

ZONING ORDINANCE

TOWN OF ELKIN

05/08/18

TABLE OF CONTENTS

<u>Articles and sections</u>	<u>Pages</u>
ARTICLE I AUTHORITY AND ENACTMENT CLAUSE.....	1
ARTICLE II SHORT TITLE.....	1
ARTICLE III JURISDICTION.....	1
Section 30 Territorial jurisdiction.....	1
Section 31 Bona Fide farms exempt.....	1
ARTICLE IV DEFINITIONS.....	2
Section 40 Interpretations of commonly used terms and words.....	2
Section 41 Definitions of specific terms and words.....	2
ARTICLE V ESTABLISHMENT OF DISTRICTS.....	7
Section 50 Use Districts named.....	7
Section 51 District boundaries shown on zoning map.....	7
Section 52 Due considerations given to district boundaries.....	7
Section 53 Rules governing interpretation of district boundaries.....	7
ARTICLE VI APPLICATION OF REGULATIONS.....	8
Section 60 Zoning affects every building and use.....	8
Section 61 Reduction of lot and yard area prohibited.....	8
Section 62 Relationship of building to lot.....	8
Section 63 Street access.....	8
Section 64 Uses prohibited.....	8
ARTICLE VII GENERAL PROVISIONS.....	9
Section 70 Non-conforming uses.....	9
Section 71 Signs.....	10
Section 72 Off-street parking and storage.....	24
Section 73 Off-street loading and unloading space.....	27
Section 74 Temporary uses.....	27
Section 75 Accessory structures, CSU.....	28
Section 78 Landscaping, screening and buffering.....	28
ARTICLE VIII.....	33
Section 80 R-12 Residential district.....	33
Section 81 R-8 Residential district.....	35
Section 82 R-20 Residential district.....	37
Section 83 MA Medical Arts district.....	38
Section 83A MA Medical Arts district alternative.....	41
Section 84 B-1 Central Business district.....	41
Section 85 B-2 Highway Business district.....	43
Section 86 B-3 Neighborhood Business district.....	47
Section 87 M-1 Industrial district.....	48
Section 88 M-2 Heavy Industrial district.....	50
Section 89 MH Manufactured Home Park District.....	51
Section 90 V-1 Village Development District.....	52
ARTICLE IX AREA, YARD, LOT COVERAGE AND HEIGHT REQUIREMENTS	59

ARTICLE X EXCEPTIONS AND MODIFICATIONS.....	62
Section 100 Lot of Record.....	62
Section 101 Front yard for dwellings.....	62
Section 102 Height Limitations	62
Section 103 Visibility at intersections	62
Section 104 Fences in residential zones; retaining walls.....	62
Section 105 Rules Applicable Specifically to the Watershed Overlay	63
Section 106 By-Pass Overlay.....	75
Section 107 B-1, Design guidelines	83
Section 108 Wireless Communication Towers.....	100
Section 109 Solar Farms.....	108
 ARTICLE XI CONDITIONAL USES.....	 113
Section 110 Purposes.....	113
Section 111 Jurisdiction.....	113
Section 112 Procedure for obtaining a conditional use approval.....	113
Section 113 Conditions and Guarantees.....	115
Section 114 General provision in granting conditional use.....	115
 ARTICLE XII GROUP DEVELOPMENTS.....	 116
Section 120 Procedure.....	116
Section 121 Development Plan.....	116
Section 122 Shopping Centers.....	117
Section 123 Multi-family developments.....	117
Section 124 Planned Unit Development (PUD).....	117
Section 125 Mobile Home Park.....	120
 ARTICLE XIII ADMINISTRATION AND ENFORCEMENT.....	 121
Section 130 Zoning enforcement officer.....	121
Section 131 Zoning Permit required.....	121
Section 132 Application for zoning permit.....	121
Section 133 Certificate of occupancy.....	121
Section 134 Remedies Available.....	121
 ARTICLE XIV BOARD OF ADJUSTMENT.....	 122
Section 140 Creation of Board of Adjustment.....	122
Section 141 Length of terms.....	122
Section 142 Proceedings of the Board of Adjustment.....	122
Section 143 Powers and duties of the Board of Adjustment.....	123
Section 144 Decision of the Board of Adjustment.....	124
Section 145 Duties of the zoning enforcement officer, Board of Adjustment, courts and Town Board of Commissioners on matters of appeal.....	125
 ARTICLE XV AMENDMENTS AND CHANGES.....	 125
Section 150 Motion to amend.....	125
Section 151 Protest against amendment.....	126
Section 152 Planning Board action.....	126
Section 153 Board of Commissioners Action.....	127
 ARTICLE XVI LEGAL PROVISIONS.....	 127
Section 160 Interpretation, purpose and conflict.....	127
Section 161 Validity.....	127
Section 162 Penalties.....	127
Section 164 Effective date.....	127

ZONING ORDINANCE

ELKIN, NORTH CAROLINA

ARTICLE I

AUTHORITY AND ENACTMENT CLAUSE

In pursuance of authority granted by the General Assembly of North Carolina in the General Statutes, specifically Chapter 160A, Article 19, the Town of Elkin may enforce zoning regulations to promote the public health, safety, morals and general welfare; to promote the orderly development of the community; to lessen congestion in the roads and streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities, all in accordance with a well considered comprehensive plan.

ARTICLE II

SHORT TITLE

This ordinance shall be known as "The Zoning Ordinance of the Town of Elkin, North Carolina", and the map referred to which is identified by the title Official Zoning Map, Elkin, North Carolina, shall be known as the Zoning Map.

