineer) that the equipment needed for operation of the proposed facility exceeds the structural capacity of existing towers, and that existing towers cannot be modified to accommodate the proposed facility at a reasonable cost;
    - (ii) A written determination (made by a qualified and licensed North Carolina professional engineer) that the equipment needed for operation of the proposed facility would cause interference materially affecting the operation of the existing towers which cannot be mitigated at a reasonable cost;
    - (iii) A written determination (made by a qualified and licensed North Carolina professional engineer) that the existing towers are not capable of accommodating the proposed facility because of the height requirements of the proposed tower; or

- (iv) A written determination (made by a qualified and licensed North Carolina professional engineer) that the existing towers are not capable of accommodating the proposed facility because of geographic service area requirements, or other factors that make it impossible to locate the proposed facility at an existing tower;
- e) If co-location is impracticable, the new tower is designed:
  - (i) Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and two future users;
  - (ii) To allow for future re-arrangement of antennas mounted at varying heights;
  - (iii) To allow co-location of public safety service equipment at usual and customary rates that are in addition to the sites required for future users;
- f) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant/owner, and maintained in full force and effect until all above ground portions of the tower are removed;
- g) The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located (See Secs. 5.1.1–5.1.4), except that:
  - (i) The height of the tower shall not exceed 199 feet;
  - (ii) The tower shall be located so as to provide a minimum distance from the tower to all property lines equal to 100% of the height of the tower;
  - (iii) The tower shall be set back a minimum of 75 feet from any existing or planned street right-of-way line;
  - (iv) The tower's peripheral supports and guy anchors may be located within required yard setbacks, provided that they shall be located entirely within the boundaries of the property on which the tower is located and shall be located no closer than five feet from any property line, and no closer than 20 feet from a property line if the tower is adjacent to a single-family residential district or residential uses;
  - (v) The tower's supports and peripheral anchors shall be set back a minimum of 50 feet from any existing or planned street right-of-way line;
- h) The tower and all related development complies with the landscaping and buffering standards in Sec. 8.2 *Landscaping, Buffering, and Screening*, and all other relevant development standards in Article 8: *General Development Standards*;
- i) A fence or wall not less than eight feet in height from finished grade shall be constructed to encompass the tower and each guy anchor (if used). Access to the tower shall be through a locked gate;

- j) If high voltage is necessary for the operation and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE-DANGER";
  - k) The tower shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration;
  - l) The owner/operator of the tower agrees to submit an annual report to the Planning Director that includes written evidence of licensing by the FCC, the names of the users of the tower, and how many additional users can be accommodated on the tower. Failure to provide evidence of the license shall constitute grounds for revocation of the use;
  - m) An obsolete or unused commercial communication tower shall be removed within 12 months of cessation of use.
- 5) *Public Safety communication tower.* Prior to approval of a Public Safety communication tower, it shall be demonstrated that:
- a) The proposed facility is licensed by the FCC to provide fixed or mobile wireless communication services, or if no FCC licenses have been obtained, demonstrated there is a binding commitment(s) from one or more FCC licensees to utilize the proposed wireless telecommunication facility for Public Safety purposes;
  - b) The new tower is designed:
    - (i) Structurally, electrically, and in all other relevant ways to provide for accommodation for the antenna for the proposed tower and future Public Safety users; and
    - (ii) To allow for future re-arrangement of antennas mounted at varying heights;
  - c) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant/owner, and maintained in full force and effect until all above ground portions of the tower are removed or in the case of a public entity, financial responsibility through self-insurance or other means acceptable to the Town Safety and Risk Manager;
  - d) The tower and its related development conforms to the minimum dimensional standards of the zoning district in which it is located (See Secs. 5.1.1–5.1.4), except that:
    - (i) The height of the tower shall not exceed 500 feet;
    - (ii) Towers shall be designed to the following standard to provide for an adequate fall zone:  
Towers designed in accordance with the latest version of the ANSI/TIA/EIA-222 and the North Carolina Building Code with the expectation that it will not collapse. Such tower shall be designed such that if a collapse occurs, the tower will be contained within a pre-defined fall zone which shall be

measured from the center of the tower. All property lines, occupied structures, and public right-of-way travel lanes shall be outside of the stated fall zone. This fall zone shall be certified by a licensed Professional Engineer with the State of North Carolina;

- (iii) The tower shall be set back a minimum of 75 feet from any existing or planned street right-of-way line;
- (iv) The tower's peripheral supports and guy anchors may be located within required yard setbacks, provided that they shall be located entirely within the boundaries of the property on which the tower is located and shall be located no closer than five (5) feet from any property line, and no closer than 20 feet from a property line if the tower is adjacent to a single-family residential district or residential uses;
- (v) The tower's supports and peripheral anchors shall be set back a minimum of 50 feet from any existing or planned street right-of-way line;
- e) The tower and all related development complies with the landscaping and buffering standards in Sec. 8.2 *Landscaping, Buffering, and Screening*, and all other relevant development standards in Article 8: *General Development Standards*;
- f) A fence or wall not less than eight (8) feet in height from finished grade shall be constructed to encompass the tower and each guy anchor (if used). Access to the tower shall be through a locked gate;
- g) If high voltage is necessary for the operation and it is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: "HIGH VOLTAGE-DANGER";
- h) The tower shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration and shall otherwise comply with all relevant requirements of the Federal Aviation Administration;
- i) The owner/operator of the tower agrees to submit an annual report to the Planning Director that includes written evidence of licensing by the FCC, the names of the Public Safety users of the tower, and how many additional Public Safety users can be accommodated on the tower. Failure to provide evidence of the license and Public Safety use shall constitute grounds for revocation of the use;
- j) An obsolete or unused Public Safety communication tower shall be removed within 12 months of cessation of use.

C) ***Electrical Power Facility***

An electrical power facility use shall comply with the following standards:

- 1) *Location.* The location of the proposed electrical power facility shall be within reasonable proximity of the area to be served by the facility;

- 2) *Setback.* The proposed electrical power facility shall be setback a minimum of 100 feet from property lines and buffered to ensure it does not have an adverse impact on surrounding land uses;
- 3) *Compatibility.* If deemed necessary to ensure land use compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed electrical power facility use shall be provided at the time the facility is constructed or when surrounding development occurs.

D) **Recycling Center**

A recycling center use shall comply with the following standards:

- 1) *Storage areas.* No storage areas shall be visible from rights-of-way, residential uses or residential districts;
- 2) *Recyclable materials.* Recyclable materials shall be contained within a leak-proof bin or trailer. There shall be no storage of materials on the ground;
- 3) *Limited sorting and separation.* Only limited sorting, separation or other processing of deposited materials shall be allowed on the site; and
- 4) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site. There shall be no chipping, mulching or receiving of construction debris.

E) **Recycling Collection Station**

A recycling collection station use shall comply with the following standards:

- 1) *Mobility of collection bin.* The mobility of the collection bin shall be retained;
- 2) *Location of collection bin.* The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five (5%) percent of the total on-site parking spaces;
- 3) *Appearance.* The bin and adjacent area shall be maintained in good appearance and free from trash;
- 4) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site.

F) **Recycling Plant**

A recycling plant use shall comply with the following standards:

- 1) *Location and buffers.* The proposed recycling plant shall be properly located and buffered to ensure compatibility with surrounding land uses. To ensure compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:
  - a) The minimum lot size for recycling plants shall be five acres;
  - b) Except for a freestanding office, no part of a recycling plant and its accessory ramps, on-site circulation system or storage areas, shall be located within 50 feet of any property line. However, if the facility is contiguous to land in the LI Light Industrial District, the setback shall be 25 feet from the contiguous property line.

- c) At a minimum, the development shall comply with the standards of Sec. 8.2 *Landscaping, Buffering, and Screening*.
  - d) The development shall not encroach into any buffer required by this Ordinance;
  - e) The minimum required setback from any property line shall be the greater of any required buffer or setback (Sec. 8.2.6.B).
  - f) No part of a recycling plant, its accessory ramps, on-site circulation system or storage areas shall be sited within 250 feet of a school, park, church, library or residential lot;
  - g) All storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater. For an outdoor recycling plant contiguous to land in a residential district, an opaque fence/wall a minimum of eight (8) feet in height shall be placed along the inside border of the required landscape strip. The purpose of the fence/wall inside the landscape strip is to protect the landscape strip from the intensive activity of the recycling facility and to supplement the landscape strip as a buffer;
  - h) An access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the recycling plant. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.
- 2) *Storage of recyclable materials.* All outdoor storage of recyclable materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.
- G) **Utility, Minor**  
A minor utility use shall comply with the following standards:
- 1) *Location.* The proposed minor utility shall be located within reasonable proximity of the area to be served by the facility; and
  - 2) *Compatibility.* The proposed minor utility shall be properly located and buffered to ensure compatibility with surrounding land uses. If deemed necessary to ensure compatibility with surrounding uses, setbacks, screening and buffering around the perimeter of the utility shall be required at the time the facility is developed.
  - 3) *Water towers*
    - a) The perimeter of the water tower shall be screened from off-site view with large evergreen trees from the ground to a height of eight (8) feet at installation. No trees are required to be planted at the point of ingress and egress.

- b) If a fence is erected at the base of the water tower, the large evergreen trees must be planted on the outside of the fence and the gate across the point of ingress and egress must be opaque.
- c) An obsolete or unused water tower shall be removed within 12 months of cessation of use.

H) **Sanitary Landfill**

A sanitary landfill use shall comply with the following standards:

- 1) *Location and buffers.* The proposed sanitary landfill shall be properly located and buffered to ensure compatibility with surrounding land uses. To ensure compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed sanitary landfill shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:
  - a) The minimum lot size for sanitary landfills shall be 80 acres;
  - b) Except for a freestanding office, no part of a sanitary landfill and its accessory ramps, on-site circulation system or storage areas, shall be located within 100 feet of any property line. However, if the facility is contiguous to land in the LI Light Industrial District, the setback shall be 50 feet from the contiguous property line;
  - c) At a minimum, the development shall comply with the standards of Sec. 8.2 *Landscaping, Buffering, and Screening*;
  - d) The development shall not encroach into any buffer required by this Ordinance;
  - e) The minimum required setback from any property line shall be the greater of any required buffer or setback (Sec. 8.2.6.B);
  - f) No part of a sanitary landfill, its accessory ramps, on-site circulation system or storage areas shall be sited within 500 feet of a school, child care center, park, church, library or residential lot;
  - g) All storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of waste or non-recyclable residue stored in outdoor areas exceed 30 feet or the height of the principal building on the lot, whichever is greater. The purpose of the fence/wall inside the landscape strip is to protect the landscape strip from the intensive activity of the recycling facility and to supplement the landscape strip as a buffer;
  - h) A paved access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the landfill. Access will only be permitted from Thoroughfares and Highways. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.

- 2) *Storage of materials.* All outdoor storage of liquids or flammable materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.

l) ***Land Clearing and Inert Debris Landfill***

A land clearing and inert debris landfill use shall comply with the following standards:

- 1) *Location and buffers.* The proposed land clearing and inert debris landfill shall be properly located and buffered to ensure compatibility with surrounding land uses. To ensure compatibility with surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed landfill shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:
  - a) The minimum lot size for a land clearing and inert debris landfill shall be five (5) acres;
  - b) Except for a freestanding office, no part of a land clearing and inert debris landfill and its accessory ramps, on-site circulation system or storage areas, shall be located within 100 feet of any property line. However, if the facility is contiguous to land in the LI Light Industrial District, the setback shall be 50 feet from the contiguous property line;
  - c) The development shall comply with the standards of Sec. 8.2 *Landscaping, Buffering, and Screening*;
  - d) The development shall not encroach into any buffer required by this Ordinance;
  - e) No part of a land clearing and inert debris landfill, its accessory ramps, on-site circulation system or storage areas shall be sited within 250 feet of a school, child care center, park, church, library or residential lot;
  - f) All storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of the debris or materials stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater. An opaque fence/wall a minimum of eight feet in height shall be placed along the inside border of the required landscape strip. The purpose of the fence/wall inside the landscape strip is to protect the landscape strip from the intensive activity of the land clearing and inert debris landfill and to supplement the landscape strip as a buffer;
  - g) An access road that can be negotiated by loaded collection vehicles shall be provided to the entrance of the landfill. Access shall not be provided on a residential street. Access shall be restricted to specific entrances with gates which can be locked at all times and which carry official notice that only authorized persons are allowed on the site.

- 2) *Storage of debris and materials.* All outdoor storage of debris and materials shall be in leak-proof containers or located on a paved area that is designed to capture all potential run-off associated with the stored material. Run-off shall be handled in a manner that is in conformance with local, state and Federal regulations.

J) **Wireless Support Structures and Wireless Communication Facilities**

Wireless support structures and wireless communication facilities to be located in a public right-of-way shall comply with the following standards:

- 1) *Purpose.* The purpose of this section is to regulate the installation, operation and maintenance of wireless support structures and wireless communications facilities in the public right-of-way. The regulations contained herein are designed to protect and promote the public health, safety, community welfare, and aesthetic qualities of the community while encouraging the managed development of wireless communications infrastructure. These standards shall be interpreted and enforced so as not to violate any provisions of federal or state law, including but not limited to, the Federal Telecommunications Act of 1996, NCGS 160D-930 to -934, and NCGS 160A-296.

- 2) *Definitions applicable to this Sec. 4.4.3.J.*

**Antenna:** One or more panels, discs, rods, dishes or similar devices used to transmit and/or receive radio frequency or electromagnetic signals used in the provision of wireless communications services.

**Base station:** A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.

**Camouflage:** The incorporation of techniques designed to shield, mask or blend a wireless support structure or wireless communication facility with the surrounding environment so as to make it unnoticeable or reasonably less noticeable to observers.

**Collocation/collocated:** The placement of or installation of wireless transmission equipment on an existing structure for the purpose of transmitting or receiving radio frequency signals for the purpose of communication.