ARTICLE III

JURISDICTION

Section 30. TERRITORIAL APPLICATION

The provisions of this ordinance shall apply within the corporate limits of the town of Elkin and within the territory beyond such corporate limits as shown on the zoning map and/or described in the extraterritorial zoning resolution. The extraterritorial boundary will follow physical features when possible, but at no point will the outside boundary extend more than one mile from the corporate limits in any direction.

However, the jurisdiction and authority herein granted to the Town of Elkin shall not be exercised with the limits of Wilkes County unless the area has been annexed by the Town of Elkin; or within any part of that territory adjacent to the corporate limits of Jonesville or its extraterritorial planning area.

Section 31. BONA FIDE FARMS EXEMPT

The provisions of this ordinance shall not apply to bona fide farms, *except as delineated in Section 105 of this ordinance*. This ordinance exercises *limited* controls over crop lands, timber lands, pasture lands, idle or other farm lands, nor over any farm house, barn poultry house, or other farm buildings including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this ordinance without the need for *limited* regulation. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this ordinance.

ARTICLE IV

DEFINITIONS

Section 40. INTERPRETATION OF COMMONLY USED TERMS AND WORDS

- 40.1 Words used in the present tense include the future tense.
- 40.2 Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- 40.3 The word "person" includes a firm, association, corporation, trust and company, as well as an individual.
- 40.4 The words "used for" shall include the meaning "designed for".
- 40.5 The word "structure" shall include the word "building".
- 40.6 The word "lot" shall include the words "plot", "parcel", or "tract".
- 40.7 The word "shall " is always mandatory and not merely discretionary.

Section 41. DEFINITIONS OF SPECIFIC TERMS AND WORDS

- 41.1 **ACCESSORY USE.** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.
- 41.2 **ADULT ESTABLISHMENT.** Any establishment open only to the adult public, including, but not limited to; adult arcade, adult bookstores, adult cabaret, adult motel, adult motion picture theater, adult video stores, escort agency, nude model studios, sexual encounter center, adult mini-motion picture theater, or adult live entertainment businesses as defined in Article 26A of the North Carolina General Statutes Chapter 14, Section 202.10 entitled "Adult Establishment" as amended.
- 41.3 **ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.
- AUCTION GALLERY/HOUSE.** A use which allows for the sale of goods and merchandise either through the internet or on site public sale to the highest bidder. No sale of agricultural products or living animals is permitted. Outdoor storage of merchandise is not permitted.
- BIG BOX RETAILER.** Any commercial building that has more than 50,000 square feet of gross floor area.
- 41.4 **BUFFER STRIP.** A buffer strip shall consist of a planted strip at least ten (10) feet in width, composed of deciduous or evergreen trees or mixture of each, spaced not more than twenty (20) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart.
- 41.5 **BUILDING.** Any structure enclosed and isolated by exterior walls or columns constructed or used for residence, industry, or other public or private purposes, or accessory thereto. The term "building" shall be construed as if followed by the words "or parts thereof".
- 41.6 **BUILDING, ACCESSORY.** A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot

therewith.

- 41.7 **BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the lot on which said building is situated.
- 41.8 **BUILDING SETBACK LINE.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures, and the street right-of-way line when measured perpendicularly thereto.
- 41.9 **CONDITIONAL USE.** A development that would not be generally appropriate without restriction throughout the zoning district, but which if controlled as to number, area, location, or relation to the neighborhood would promote the health, safety, morals or general welfare. Such uses may be permitted in a zoning district by either the governing body or Board of Adjustment, if specific provisions are made in the zoning ordinance.
- 41.9.1 **CONVERTED STORAGE UNIT (CSU):** shall be defined as any storage container/vehicle not originally designed or built for storage and shall include trailers originally maintained with wheels and axels; buses; cars; vans; trucks; portable boxes; shipping containers; and any other similar unit.
- 41.10 **CUSTOMARY HOME OCCUPATION.** Any use conducted for gain entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there is no display; provided further, no person, not a resident on the premises, shall be employed specifically in connection with the activity; no mechanical equipment shall be installed or used except such as is normally used for domestic or professional purposes; and not over twenty-five percent (25%) of the total floor space of any structure shall be used for home occupations.
- 41.11 **CLUB OR LODGE, PRIVATE.** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities operated on a non-profit basis for the benefit of members.
- 41.12 **DWELLING.** A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, mobile home, or other structure designed for transient residence.
- 41.13 **DWELLING, SINGLE-FAMILY.** A detached building designed for or occupied exclusively by one (1) family.
- 41.14 **DWELLING, TWO FAMILY.** A building arranged or designed to be occupied by two (2) families living independently of each other.
- 41.15 **DWELLING, MULTI-FAMILY.** A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other, including apartment houses, apartment hotels, and group housing projects.
- 41.16 **GROSS FLOOR AREA.** The total area of all buildings in the project including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the main building such as boiler rooms and maintenance shops.
- 41.17 **GROUP DEVELOPMENT.** A group of two (2) or more principal structures built on a single lot, tract, or parcel of land not subdivided into the customary streets and lots and which will not be so

subdivided, and designed for occupancy by separate families, businesses, or other enterprises. Examples would be: cluster-type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers and industrial parks.

- 41.18 FAMILY. One or more individuals occupying a premise and living as a single, non-profit housekeeping unit, including domestic servants, provided that a group of four or more persons who are not related by blood or marriage shall not be deemed to constitute a family.

HIGH DENSITY LIVING FACILITIES. Residential living facilities which exceed the standard density standard of ten (10) units per acre and are wholly contained in one building. These facilities will be on town water and sewer.

INDEPENDENT LIVING FACILITIES FOR THE ELDERLY. A residential facility which provides housing and supportive services for the elderly including housekeeping, meals, a 24 hour emergency call system, transportation and organized activities.