**Commercial zone:** Commercial zone shall refer to rights-of-way adjacent to the following zones: B1, B2, CB, LI, MEC, O&I, PC, SD, TF.

**Eligible Facility Request:** A request for modification of an existing wireless tower or base station that involves collocation of new wireless transmission equipment or replacement of wireless transmission equipment that does not result in a substantial modification.

**Existing Structure:** A tower, station, pole, monopole, utility structure, building, or other existing object that has been reviewed and approved under current state and local regulations.

**Height:** The distance measured from the finished grade to the highest point on the wireless support structure or wireless communication facility. Adjustable structures shall be measured based on the maximum height.

**Least Intrusive Means:** The method of designing potential wireless support structures or wireless communication facilities to minimize visual and aesthetic impacts, including camouflage and/or stealth elements and techniques suitable for the location, visual environment and surrounding uses/structures. The Least Intrusive Means addresses a significant gap in the applicant's service while doing the least harm or disservice to the Town's purpose and objectives provided in Sec. 4.4.3.J.1.

**Residential zone:** Residential zone shall refer to rights-of-way adjacent to the following zones: HDMF, HDSF, MD, LD, MH, MHP, MORR, PUD, RA, RR, TND.

**Stealth:** The incorporation of concealment elements or techniques that render visibility of a wireless support structure or wireless communication facility generally unnoticeable and allow it to blend into its surroundings.

**Substantial modification:** The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A determination of whether a modification is substantial shall be made in accordance with the criteria provided in NCGS 160D-931(19).

- 3) *Applicability.* Sec. 4.4.3.J applies to all applications to install, construct, operate or substantially modify a wireless support structure or wireless communication facility inside a public right-of-way. It shall also apply to collocations in the right-of-way.
- 4) *Submittal to Planning Director.* It shall be unlawful to construct, install, place, or substantially modify a wireless support structure or wireless communication facility without a permit. In order to receive a permit the owner or operator shall follow the process for submitting an exempt site plan in accordance with Sec. 2.3.6 of the UDO. In addition to the requirements of Sec. 2.3.6 the owner or operator shall also submit the following information to the Planning Director:
  - a) Certificate of Authority from the North Carolina Utilities Commission or other applicable state or federal agency to provide utility services; and
  - b) Name, address, telephone number, and e-mail address of the certificated utility's representative, including emergency contact information, as well as all contractors and subcontractors authorized to work on the certificated utility's behalf in the right-of-way. Contact information shall be kept current at all times; and
  - c) Acknowledgement of the Town's right to require the removal of a wireless support structure in the event of an emergency or when necessary to maintain the public safety; and
  - d) Proof of insurance acceptable to the Town; and
  - e) Written evidence documenting a good faith effort to locate the proposed wireless support structure or wireless communication facility in a preferred location in accordance with Sec. 4.4.3.J.5; and
  - f) Scale drawings of the proposed structure as well as a site map that labels street names, right-of-way lines, existing utilities, and the

location of the proposed installation with measurements from curb, driveway, and right-of-way lines; and

- g) A master plan identifying the location of the proposed wireless support structure in relation to any other existing or potential facilities intended to serve the Town that are anticipated to be constructed within one (1) year of the date of the application; and
  - h) If the applicant is seeking a new wireless support structure the applicant shall submit clear and convincing evidence that the new structure is necessary to close a significant gap in the applicant's service coverage which cannot be accomplished through collocation; and
  - i) An affidavit that the proposed wireless support structure and wireless communication facility will comply with all FCC, federal, state and local rules and regulations; and
  - j) Affirmation from the applicant of its willingness to allow other carriers to collocate on the proposed wireless support structure when possible; and
  - k) If the proposed wireless support structure is to be located in a right-of-way located in a residentially zoned area, a neighborhood meeting as described in Sec. 2.2.7 of this Ordinance must first be conducted. The Town's standard neighborhood meeting packet must be completed and submitted to the Planning Director with the above documents; and
  - l) Applicants may not transfer a permit to another entity prior to the construction of the wireless support structure or wireless facility being completed.
- 5) *Preferred Locations.* If doing so would not conflict with federal law, wireless support structures and wireless communication facilities shall be located in the most preferential and desirable location as shown below in descending order with the most desirable location listed first:
- a) Collocation on an existing facility, structure or pole in a commercial zone;
  - b) Location on a new wireless support structure in a commercial zone;
  - c) Collocation on an existing facility, structure or pole in a residential zone;
  - d) Location on a new wireless support structure in a residential zone.

New wireless support structures and wireless communication facilities shall be placed using the Least Intrusive Means as defined in this Ordinance and shall not be placed in a less desirable location unless the owner can demonstrate clear and convincing evidence to the Planning Director that a more desirable location cannot feasibly serve the intended area. The Planning Director may however authorize a less desirable location to avoid unwanted aesthetic impacts.

- 6) *Design Standards.* New wireless support structures shall be designed as follows:

- a) New wireless support structures shall be set back to provide a minimum distance from the structure to any residential dwelling unit equal to 150% of the combined height of the structure and any attached wireless communication facility. Setbacks shall be measured from the dwelling unit to the closest point of the wireless support structure.
  - b) New wireless support structures shall be stealth when placed in a public right-of-way within 100 feet of a residential zoning district.
  - c) The wireless support structure and wireless communication facility combined shall not exceed 40 feet in height.
  - d) Wireless support structures shall be black or bronze metal and designed to blend in with the surrounding area's light poles or if there are no light poles in the area, with the surrounding environment. Standard brown utility poles are permitted in limited circumstances when directly adjacent to mature wooded areas, as determined by the Planning Director. Wireless support structures shall be stealth whenever feasible and camouflage whenever stealth is not possible.
  - e) Other than warning language or signage expressly permitted by the Town, no signage or advertising is permitted on the structure.
  - f) To the extent permitted by federal, state, and local law, all equipment associated with a wireless support structure that is not located on the structure shall be located underground. If the equipment cannot feasibly be located underground due to size, alignment or functionality, the equipment shall be screened to the fullest extent possible through the use of landscaping, fencing or other decorative features.
  - g) The wireless support structure and/or wireless communication facility shall not encroach into or through any established public or private airport take-off or landing approach path as established by the Federal Aviation Administration.
  - h) Installations shall comply with federal, state and local laws and shall be designed and installed in accordance with appropriate industry standards, applicable building codes, and the National Electric Code and National Electric Safety Code.
  - i) No wireless support structure, wireless communication facility, or equipment associated with either shall obstruct or alter the public's use of the public right-of-way, obstruct or block pedestrian or vehicular traffic, or create any safety hazard to the public.
  - j) No wireless support structure may be located within 300 feet of another wireless support structure on the same side of the street. This separation requirement does not apply to collocated equipment.
  - k) Wireless support structures and wireless communication facilities are prohibited in all street medians.
- 7) *Pole Mounted Antennas.* In addition to the design standards set forth in Sec. 4.4.3.J.6 above, antennas mounted on poles shall comply with the following requirements:

- a) To the degree it is technically feasible, antennas should be designed to blend into the environment and surrounding area as well as to be integrated within or concealed by the wireless support structure. Antennas shall be mounted as close as feasible to the pole and shall be painted and textured to match the wireless support structure.
  - b) Antennas shall be mounted on an existing collocated wireless support structure when available.
  - c) If no existing wireless support structure is available, an antenna may be located on an existing pole upon agreement with the owner or operator of the pole.
  - d) In the event the placement of a wireless communication facility or antenna on a Town owned utility pole would serve the intended area, an applicant may enter into a Pole Attachment Agreement with the Town that would permit the replacement of the Town utility pole with a pole that could accommodate both services in accordance with the terms of the Agreement.
  - e) If collocation or placement on an existing structure is not possible, the antenna may be mounted on a new pole if the owner or operator can demonstrate that there is not another effective means to provide coverage to its service area.
  - f) The antenna shall not extend more than 36 inches above the height of the pole. If the antenna is placed on a pole so as to extend over any road it shall be mounted at least 16 feet above the road.
  - g) Pole-mounted antennas shall be designed to withstand high wind loads.
  - h) Installation of the antenna shall comply with all federal, state and local regulations.
  - i) Pole-mounted antennas shall be located so as to provide a minimum distance from the pole to any residential dwelling unit equal to 150% of the combined height of the pole and antenna.
- 8) *Eligible Facility Requests.* Applications seeking approval of a collocation or modification subject to an eligible facility request shall be governed by the following standards:
- a) *Purpose.* This subsection is intended to comply with section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. §1455(a) which provides that the Town “may not deny and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” This subsection is intended to promote the public’s health, safety and community welfare and shall be interpreted consistently with the Telecommunications Act of 1996 and applicable Federal Communications Commission regulations.
  - b) *Application.* If an applicant contends that the applicant is making an eligible facility request, the application shall include the following:

- (i) Site plan and elevation drawings for the wireless communication facility and support structure as proposed with all height and width measurements clearly and accurately shown; and
  - (ii) A visual depiction of the area of the site that labels street names, right-of-way lines, existing utilities, and the location of the proposed installation with measurements from curb, driveway, or right-of-way lines; and
  - (iii) Analysis providing scaled visual simulations showing unobstructed before and after views from all angles and a map showing the location of the angle.
  - (iv) Affidavit stating that the proposal qualifies as an eligible facility request and will not result in a substantial modification as defined in this Ordinance.
  - (v) An affidavit that the proposed wireless support structure and wireless communication facility will comply with all FCC, federal, state and local rules and regulations.
  - (vi) Such other information that the Town may require.
- c) *Review.* An eligible facilities request application shall be deemed complete unless the Town provides notice in writing to the applicant within 45 days of submission that the application is incomplete and in the event of an incomplete application, identifies the deficiencies in the application. An inaccurate application or one that does not comply with federal, state and local requirements will be deemed incomplete. The Town shall issue a written decision approving a complete eligible facility request application within 45 days of the application being deemed complete.
- 9) *Exemptions.* The following are exempt from the application process covered in this Section:
- a) Routine maintenance of existing wireless support structures and wireless communication facilities.
  - b) Removal or replacement of existing equipment on wireless support structures if the replacement does not result in a substantial modification.
- 10) *Abandonment.* Wireless support structures and wireless communication facilities that discontinue operation shall be removed by the operator or owner after the operation has ceased for a period of six (6) months. The Planning Director shall send a written notice to the owner or operator of a wireless support structure indicating the determination that a structure is no longer being operated and has remained so for a period of at least six (6) months. The operator shall respond and provide evidence that the wireless support structure is still in use within 30 days from the date of the written notice. Any structure not removed within 90 days of the written notice from the Planning Director shall be in violation of this Ordinance and the Town may remove the wireless support structure at no liability to the Town and at the cost and expense of the owner or operator.

- 11) *Maintenance, repair, and removal.* The owner or operator of a wireless support structure or wireless communication facility shall maintain, repair or remove the structure or facility in accordance with the following requirements:
- a) The owner or operator of wireless support structure or wireless communication facility shall not alter, move, obstruct, or change any existing facility in the public right-of-way without first obtaining written consent from the Town and the owner of the facility, if not owned by the Town.
  - b) If an owner or operator's contractor, or the contractor's subcontractor, is performing work on a wireless support structure or wireless communication facility in a public right-of-way it shall be unlawful to refuse to identify the entity on whose behalf the contractor or subcontractor is working when requested by a Town staff member.
  - c) In the event a wireless support structure or wireless communication facility threatens the public safety or welfare of the community or is in violation of this Ordinance and the violation is not corrected within the time period requested, the Planning Director may require the removal of a wireless support structure or wireless communication facility located in the right-of-way. The owner or operator shall remove any such structure at its own cost and expense. Upon removal the right-of-way shall be restored to its preexisting condition. If the owner or operate does not remove the structure within the time provided by the Planning Director the Town may remove the wireless support structure at no liability to the Town and at the cost and expense of the owner or operator.
- 12) *Indemnification.* To the extent permitted by law, the owner or operator of a wireless support structure or wireless communication facility shall defend, pay on behalf of, indemnify, and hold-harmless the Town of Apex, its elected and appointed officials, employees, agents, and volunteers against any and all claims, demands, suits or losses, including all costs connected therewith, for any damages which may be asserted, claimed or recovered against or from the Town of Apex, its elected or appointed officials, employees, agents, and volunteers by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof arising from the construction, location, design, condition, or operation of a wireless support structure or wireless communication facility.
- 13) *Violations.* The Town may revoke a Wireless Facility permit for any violation of this Ordinance. Upon revocation of a permit the wireless support structure and/or wireless communication facility shall be removed by the owner or operator within 60 days of revocation, unless removed by the Town earlier in accordance with this Section. This remedy is not exclusive and the Town may resort to any and all available remedies at law.

**K) Yard Waste Transfer Station**

- 1) *Storage only.* No chipping or mulching activities may occur onsite unless a Special Use Permit for "Chipping and mulching" is approved. See UDO Secs. 4.3.3.A and 4.4.3.A *Chipping and mulching.*
- 2) *Standards.* On-site storage of unprocessed material shall meet all of the following standards:

- a) Storage shall be limited to 45 days and the pile height of storage material shall be limited to 15 feet;
  - b) Storage areas shall be effectively screened from view. Such screening shall be designed to ensure that storage areas cannot be seen from rights-of-way or adjacent residential zoning districts; and
  - c) Outdoor material storage piles shall be set back a minimum of 25 feet from any property line or 50 feet from any property line abutting a residential district.
- 3) *Access road.* An access road for collection vehicles shall be provided to the entrance of the facility. Acceptable access does not include residential streets. Access shall be restricted to specific entrances with gates that can be locked and that carry official notice that only authorized persons are allowed on the site.
  - 4) *Parking.* No vehicular or bicycle parking shall be required for such use.

#### 4.4.4 Recreational Uses

An establishment in the recreational uses category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit.