- 4.19 JUNK YARD. The use of more than six hundred (600) square feet of the area of any lot for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.
- 41.20 LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to same.
- 41.21 LOT, CORNER. A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forth-five degrees (45°) and less than one hundred and thirty-five (135°) degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning compliance permit.
- 41.22 LOT DEPTH. The mean horizontal distance between the front and rear lot lines.
- 41.23 LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Surry County, or a lot described by meets and bounds, the description of which has been so recorded.
- 41.24 LOT WIDTH. The distance between side lot lines measured at the building setback line.
- 41.25 MOBILE HOME. A trailer home, double wide house trailer, house car, or similar vehicle suitable for year-round occupancy as a dwelling unit. Further defined, such mobile home includes any portable or moveable vehicle which is mounted, or designed to be mounted on wheels, skids, rollers, either self-propelled or propelled by other means, including any such dismantled vehicle which has been placed on a temporary or permanent foundation and including structural additions to such vehicle. Such vehicle constructed according to the Uniform Standards Code for Mobile Homes Act shall be defined as mobile homes. This definition does not include camping-type trailers which are parked and unoccupied or those vehicles primarily designed for the transportation of goods.
- 41.26 MOBILE HOME PARK. Any place or tract of land maintained, offered, or used for the parking of two (2) or more mobile homes or trailer houses, used or intended to be used for living or sleeping purposes.
- 41.27 MODULAR UNIT. A factory-fabricated transportable building designed or intended to be used, by itself or to be incorporated with similar units as a building site into a modular structure. The term is intended to apply to major assemblies and does not include prefabricated sub-elements

which are to be incorporated into a structure at the site. In addition to the other requirements of this definition, modular units must meet all structural, electrical, mechanical, plumbing, heating, and other provisions of the North Carolina State Building Code or amendments.

- 41.28 MORATORIUM. A legislative tool to temporarily delay land development and zoning approvals. See §160A 381(d) for details.
- 41.28.1 MURALS. A mural is any piece of artwork painted or applied directly on a wall, ceiling or other large permanent surface. A particularly distinguishing characteristic of mural painting is that the architectural elements of the given space/building are harmoniously incorporated into the picture. In addition, this artwork shall not contain any advertisement of a current business or product, but may be a restoration of historical signage created prior to 1970.
- 41.29 NON-CONFORMING USE. Any use of building or land which does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments which may be incorporated into this ordinance.
- 41.30 OPEN STORAGE. Unroofed storage area, whether fenced or not.
- 41.31 RESTAURANT. A commercial establishment where food is prepared and served exclusively for customers inside the facilities. Food may, however, be sold to customers for consumption at places other than on restaurant property.
- 41.32 RESTAURANT, DRIVE-IN. A commercial establishment where food is prepared and served to customers inside the main structure and/or customers sitting in parked cars, if the parked cars are located on the same lot as the principal use.
- 41.32.1 PARK. Those areas developed for both passive and active recreational activities. The development may include, but shall not be limited to, walkways, benches, open fields, multiuse courts, swimming pools, wading pools, amphitheaters, etc. The term, *park* shall not include zoos, recreational vehicle parks, manufactured home parks, amusement parks, equestrian racing facilities or dog racing facilities.
- 41.33 PARKING SPACE. A storage space of not less than ten (10) feet by twenty (20) feet for one (1) automobile in the Commercial and Residential Districts and the storage space of nine (9) feet by eighteen (18) feet for one (1) automobile in the Industrial Districts, plus the necessary accessory space. It shall always be located outside the dedicated street right-of-way. *Amended 8/5/96*
- 41.34 PLANNED UNIT DEVELOPMENT. The planned unit development is a use designed to provide for development incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.
- 41.35 SHOPPING CENTER. Two or more commercial establishments planned or constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, type, and shape to the trade area which the unit services.
- 41.36 SHORT TERM HOUSING. A structure that contains one or more individual sleeping rooms and where tenancy of all rooms may be arranged for periods of time not to exceed three (3) months. This short term housing facility will provide boarding, lodging and ancillary services on its premises, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency to provide habitation with or without a fee. Examples include

transitional housing and emergency shelter where individual rooms are provided. This does not include rehabilitation, half-way houses or treatment centers.

- 41.37 **SIGNS.** Any form of publicity, visible from any public street directing attention to an individual activity, business service, commodity, or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trade marks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.
- a. **Billboards (off-site).** A sign that directs attention to a business, commodity, activity, service or product not conducted, sold or offered upon the premises where such sign is located.
- b. **Business Signs (on-site).** A sign which directs attention to a business, profession, commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.
- 41.38 **SIGN AREA.** Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area excluding architectural trim and structural member. In computing area only one (1) side of a double faced sign shall be considered.
- 41.39 **SIGNS, FREESTANDING.** A sign separated from any structure that might be located on a lot. It may be mounted on pillars or posts that are permanently anchored to the ground.
- 41.40 **SIGNS, ATTACHED.** Any sign physically attached to the principal or accessory structure on a lot.
- 41.41 **SOLID FENCE.** In addition to a barrier used as a boundary or means of protection, a solid fence provides a visual barrier which blocks from view of the general public any items that may be stored behind or inside the fenced area.
- 41.42 **SPORTS BAR.** An establishment containing a minimum of 5,000 square feet of gross floor area, a full service restaurant and may include any of the following amenities: a microbrewery, multiple television sets, billiard tables/pool tables, darts, video games and other recreational activities. This use specifically excludes video gambling machines.
- 41.43 **STORY.** That portion of a principal building included between the surface of any floor and the surface of the next floor above or if there is no floor above, the space between the floor and the ceiling next above. A basement is not counted as a story.
- 41.44 **STREET.** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.
- 41.45 **STRUCTURE.** Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having more or less permanent location on the ground.
- 41.46 **TATTOO ESTABLISHMENT.** Any location where tattooing is engaged in or where the business of tattooing is conducted or any part thereof. Tattooing defined in North Carolina G.S. 130-283.
- 41.47 **VARIANCE.** A modification of the existing zoning ordinance when strict enforcement would cause undue hardship because of circumstances unique to the individual property on which the variance is granted.