##### A) ***Arena, Auditorium, or Stadium***

All arena, auditorium or stadium uses shall comply with the following standards:

- 1) *Distance from residential district.* Arena, auditorium or stadium uses shall be located a minimum of 500 feet from any residential district, measured from all property lines;
- 2) *Lot area.* The minimum lot area required for arena, auditorium or stadium uses shall be no less than five acres;
- 3) *Frontage.* The minimum required frontage on a public street for arena, auditorium or stadium uses at the primary point of access shall be a minimum of 600 feet in length;
- 4) *Vehicular access.* All points of vehicular access for arena, auditorium or stadium uses shall be from an arterial road. The access points shall be located to minimize vehicular traffic to and through local streets in residential neighborhoods; and
- 5) *Safety fences.* Safety fences up to a height of six feet shall be required, if determined appropriate, to protect the general health, safety and welfare.

##### B) ***Campground***

A campground use shall comply with the following standards:

- 1) *Lot area.* A campground use shall have a minimum lot area of two (2) acres;
- 2) *Portion used for campground facilities.* No more than 30% of the entire site may be used for campground facilities.
- 3) *Landscape screen.* A landscape screen of at least 75% opacity shall be required around a recreation facility use within the campground if it is deemed necessary to protect neighboring land from potential loss of use or diminishment of land value; and

- 4) *Distance from property line.* No campground use shall be located within 80 feet of any property line.

C) ***Entertainment, Outdoor***

An outdoor entertainment use shall comply with the following standards:

- 1) *Access.* Access to an outdoor entertainment use shall be from a hard surfaced, public road. The minimum required frontage on a public road to be used for the primary point of access shall be 200 feet;
- 2) *Safety fence.* A safety fence up to a height of 10 feet shall be required around a recreation facility. A landscape screen of at least 75% opacity shall be required around a recreation facility use if it is deemed necessary to protect neighboring property from potential loss of use or diminishment of land value.
- 3) *Restroom facilities.* Where temporary restroom facilities will be provided; an opaque fence shall be erected to screen the temporary restrooms from adjacent residential properties and from the street. Shrubs or other plants must be planted outside the fencing to visually soften the appearance.

D) ***Recreation Facility, Private***

If a private recreation facility includes a dog park, a double gate shall be installed at any entrance into the dog park.

E) ***Youth or Day Camps***

There shall be an appropriate amount of stacking space for drop-off and pick-up lanes so that queues shall not block public streets.

F) ***Regional Recreation Complex***

All regional recreation complexes shall comply with all the following standards:

- 1) The square footage of the regional recreation complex shall be a minimum of 100,000 square feet of indoor activities and accessory uses;
- 2) The property shall be a minimum of 10 acres in size;
- 3) Any outdoor recreation and amusement activities must be accessory to an indoor facility sited on the same property;
- 4) A Special Use Permit shall be required for all outdoor recreation and amusement activities;
- 5) Outdoor structures shall not exceed 100 feet in height, and any outdoor structures shall have a fall zone equal to or greater than the height of the structure;
- 6) Structures erected to support and function as operational elements of outdoor amusement activities such as, but not limited to, bungee jumping, ropes courses, and zip-lines are not considered buildings for the purpose of applying the Town's sign ordinances;
- 7) Signs for the regional recreation complex use are limited to typical building mounted and ground signs per Sec. 8.7 *Signs* of the UDO; and
- 8) Identification, directional, and warning type signs are allowed to be mounted to rides and structures provided that they are designed to be for the benefit of

pedestrians, internal to the site, and specific to the amusement. Signs mounted to the ride's mobile components are allowed for the purpose of identification and may be lit in accordance to Sec. 8.7.

G) ***Indoor Shooting Range***

- 1) Such use shall be within a fully-enclosed, stand-alone building.
- 2) The facility shall be designed with a Sound Transmission Class rate of 70 as set forth in the most recent version of Architectural Graphics Standards.

H) ***Outdoor Shooting Range***

- 1) Such use shall be no less than five (5) acres in size.
- 2) Where such use is located adjacent to a residential use or any Residential zoning district, a minimum 100 foot Type A Buffer shall be provided.
- 3) All shooting stations shall be at least 1,000 feet from any adjacent property. The minimum required distance of 1,000 feet between any shooting station and all lot lines may be reduced to no less than 500 feet if actual firing tests conducted by the applicant demonstrates that a lesser distance will be adequate to protect the public safety and reduce noise at the property lines. The results of such tests and the request to lessen the required distance must be submitted in writing along with the application for a Special Use Permit. For the purpose of this use, a shooting station shall be defined as the location from where weapons are fired.
- 4) Firearm ranges must be designed and constructed under the supervision of a design professional or certified by the National Rifle Association following construction and before the range is used.
- 5) All areas within the proposed range, including, but not limited to firing area(s), backstops, downrange safety zones, parking and accessory areas and the like shall be under uniform control or ownership. The downrange safety area shall be essentially fan-shaped, with its vertex being 330 feet each side of the end firing point and extending to the maximum range of the type of firearm being used, ten degrees from the firing line, plus an additional 330 feet running parallel to the ten degree line, as approved in accordance with the NRA manual and inspections per subsection 4 above. The safety area shall not encompass any public right-of-way or other property not owned by range operator or owner.
- 6) The site or area used as a shooting range shall be enclosed by a six-(6) foot high fence or otherwise restricted by natural physical features (such as swamps, bodies of water, and the like) so that access to the site is controlled to ensure the safety of patrons, spectators and the public at large. Warning signs shall be posted along the fence every 100 feet.
- 7) No automatic assault type weapon shall be used by the general public, but will be allowed by any law enforcement, military or federal agency group, or any holder of a Federal Firearms License of a class and type that authorizes NFA weapons, duly authorized to use these style weapons. Limits on caliber size shall be in accordance with the National Rifle Association Range Manual subject to the physical constraints of the property.
- 8) No concussion type of explosives shall be permitted unless authorized at the time of Special Use Permit approval.

- 9) Limits on caliber size shall be in accordance with the National Rifle Association Range Manual subject to the physical constraints of the property.
- 10) The hours of operation shall be limited to 7am–10pm, unless further restricted by the Town Council in compliance with Sec. 2.3.5 *Special Use Permit*.
- 11) The proposed shooting range shall be reviewed by and comments received from the Town of Apex Police Department.
- 12) The operators of an outdoor range must provide proof of coverage by adequate accident and liability insurance. A minimum coverage of \$2,000,000 shall be established.
- 13) The allowable caliber of weapons permitted and any other applicable rules shall be posted.

#### **4.4.5 Commercial Uses**

##### **A) Adult Use**

- 1) *Adult establishment.* An adult establishment shall comply with the following standards:
  - a) No adult establishment shall be located within 1,000 feet of a church, public or private school, child day care center, residential district, residential development, public park, or an establishment with an on-premise North Carolina ABC license;
  - b) There shall be no more than one adult establishment on the same lot or property or in the same building, structure, or portion thereof;
  - c) No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an adult establishment; and
  - d) Except for freestanding and façade mounted signs permitted pursuant to Sec. 8.7 *Signs*, no other advertisements, displays or signs or other promotional materials shall be visible to the public from sidewalks, walkways or vehicular use areas.
- 2) *Bar, nightclub, wine bar, or taproom.*
  - a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
  - b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:

- (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
  - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
- 3) **Electronic gaming operations.** Electronic gaming operations shall comply with the following standards:
  - a) No electronic gaming operations shall be located within 1,000 feet of a place of worship, public or private school, child day care center, residential district, residential development, public park, or an establishment with an on-premise North Carolina ABC license;
  - b) There shall be no more than one electronic gaming operations establishment on the same lot or property or in the same building, structure or portion thereof;
  - c) No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an electronic gaming operations establishment;
  - d) Electronic gaming operations establishments shall not operate outside of the hours of 7:00 am to 12 midnight each day, seven (7) days per week;
  - e) No screens, curtains, blinds, partitions or other obstruction shall be placed between the entrance to the room where electronic gaming operations occur and the rear wall of such room so that a clear view of the interior may not be had from the entrance to the room; and
  - f) There shall be one paved parking space for every terminal, machine and computer in addition to one paved parking space per employee.
- B) **Communication**  
There are no supplemental standards for any of the commercial communication uses.
- C) **Food and Beverage Service**
  - 1) **Restaurant, drive-through**
    - a) Drive-through restaurants in the B1 Neighborhood Business District shall only be permitted when the drive-through is accessory to the restaurant and not the primary method of service and or sales. Drive-through ordering shall be limited to face-to-face orders with no outdoor intercom system allowed. Queuing lanes and service windows shall be located on the side and rear only. Where use is located adjacent to residential zoning or residential use, a Type A buffer with a width per UDO Sec. 8.2.6 shall be required.

- 2) *Restaurant, general.*
  - a) Restaurants in the O&I Office and Institutional District are permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, and restaurants does not occupy more than 30% of the gross floor area of the building.
  - b) Cafeterias are allowed within a permitted use in the LI Light Industrial District if the cafeteria is provided solely for employee use, it does not provide any outside signage or advertising, and it consists of less than 20% of the gross floor area of the building.
  - c) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures.*
  - d) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures.*
- 3) *Commissary.* Food trucks and carts shall be parked to the side or rear of the building and shall not be visible from a public right-of-way.

D) **Office and Research**

- 1) *Pilot plant.* In no instance can a product produced at a pilot plant be sold for use in operations in other locations.
- 2) *Office, business or professional.* Contractor's office without storage yard use shall comply with the following standards:
  - a) No more than eight (8) contractor's vehicles (but not to exceed 10% of parking on-site) shall be parked on-site at any one time;
  - b) The contractor's vehicles shall be standard-sized, road-ready, and licensed vehicles which fit easily into standard parking spaces (9' by 18'). No trailers, oversized vehicles, or construction equipment allowed on-site;

- c) Contractor's vehicles must be parked behind the building in which the office is located; and
  - d) Having more than eight (8) standard-sized contractor's vehicles, or outside storage of any materials, equipment, trailers, oversized vehicles, or construction equipment on-site shall make the use "Contractor's office and storage yard", which is only permitted in the Light Industrial (LI) and Tech Flex (TF) zoning districts.
- 3) *Medical or dental laboratory*  
"Medical or dental laboratory" shall be allowed as an accessory use to "Medical or dental office or clinic" in all zoning districts. In the B2 zoning district "Medical and dental laboratory" shall be allowed as the primary use provided:
- a) Such use does not store or utilize caustic, flammable, or noxious chemicals on site; and
  - b) Such use shall not be located closer than 1,000 feet to another "Medical and dental laboratory" as the primary use.

**E) *Parking, Principal Use***

- 1) *Parking garage or lot, commercial.* A commercial parking garage or lot use shall comply with the following standards:
- a) A commercial parking garage or lot use shall be the principal use. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair, service, washing, display or storage of vehicles or other goods; and
  - b) A commercial parking garage or lot shall not be contiguous to lands in the residential zoning districts.
  - c) A commercial parking lot shall not be allowed within the Downtown Festival District.
  - d) Commercial parking garages in the B2 Downtown Business and TND-CZ Traditional Neighborhood Districts shall have retail, office, or residential uses on the bottom floor across the entire width of street frontage except for required entrances and the attendant station.
- 2) *Parking garage or lot, public.* A public parking garage or lot use shall comply with the following standards:
- a) Within the Downtown Festival District, new public parking garages or lots shall not be located immediately adjacent to Salem Street.
  - b) Within the Downtown Festival District, a public parking garage shall meet the following design standards in addition to those found in Sec. 6.3 Small Town Character Overlay District and Article 9: Design Standards:
    - (i) The first floor of facades along rights-of-way shall be wrapped with a non-residential use; and
    - (ii) At least 75% of the exterior shall be brick.

F) **Public Accommodation**

- 1) *Bed and breakfast.* A bed and breakfast use shall comply with the following standards:
  - a) A bed and breakfast in the B2 Downtown Business District, MORR Mixed-Office-Residential-Retail District, TND-CZ Traditional Neighborhood District, the SD-CZ Sustainable Development Conditional Zoning District, and PUD-CZ Planned Unit Development District may prepare and serve food in a restaurant facility within the bed and breakfast to non-guests;
  - b) The owner-operator resides on the premises;
  - c) The bed and breakfast is located within a structure which was originally permitted within the district;
  - d) The individual guest rooms shall have no cooking implements, including, but not limited to, stoves, grills or ovens;
  - e) No meals other than breakfast are served to paying guests except in the B2 Downtown Business District, the MORR Mixed-Office-Residential-Retail District the TND-CZ Traditional Neighborhood District, the SD-CZ Sustainable Development Conditional Zoning District, or the PUD-CZ Planned Unit Development District;
  - f) Only exterior alterations necessary to assure safety of the structure or enhance the compatibility with the surrounding neighborhood are made for the purpose of providing a bed and breakfast;
  - g) One parking space shall be provided for each guest room. Parking shall not be permitted in the front yard. On-street parking shall be permitted on residential side streets. There shall be 20 feet of street frontage for every on-street parking space. On-site parking shall be screened with a landscaped buffer to reduce undue noise, odor or glare on surrounding lands. Additional off-street parking for bed and breakfasts within a PUD-CZ Planned Unit Development District, a TND-CZ Traditional Neighborhood District, the SD-CZ Sustainable Development Conditional Zoning District, or a MORR Mixed-Office-Residential-Retail District shall be provided at the rate indicated for general restaurant uses if restaurant services are provided to non-guests.
  - h) The bed and breakfast shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6; and
  - i) Outdoor advertising shall be limited to one small on-site sign nine square feet in size.
  - j) A bed and breakfast in the B2 Downtown Business District shall be freestanding.
- 2) *Hotel or motel.* A hotel or motel use shall comply with the following standards:
  - a) In the B1 and B2 districts the following standards shall apply:
    - (i) No more than 75 guest rooms for lodging shall be provided.

- (ii) Guest units shall be reached from an interior corridor.

G) **Retail Sales and Service**

An establishment in the retail sales and service category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit.