- 41.48 WINERY. A manufacturing facility or establishment engaged in the processing of grapes to produce wine or wine-like beverages.
- 41.49 YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.
- 41.50 YARD, FRONT. An open, unoccupied space on the same lot with a principal building. It shall be situated from the edge of the right-of-way to the nearest point of beginning of any building located on the lot.
- 41.51 YARD, REAR. An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.
- 41.52 YARD, SIDE. An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending the rear line of the front yard to the front line of the rear yard.
- 41.53 RETAIL FLOOR SPACE OR RETAIL FLOOR AREA. Total area of all buildings in the project including basements, mezzanines, and all floors, exclusive of stairways, elevator shafts, offices, restrooms, kitchens or food preparation rooms, merchandise assembly rooms, storage rooms and separate service facilities outside the main building such as boiler rooms and maintenance shops.
5/3/93

ARTICLE V

ESTABLISHMENT OF DISTRICTS

Section 50 USE DISTRICTS NAMED

For the purpose of this ordinance the Town of Elkin is divided into nine (9) use districts with the designations and purposes listed below:

R-12	Residential District (Medium density)
R-8	Residential District (High density)
R-20	Residential District (Low density)
MA	Medical Arts District
B-1	Central Business District
B-2	Highway Business District
B-3	Neighborhood Business District
M-1	Light Manufacturing District
M-2	Heavy Manufacturing District

Section 51. DISTRICT BOUNDARIES SHOWN ON ZONING MAP

The boundaries of the districts are shown on the map accompanying this ordinance and made a part hereof entitled "Official Zoning Map, Elkin, North Carolina". The zoning map and all the notations,

references, and amendments thereto, and other information shown thereon are hereby made a part of this ordinance the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is posted at the Town Hall in Elkin and is available for inspection by the public.

Section 52. DUE CONSIDERATION GIVEN TO DISTRICT BOUNDARIES

In the creation, by this ordinance, of the respective districts, careful consideration is given to the peculiar suitability of each and every district for the particular uses and regulations applied thereto, and the necessary and proper grouping and arrangement of various uses and densities of population in accordance with a well considered comprehensive plan for the physical development of the community.

Section 53. RULES GOVERNING INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply: (Such uncertainty shall be determined by the Board of Adjustment)

- 53.1 Where such district boundaries are indicated as approximately following street, alley, or highway lines, such lines shall be construed to be such boundaries.
- 53.2 Where district boundaries are so indicated that they approximately follow lot lines such lot lines shall be construed to be said boundaries.
- 53.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, alleys, or highways, or the rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map.
- 53.4 Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" shall refer to zoning restrictions, not or tract size.

ARTICLE VI

APPLICATION OF REGULATIONS

Section 60. ZONING AFFECTS EVERY BUILDING AND USE

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.

Section 61. REDUCTION OF LOT AND YARD AREAS PROHIBITED

No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

Section 62. RELATIONSHIP OF BUILDING TO LOT

Every building hereafter erected, moved or structurally altered shall be located on a lot and in no case shall there be more than one (1) principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings in

an appropriate zoning district, i.e., school campus, cluster housing, shopping center, industrial park and so forth, as permitted by Article XII.

Section 63. STREET ACCESS

No building shall be erected on a lot which does not have access to an open street which is either a public street or a public maintained street.

Section 64. USES PROHIBITED

If either a use or class of uses is not specifically indicated as being permitted in a district either as a right or as a conditional use, then such use or class of use is prohibited.

ARTICLE VII

GENERAL PROVISIONS

Section 70. NON-CONFORMING USES

Any non-conforming building, structure or use of land shall comply with the following provisions:

- 70.1 Change of Use. A non-conforming use shall not be changed to any use except those permitted in the district where the non-conforming use is located.
- 70.2 Expansion of Use. A non-conforming use shall not be extended or enlarged. However, a non-conforming use may be extended through an existing building, and structural alterations may be permitted if required by law or ordered by an authorized officer to secure the safety of the building. Additionally, existing single-family residential structures in business or industrial districts may be enlarged, extended or structurally altered provided no additional dwelling units result. When any enlargement, extension or alteration occurs, it shall comply with the dimensional requirements of the R-12 District.
- 70.3 Discontinuance of Use. A non-conforming use may not be re-established after discontinuance for a period of one (1) year.
- 70.4 Reconstruction of Use. A non-conforming use may not be rebuilt, altered or repaired after damage exceeding sixty (60) percent of its fair market value immediately prior to damage. (Such determination shall be made by the Zoning Enforcement Officer.) When a damaged structure is repaired or reconstructed, it shall be accomplished without any increase in the cubical content of the floor area, with any change in the building location except to provide greater front or side yard areas; that such reconstruction and repair be completed within one hundred and eighty (180) days from the date of damage, and the reconstruction does not result in a change from one non-conforming use to another. Any previously granted variances concerning the destroyed property are null and void, and shall not be considered in any future variance requests. Non-conforming owner occupied single family dwellings may be reconstructed regardless of the extent of the destruction.
- 70.5 Removal of Certain Non-Conforming Uses. The outdoor storage of three (3) or more wrecked or broken-down vehicles, or other sizable items of scrap material, in any zoning district, except in the M-1 and M-2 Industrial districts, shall be considered a junk yard. As a non-conforming use these junk yards shall be eliminated not later than three (3) years after the date of adoption of this ordinance.

- 70.6 Exceptions. None of the restrictions set forth in this section shall apply to a building or other structure which is non-conforming only with respect to lot area, setback or yards, or provisions of off-street parking or loading space, except that no building or other structure shall be altered, enlarged, or reconstructed to extend further into or to cover more of a deficient yard or to increase its height, except in compliance with the district regulations.

SECTION 71 SIGNS

71.1 Purpose

It is the purpose of this section to promote the general welfare and appearance of the Town of Elkin by setting standards for the type and placement of signs.

The purpose of this section is, therefore:

- a. To preserve the scenic natural environment by allowing signs which are consistent with an attractive town appearance.
- b. To provide for the safety of vehicular traffic by limiting visual interference.
- c. To protect the general public from injury caused by distracting and/or improperly placed signs.
- d. To promote the general welfare of the Town of Elkin by providing a pleasing environmental setting.
- e. To protect property values and promote the economic welfare of Elkin by encouraging visually appealing, non-distracting forms of information transfer.

71.2 Applicability

This section shall apply to all signs located within the Town of Elkin and its extraterritorial jurisdiction unless excluded as per Section 71.4

71.3 Definitions

A sign is any display of any letters, words, numbers, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to or as a part of a structure, surface or any other thing, including, but not limited to the ground, a rock, tree or other natural objects. A sign includes all poles, frames and other supports upon which such display is made.

Signs do not include the recognized flag or emblem of any nation, state, or city; nor merchandise and pictures or models of products incorporated in a window display; nor works of art which in no way identify a product; nor scoreboards located on athletic fields.

71.3.1 Advertising Sign A sign which directs attention to a business, profession, commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

71.3.2 Attached Sign A sign which is mounted flush to a building wall or attached to the face of a canopy. Such sign shall be attached throughout its entire length and shall not extend above the highest point indicated below:

- a. Signs mounted flush to a building wall shall not extend above the highest vertical point of the

building.

b. Signs mounted to the face of a canopy shall not extend above the highest point of the face of the canopy.

c. Signage of “flush mounted menu board” wooden or metal framed (shadow box) showcasing establishments menu attached to the eatery building interiorly illuminated with a maximum of 3 square feet in area. This signage is included in total square footage allowed, by district.

71.3.3 Billboard/ Poster Board A sign identifying, advertising and/or directing the public to a business, merchandise, service, entertainment or product which is located at a place other than the property on which such sign is located. These signs are also known as off-premise, outdoor advertising signs.

71.3.4 Business Identification Signs Flat mounted signs which are placed on multi-use buildings to identify tenants within.

71.3.5 Canopy Sign A sign which is suspended from or attached to the sides, front, or underside of a canopy.

a. A canopy is defined as a permanent structure, other than an awning made of cloth or other material, attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

71.3.6 Construction Sign Signs which identify firms and/or builders and which are erected on the premise of the construction site during the period of construction.

71.3.7 Direction Sign A sign which is located off-premise and indicates the location of public buildings, parks, schools, churches, hospitals, and scenic or historic places.

71.3.8 Directory Sign A sign listing the names of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

71.3.9 Elevated Merchandise Merchandise raised from the ground for the purpose of advertising.

71.3.10 Festival Sign A sign which is placed to commemorate and/or attract attention to a recognized festival within the Town of Elkin.

71.3.11 Freestanding Sign A sign supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle, or object other than the sign structure for support. Signage is allowed in a yard if 8’ above public sidewalks elevation, if any portion encroaches over sidewalk it must have 8’ of clearance above sidewalk.

71.3.12 Gasoline Pump Signs Signs which are normally associated with the sale of gasoline and the price, self-service, etc. information contained on the pump.

71.3.13 Holiday Decorations The decorations normally associated with the holiday season from November to January and other recognized holidays.

71.3.14 Home Occupation Signs A sign permitted in association with a legitimate home occupation conducted on the premises of the dwelling unit occupied by the operator of the business.

71.3.15 Marquee A sign of a theater, auditorium, fairground, or museum which advertises present and scheduled events.

71.3.16 No Trespassing/No Loitering Signs Such signs, and similar ones, which are placed to inform the

public of private regulations.

71.3.17 Occupant/Street Number Sign A sign bearing only the name of the principal occupant of a residence or street number of any residential, commercial or other structure.

71.3.18 Painted Wall Sign A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas.

71.3.19 Portable Sign Any sign designed or intended to be readily relocated. This shall include signs on wheels, trailers, truck beds, A-frames or any other device which is capable of/or intended to be moved from one location to another.

71.3.20 Private Traffic Directional Sign Signs such as in/out, do-not-enter, entrance/exit, etc., which are placed on private property to direct vehicular traffic.

71.3.21 Projecting Sign A sign which is attached to a building wall with the face of the sign perpendicular to the building wall. Such signs shall not project into any street right-of-way and shall be at least eight (8) feet above the ground.

71.3.22 Public Service Signs Sign displayed for the direction or the convenience of the public such as signs for rest rooms, public telephones and the like.

71.3.23 Real Estate Signs A sign which advertises the sale and/or lease of the property on which said sign is located.

71.3.24 Temporary Sign A sign or advertising display constructed of cloth, canvas, fabric, plastic, paper, plywood or other light material and intended to be displayed for a short period of time to inform the public of an unusual or special event. This shall include banners, balloons, flags, streamers, spinners, placards, pennants and other wind activated devices. Non-Profits are allowed to register banners with the Planning Director. Those violation the terms of banner registration will lose privilege to display future banners.