Outside of the Downtown Festival District, outdoor operations of such uses shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not to include HDMF or MORR. Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

Within the Downtown Festival District, outdoor operations of such use shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts. Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

- 1) *Barber and beauty shop.* Barber and beauty shops in the O&I Office and Institutional District are permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, and restaurants does not occupy more than 30% of the gross floor area of the building.
- 2) *Convenience store with and without gas sales.* Convenience stores with and without gas sales shall comply with the following standards:
  - a) There shall be a minimum of 30% glazing on the front façade, and a minimum of 20% glazing on any other side that faces a parking area or public street; and
  - b) There shall be a minimum of 50% brick and/or stacked stone on the front façade and any side that faces a parking area or public street. The percentage of each building material on a façade shall be based on the total square footage of that façade.
  - c) The columns of gasoline pump canopies shall utilize the same primary material as the convenience store building, including brick and/or stacked stone.
  - d) Signage is limited to that allowed in Sec. 8.7 *Signs*.
- 3) *Farmer's market.* A farmer's market shall comply with the following standards:
  - a) A farmer's market shall be located on a parcel a minimum of one (1) acre in size, except in the B2 Downtown Business District;
  - b) The primary access for the farmer's market shall be from an arterial road and shall not cause traffic to flow through nearby residential areas. Back-out parking directly onto a public street shall be prohibited; and

- c) The boundaries of the farmer's market shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
- 4) *Financial institution.* Drive-through facilities associated with a financial institution shall comply with the following standards:
  - a) Drive-through facility canopies shall be pitch-roofed consisting of materials and at an angle to match the primary building;
  - b) Drive-through facilities shall be situated to the side and preferably to the rear of the primary building; and
  - c) No drive-through facilities shall be located within the B2 Downtown District and TND-CZ Traditional Neighborhood District.
- 5) *Gas and fuel, retail.* Gas and fuel, retail shall comply with the following standards:
  - a) There shall be a pitched canopy over the gasoline pumps;
  - b) Gasoline pump canopies shall be located with the shortest side of the canopy facing the primary abutting street.
- 6)  *kennel.*
  - a) A kennel use shall be located in an enclosed soundproof building and be designed and operated so that it does not produce objectionable odors outside its walls.
  - b) Outdoor exercise and bathroom areas shall only be permitted according to the following conditions:
    - (i) Such areas shall only be used between the hours of 7:00 am to 10:00 pm.
    - (ii) Such areas within the Small Town Character Overlay District shall be buffered to ensure compatibility with surrounding land uses by complying with the buffer standards of Sec. 8.2.6 *Buffering*.
    - (iii) Such areas shall be set back at least 50 feet from the lot line when the adjacent use or zoning is residential.
    - (iv) Such areas shall be enclosed by a fence at least six (6) feet in height; the fence may be taller per Sec. 8.2.7.B.1 *Fence/Wall Height*.
- 7) *Reserved.*
- 8) *Reserved.*
- 9) *Laundromat.* A laundromat shall be designed to ensure that the windows and doors on the front and sides of the building shall be consistent and compatible in size and number with surrounding land uses.
- 10) *Newsstands and gift shop.* A newsstand and gift shop in the O&I Office and Institutional District is permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, and restaurants does not occupy more than 30% of the gross floor area of the building.

- 11) *Personal service.* Personal service uses in the O&I Office and Institutional District are permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, personal services, and restaurants does not occupy more than 30% of the gross floor area of the building.
- 12) *Pharmacy*
  - a) Pharmacies in the O&I Office and Institutional District are permitted only when the total floor area of all barber and beauty shops, gift shops, newsstands, pharmacies, personal services and restaurants does not occupy more than 30% of the gross floor area of the building.
  - b) Drive-through facilities associated with pharmacies shall be comply with the following standards:
    - (i) Drive-through facility canopies shall be pitch-roofed consisting of materials and at an angle to match the primary building;
    - (ii) Drive-through facilities shall be situated to the side and preferably to the rear of the primary building; and
    - (iii) No drive-through facilities shall be developed in the B-2 Downtown Business District and the TND-CZ Traditional Neighborhood Districts.
- 13) *Retail sales, general.*
  - a) Vape and tobacco stores shall be located at least 1,000 feet from any public or private school.
  - b) Retail sales, general in the TF Tech/Flex District and LI Light Industrial District are permitted as follows:
    - (i) Within the TF District, the floor area of the Retail sales, general use(s) shall not occupy more than 30% of the gross floor area of a development.
    - (ii) Within the LI District, the floor area of the Retail sales, general use(s) shall not occupy more than 30% of the gross floor area of the building and shall be associated with the principal industrial use on the site.
- 14) *Self-service storage.* A self-service storage use shall comply with the following standards:
  - a) The only commercial uses permitted on the site of a self-service storage facility use shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site;
  - b) A security or caretaker quarters use may be established on the site of a self-storage facility;

- c) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address;
- d) Except as provided in this section, all property stored on the site of a self-service storage facility use shall be entirely within enclosed buildings;
- e) Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
  - (i) The storage shall occur only within a designated area. The designated area shall be clearly delineated;
  - (ii) The storage area shall not exceed 25% of the buildable area of the site;
  - (iii) The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence;
  - (iv) Storage shall not occur within the area set aside for minimum building setbacks;
  - (v) No dry stacking of boats shall be permitted on site; and
  - (vi) No vehicle maintenance, washing or repair shall be permitted.
- f) The minimum lot size for a self-service storage facility shall be three acres. No variance or other relief shall be granted from this standard;
- g) The development shall not encroach into any buffer required by this Ordinance; the minimum required setback from any property line shall be the greater of any required buffer or setback (Sec. 8.2.6.B).
- h) If separate structures are constructed, there shall be a minimum separation of 10 feet between the buildings within the facility;
- i) The maximum size of a storage bay shall be 900 square feet;
- j) With the exception of a structure used as a security or caretaker quarters, the maximum height of a self-service storage facility use shall be 24 feet. In addition, a parapet wall shall be constructed to screen roof-mounted heating and air conditioning and other equipment, if any. The combined height of the building and the parapet wall shall not exceed 30 feet;
- k) The following on-site circulation standards shall apply:
  - (i) Interior parking shall be provided in the form of aiseways adjacent to the storage bays. These aiseways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aiseways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted;

- (ii) The one-or two-way traffic flow patterns in aiseways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows;
    - (iii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aiseways.
  - l) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft. If a facility abuts a residential district, outdoor lighting fixtures shall be no more than 15 feet in height;
  - m) No exterior loudspeakers or paging equipment shall be permitted on the site;
  - n) All perimeter buildings shall be two (2) stories in height and designed to look like office buildings. Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road; and
  - o) The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.
  - p) Self-service storage located in the Tech/Flex (TF) Zoning District shall meet the following standards:
    - (i) The use shall be part of an overall site that includes an additional Tech/Flex permitted use;
    - (ii) The self-storage portion of the overall site shall be situated behind other permitted uses; and
    - (iii) The self-service storage use shall cover no more than 60% of the overall site acreage.
- 15) *Theater.* A theater in the B2 Downtown Business District shall be freestanding, shall not be located on North Salem Street between Center Street and Chatham Street, and shall not be located on Commerce Street.
- 16) *Upholstery shop.* When an upholstery shop is located in the B1 Neighborhood Business District or PUD Planned Unit Development District, all business shall be conducted in a building. No outside storage or repairs shall be permitted. Deliveries shall be limited to 7am until 7pm.
- 17) *Pet services.* Pet services shall comply with the following:
- a) Services shall be limited to companion animals, including but not limited to dogs, cats, birds, small reptiles, small rodents, and fish;
  - b) Services shall be provided within an enclosed building with no outdoor facilities such as kennels, runs, play areas, or other similar spaces;
  - c) There shall be no overnight services; and
  - d) Establishments shall obtain all applicable Federal, State, and Local licenses and permits required by law.