71.3.25 Time and Temperature Sign Signs which display time and temperature in alternating light cycles.

71.3.26 Window Signs Signs which are painted or affixed to windows.

71.3.27 Yard Sale/Open House Signs A sign which serves to direct the public to such events and is placed off the premise of such event/sale, for brief periods of time.

71.3.28 Awning A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

71.3.29 Vehicular Signs A sign or advertisement placed on a vehicle by owner or lessee, which directs attention to a specific business of said premises or any other commercial properties in which above mentioned has a possessor or vested interest.

71.4 Exempt Signs

The following signs and/or displays shall be exempt from the regulations of this ordinance:

71.4.1 Signs not visible beyond the boundaries of the property on which they are located.

71.4.2 Signs of a duly-constituted governmental body, including traffic or similar regulatory devices, legal devices or warnings. This shall include street signs of a non-commercial type which are used on-premise to identify public buildings such Elkin Town Hall. Also included are political signs and posters during an election year, except as prohibited under Section 71.7.17.

71.4.3 City directory and welcome signs approved by the Elkin Planning Board which are erected to welcome visitors to Elkin. Such signs may have affixed to them names and/or emblems of civic groups and churches.

71.4.4 Trade names and graphics which are customarily painted on newspaper and soft drink dispensers.

71.4.5 Publicly owned memorial tablets or signs.

71.4.6 Official flags of religious, fraternal and civic organizations provided that such flags are flown at meeting places of such organizations and/or special events of these organizations.

71.4.7 Murals which conform to said definition as listed in Section 41 of this ordinance.

71.5 Prohibited Signs

The following signs are prohibited in the Town of Elkin and in its extraterritorial jurisdiction.

71.5.1 No sign shall be erected which imitates or in any way approximates official highway signs, nor shall any sign be erected which obscures a sign displayed by a public authority.

71.5.2 No sign shall be erected which displays flashing, blinking or intermittent lights or lights of changing intensity. No moving signs or moving parts of signs will be allowed. Time and temperature signs shall be allowed as per Section 71.7.15.

71.5.3 Temporary signs as defined in Section 71.3.24, except those of a temporary nature as per Section 71.9 are prohibited.

71.5.4 No sign shall be erected or placed in such a manner to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway or parking lot.

71.5.5 Commercial identification or advertising signs are prohibited on public utility poles, telephone poles, trees, fences, benches and refuse containers, except the latter two may display a logo. In addition, no signs shall be painted on roofs nor placed on roofs.

71.5.6 Pavement marking of any kind other than for traffic control are prohibited.

71.5.7 Any sign located in such a way as to intentionally deny an adjoining property owner a visual access to an existing sign is prohibited.

71.5.8 No billboards or off-premise advertising as defined in Section 71.3.3, shall hereafter be erected within the Town of Elkin or its extra-territorial jurisdiction .

71.5.9 No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.

71.5.10 No sign shall be placed in a public right-of-way or within 10 feet of the pavement if no right-of-way is recorded.

71.5.11 No sign shall be erected, constructed, or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any form, shape or manner as to interfere with an opening required for legal ventilation.

71.5.12 No sign that violates any provision of any law of the State of North Carolina relative to outdoor advertising shall be erected or permitted.

71.5.13 Any other sign which does not comply with the regulations of this ordinance shall be prohibited.

71.6 Permit Procedure

No sign shall hereafter be erected, attached, suspended, changed or relocated until a permit has been issued by the Zoning Enforcement Officer.

Application for a permit shall be made to the Zoning Enforcement Officer. Each application shall be accompanied by plans which shall:

- a. Indicate the proposed site by identifying the property by ownership, location and use;
- b. Show the location of the sign on the lot in relation to property lines and buildings, zoning district boundaries, right-of-way lines, and existing signs;
- c. Show size, character, complete structural specifications and methods of anchoring and support;
- d. If warranted, the zoning officer may require additional information that will enable him to determine whether or not the sign will be erected in conformance with this ordinance.

71.7 Signs Which Do Not Require a Permit

No permit is necessary for these signs, provided they are not prohibited as defined in Section 71.5 and provided that they comply with the conditions herein described.

Signs permissible as per this section shall not be considered in determining total sign area. However, if a sign exceeds the size or in any other way does not comply with these limitations, it shall be subject to all other provisions in this Ordinance.

71.7.1 Public Service Signs Signs displayed for the direction or convenience of the public. This shall include signs for public rest rooms, telephones, vehicle inspection, credit cards accepted, hours of operation.

71.7.2 Real Estate Signs Signs which advertise the sale or lease of the property on which said sign is located, subject to the following conditions:

- a. One sign per premise or one per 500 feet of lot frontage.
- b. Signs shall be non-illuminated.
- c. Sizes shall not exceed:

Zone	TOTAL SQ FT	MAX HEIGHT
R-8, R-12	6	6 ft.
R-20, MA, B-3 less than 1 acre	6	6 ft.
1-3 acres	16	8 ft.
over 3 acres	32	10 ft.
B-1	6	6 ft.
B-2, M-1, M-2	32	12 ft.

d. Real estate signs must be removed by the realtor within seven (7) days of the closing of the transaction.

e. No off-premises real estate signs are allowed. Location of real estate signs to be limited to the property which is for sale. Amended 12/13/04

f. Lead-in signs four (4) square feet will be allowed. Text will be limited to an arrow and firm name or logo. Permission to locate must be secured from property owner. Signs must be removed on day of closing.

g. New subdivision signs located on the property can be 32 square feet and can remain until 75% of the property is sold.

71.7.21 Vehicular Signs provided:

1. The vehicle shall be parked on commercial property only.
2. The vehicle must be parked in a standard parking place in a pre-approved site plan.
3. The vehicle is limited to a standard single rear axle car, truck or van. (no tractor trailers, step-vans or oversized vehicles)
4. The vehicle must possess a current and valid license tag, insurance and inspection sticker (no dealer tags)
5. The vehicle must be able to move on its own power and must be moved every ten (10) days.
6. All advertisement shall be permanently affixed or painted to the vehicle. (banner tied on or to vehicle not permitted)

71.7.3 Residential operation, freight entrances, etc. Such signs shall not exceed a total surface area of four (4) square feet per sign, and may be illuminated.

Yard Sale/Open House Signs No more than three (3) signs per event or per premise for sale shall be allowed. Two may be placed off-premise on private property with the permission of the property owner. The signs may remain in place for seventy-two (72) hours only. Such signs shall serve as directional aids and text on such signs shall be limited to Yard Sale/ Garage Sale or Open House and an arrow. Signs shall be placed out of the street right-of-way and shall not be illuminated.

71.7.4 Festival Signs Signs, non-illuminated, which are associated with activities recognized by the Elkin Town Board such as Tour du Pont, Street Scene or the Fourth of July Festival.

71.7.5 Holiday Decorations Seasonal decorations are allowed to remain two (2) weeks following the holiday. Such decorations may be illuminated in compliance with Section 71.5.2. Other recognized holiday decorations will be allowed for the week preceding and week following the holiday.

71.7.6 Construction Signs Non-illuminated signs corresponding in size to the permitted real estate signs of Section 71.7.2 may be placed on-premise to identify firms and/or builders during the period of construction. They shall be removed no later than seven (7) days after completion of the project.

71.7.7 No Trespassing, No Dumping, No Loitering, For Private use Only, etc. Such signs may be placed where necessary. Such signs shall be non-illuminated and not exceed six (6) square feet in size.

71.7.8 Changing Copy A permit shall not be required to change copy such as on a theater marquee or legal outdoor advertising sign, nor shall a permit be required for the maintenance changes provided that in no way is the size of the sign altered.

71.7.9 Occupant/Street Number Signs Non-illuminated signs affixed to mailboxes, decorative light posts, driveway entrances and the like which serve to identify occupants and/or street number. Street numbers are required to be placed on all residential, commercial and other structures in a manner to be visible from the street.

71.7.10 Direction Signs Signs as defined by Section 71.3.7, are permitted provided that they do not exceed four (4) square feet.

71.7.11 Business Identifications Signs Non-illuminated signs may be placed on buildings to identify the

tenants within. Such signs shall contain no advertising other than trade name and/or logo and shall not exceed two (2) square foot per sign, per business.

71.7.12 Gasoline Pump Signs Signs giving information such as self-service instructions, price, type of fuel, etc. shall be permitted on gasoline pumps. These may contain the trade name and/or emblem, but they shall not exceed beyond the side of the gasoline pump and not more than one (1) foot above it. In addition, establishments that sell gasoline shall be allowed one (1) price sign (or two (2)) if the station is located on corner property) which displays price only, and does not exceed eighty (80) square feet in area. This sign may be added to the free standing sign.

71.7.13 Window Signs Window signs as defined in this ordinance provided they are not lighted. If lighted, the sign is considered attached and must comply with the regulations for attached signs.

71.7.14 Private Traffic Directional Signs This shall include such signs as in-out, entrance, exit, parking, one-way, etc. Signs may be illuminated but may not exceed four (4) square feet and sign copy shall be limited to the directional information and the trade name or logo of the business.

71.7.15 Time and Temperature Signs One time and temperature sign with alternating cycles is allowed. This sign may be in addition to other permitted signs. It may not contain any advertising other than the name or logo of the business and it must comply with all requirements of the district in which it is located.

71.7.16 Drive-Thru Menu Signs Menu signs for Drive-Thru Restaurants are permitted as either a free standing sign or an attached wall sign. Such signs may not exceed twenty-eight (28) square feet and should not generally be visible from the front of the restaurant. If a free standing menu sign is used, such sign may not exceed eight (8) feet in height. No more than two (2) drive-through menu boards are permitted for each drive-thru restaurant.

71.7.17 Political The following regulations shall apply solely to political signs, poster, etc.:

- a. Signs are to be located entirely on private property, outside of any public right-of-way. For the purposes of this section only and for the benefit of candidates and their campaign staff, the right-of-way is interpreted to be from the ditch line on one side of the road to the ditch line on the opposite side of the road. In cases where the ditch line is not visible, the right-of-way shall be interpreted to be a minimum of 10 (ten) feet from the edge of the pavement on one side of the road to 10 (ten) feet from the edge of pavement on the opposite side of the road.
- b. Signs shall be located a minimum of thirty-five (35) feet from the intersection of the pavement of two or more roads measured parallel to the road surface.
- c. No signs shall be placed on public utility poles, telephone poles, or any other sign or sign support structure erected by a duly constituted governmental body.
- d. Portable signs, as defined in Section 71.3.19, shall not be allowed for political use.
- e. Political signs shall not exceed **four** (4) square feet in size. They cannot be erected more than forty-five (45) days before election day and must be removed 7 days following the election.
- f. The Zoning Officer or his designee may remove signs placed in violation of these regulations.
- g. The candidate will beheld responsible for violations and must obtain written permission from property owners before posting signs. Amended 12/13/04

71.7.18 Elevated Merchandise

Merchandise raised from the ground for the purpose of advertising shall be set back from the property line

in accordance with the building set-back requirements for the district in which the business is located.