- 18) *Pawn shop.* A pawn shop shall comply with the following standards:
  - a) Pawn shops shall be regulated by the North Carolina Pawnbrokers Modernization Act of 1989 (1989, c.638, 5.2); and
  - b) No pawn shop shall be located within 1,000 feet of another pawn shop, tattoo parlor, or adult establishment.
- 19) *Artisan studio.*
  - a) Such use, including storage, shall be conducted entirely within a fully-enclosed building; and
  - b) A minimum of 10% of the square footage of the production area shall be designated as a showroom/retail space.

H) **Vehicle Repair and Service**

- 1) *Automotive paint or body shop.* An automotive paint and body shop use shall comply with the following standards:
  - a) Such use shall be conducted within an enclosed structure.
  - b) Vehicle storage areas shall be screened from off-site view according to the standards found in Sec. 4.1.2.D.
- 2) *Automotive service station.* An automotive service station use shall comply with the following standards:
  - a) The automotive service station shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements;
  - b) The operation shall be adequately buffered to ensure its compatibility with surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
  - c) Adequate access shall be provided into and off of the site;
  - d) All accessory repair activities shall be conducted within an enclosed structure. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site;
  - e) Vehicles shall not be tested off-site on residential streets;
  - f) Any accessory automatic car wash facility shall utilize a 100% water recycling system; and
  - g) No outdoor speaker or public address systems that are audible off-site shall be permitted.
- 3) *Car wash or auto detailing.* Car wash and auto detailing uses shall comply with the following standards:
  - a) An automatic car wash shall be considered an accessory use to an automotive service station use when it is located on the same lot, and shall be governed by the use and property development regulations applicable to the service station use; and

- b) No outdoor speaker or public address systems which are audible off-site shall be permitted.
- 4) *Repair and maintenance, general.* A general repair and maintenance use shall comply with the following standards:
- a) All repair and maintenance activities shall be conducted within an enclosed structure in the Planned Commercial (PC) and Tech/Flex (TF) districts. In the Light Industrial (LI) district, repair and maintenance activities shall be conducted within an enclosed structure or within an area screened from the view of adjacent lands by solid fencing, dense vegetative buffers, earthen berms, and/or other effective screening;
  - b) Outside storage areas are only allowed in the Light Industrial (LI) district and must be fully screened from off-site view by a solid fence and landscaping on the outside of the fence, and comply with the buffer standards of Sec. 8.2.6;
  - c) No storage of junked vehicles or vehicles to be used for parts is allowed within the Planned Commercial (PC) or Tech/Flex (TF) districts;
  - d) Outside repair or maintenance activities are only allowed in the Light Industrial (LI) district and shall not be conducted within 100 feet of any property line adjacent to a residential district;
  - e) No service bay door shall be oriented toward any adjacent residential district or any adjacent public street;
  - f) No outdoor speaker or public address system that is audible off-site shall be permitted;
  - g) All vehicles awaiting service or repair must be parked on-site; and
  - h) Vehicles shall not be tested off-site on residential streets.
- 5) *Towing service storage.* The storage area for a towing service storage shall be completely screened from off-site view by buildings and/or solid fencing with landscaping on the outside of the fence, and shall comply with the buffering standards of Sec. 8.2.6.
- 6) *Vehicle sales and rental, light.* A Vehicle sales and rental, light use shall have paved parking and display areas. Within the Small Town Character Overlay District, the *Vehicle sales and rental, light use* shall only be allowed within the Planned Commercial zoning district (not Light Industrial or Tech Flex) and the following shall be required:
- a) No more than 10 vehicle spaces dedicated to display, sales, or storage are allowed;
  - b) Vehicle display, sales, or storage shall be located a minimum of 100 feet behind the right-of-way line; and
  - c) The only signage allowed on the vehicle shall be located on the windshield and shall not exceed 20% of the windshield area.
- 7) *Automotive Accessory Sales and Service*
- a) Such use shall be conducted entirely within an enclosed structure.

- b) Such use shall not have a mechanical lift and would not offer services in the repair and maintenance category.
- c) No service bay door shall be oriented toward any adjacent residential district or any adjacent public street.

#### 4.4.6 Industrial Uses

##### A) **Industrial Service**

- 1) *Greenhouse or nursery, wholesale.* A wholesale greenhouse or nursery use shall comply with the following standards:
  - a) A wholesale greenhouse or nursery use shall be located on a lot greater than 10 acres;
  - b) Loading or operation of heavy machinery at a wholesale greenhouse or nursery use shall not occur between the hours of 11:00 PM and 6:00 AM.
- 2) *Machine or welding shop.* A machine or welding shop use shall be conducted within an enclosed structure.
- 3) *Gas and fuel, wholesale.* Such use shall be located at least 1,320 feet from the uses Day care facility; School, public or private; Hospital; and Nursing or convalescent facility.

##### B) **Production**

- 1) *Asphalt or Concrete Plant.* An asphalt or concrete plant shall comply with the following standards:
  - a) The plant shall be located no closer than 600 feet from any residentially zoned property and shall be located on a property equal to or greater than 5 acres;
  - b) An asphalt or concrete plant shall not be located north of US 1 Highway;
  - c) Any production-related silos shall not exceed a height of 85 feet and shall be a neutral color that blends into the sky. All other buildings and structures must meet the maximum height of the LI zoning district found in Sec. 5.1.2; and
  - d) A silo shall have a fall zone that is equal to or greater than the height of the silo and shall be located on the same parcel.
- 2) *Brewery.* A brewery producing more than 15,000 barrels per year must be located in a stand-alone building.
  - a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no

intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.

- b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
  - (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
  - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
- 3) *Microbrewery*.
  - a) A microbrewery located in B1 or PC is permitted as an accessory use to a Restaurant, general.
  - b) A microbrewery located in B2 shall include a tasting room or retail space.
  - c) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
  - d) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
- 4) *Distillery*. A distillery producing more than 15,000 barrels per year must be located in a stand-alone building.
  - a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:

- (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
  - b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
- 5) *Microdistillery*. A microdistillery in the TF district must be located in a stand-alone building.
- a) Outside of the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 100 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.
  - b) Within the Downtown Festival District, outdoor operations of such use shall comply with the following:
    - (i) Shall not be located within 45 feet of a residential zoning district or property containing a conforming single-family detached dwelling, not including the HDMF or MORR districts; and
    - (ii) Outdoor live or recorded acoustic or amplified entertainment shall not be permitted on properties directly adjacent to any conforming single-family detached dwelling with no intervening right-of-way except when approved according to the standards for a Promotional Event found in Sec. 4.6 *Temporary Uses and Structures*.