71.7.19 Church and non-profit organization bulletin boards. These signs shall not exceed eighteen (18) square feet in area.

71.7.20 Auction Signs. Signs which announce or promote the sale of a property by means of a public auction to the highest bidder. Sign may be located upon the property being sold with the following conditions:

- a. One sign per premise or per 500 feet of frontage.
- b. Signs shall not be illuminated.
- c. Signs shall not exceed 32 square feet in size located on the property to be auctioned.
- d. Signs shall be allowed up to two weeks prior to the sale and removed within 7 days of the sale.
- e. "Lead-in-signs" (signs directing to the property being sold at auction) are not to exceed 6 square feet, will be allowed for 2 weeks prior to the sale and must be removed 1 week following the sale. Permission to place the lead-in signs must be secured from the property owner on which signs are placed.
- f. Signs advertising a "Silent Auction" shall conform to the regulations for real estate signage set forth in Section 71.7.2 of this Ordinance.
- g. Any violation of this ordinance shall be removed by the Town. 8/8/2005

71.8 On-Premise Sign Regulations

71.8.1 General requirements

- a. All freestanding signs, support structures and required landscaping areas shall be at least one (1) foot from any right-of-way or easement and ten (10) feet from the edge of pavement.
- b. Freestanding signs must be placed in a landscaped area which is at least three (3) feet in width and at least the length of the greatest dimension of the sign. Curbing, railroad ties, bricks, fencing and/or other suitable vehicular barrier shall enclose the landscape area.
- c. Signs shall be placed on the premise of the business being advertised and the sign copy shall be used primarily to identify the on-premise business. However, a shopping center, mall or unified business establishment which lacks arterial road frontage but whose property is immediately adjacent to a business with arterial frontage may share signage with that business. This arrangement must be in the form of a mutual agreement between the property owners and/or business operators involved. No sign devoted solely to off-premise advertisement shall be allowed. All signs erected under the provisions of this section shall comply with the size, height and other requirements for that zoning district as well as all other general provisions in Section 71.8.1
- d. A sign may contain changeable copy in the B-2 zone, however in no case shall the changeable copy portion of the sign exceed (50%) of the total sign area. In the case of electronic or computer controlled signs the text or copy shall not change more often than once ever (1) minute. (Section 71.5.2 prohibits flashing, blinking or intermittent lights or lights of changing intensity.) Amended 8/14/06
- e. The area of a sign shall be measured according to the following rules as applicable:
 - i. In the case of freestanding, projecting and marquee signs, area consists of the entire surface area on which copy could be placed. The supporting structure or bracing of a sign shall not be counted as a part of the sign area unless such structure or bracing is made part of the sign message. Where a sign has two (2) display faces back to back, the area of only one face shall be considered as the sign area. When a sign has more than one display face, all areas which can be viewed simultaneously shall be considered the sign area.

ii. In the case of a sign (other than freestanding, projecting, or marquee) whose message is fabricated together with the background which borders or frames that message, sign area shall be the total area of the entire background.

iii. In the case of a sign (other than freestanding, projecting, or marquee) whose message is applied to a background which provides no border or frame, sign area shall be computed by including the entire area within not more than 8, continuous rectilinear lines, or a circle or an ellipse enclosing the extreme limits of the letter, writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop or structure against which it is placed.

f. Interior lighting for signs, where permitted, shall not exceed eleven (11) watts per bulb (the standard industry size). In the case of the use of exterior lighting by floodlights, such lights must comply with Section 71.5.12. Non-illuminated interior window signs are permitted. Illuminated interior window signs shall be considered attached signs and shall count as one of the permitted signs and must conform to all regulations of the zoning district in which it is located.

g. Signs permitted in all zones shall include all applicable signs as permitted in Section 71.7 (Signs Which Do Not Require A Permit).

h. Businesses located on a corner lot may be permitted one attached sign in addition to those otherwise permitted herein.

i. No freestanding sign shall be placed less than forty (40) feet from another freestanding sign. No more than one freestanding sign on any lot with 100 feet or less of frontage. However, another freestanding sign shall be permitted for each additional one hundred feet of lot frontage.

j. Freestanding signs shall not be located in satellite parcels of real estate, whether the parcel is connected by deed or easement.

71.8.2 Signs Permitted in R-12, R-8, and R-20 Districts

The residential districts provide for a quiet environment and sound neighborhoods. While some service-oriented businesses are allowed, the general usage is for family life. The intent of this section is therefore to provide for a limited use of signs which are generally not illuminated and which will preserve the family-oriented character of neighborhoods.

(1) Professional and Home Occupation Sign

- (a) One sign per premise.
- (b) It may not be illuminated.
- (c) The sign must be an attached sign mounted flat on the building.
- (d) The sign may not exceed four (4) square feet in size.

(2) One identification sign announcing the name of a subdivision, residential development, school, church or other permitted use.

- (a) The sign copy is limited to the name only.
- (b) The sign may be freestanding or placed on the entrance wall of a development.
- (c) The sign may not exceed forty (40) square feet in area, or ten (10) feet in height.
- (d) It may be illuminated.
- (e) The sign may not be placed nearer than ten (10) feet to any property line.

(3) All signs shall meet the general requirements of Section 71.8.1.

71.8.3 Signs Permitted in the B-1 District

- a. Each business is permitted two (2) signs chosen from the following categories: attached, canopy, projecting. In no case may both signs be in the same category. Signs may be illuminated. Painted wall signs are prohibited.
- b. Attached signs shall not exceed an area equal to the greater of sixteen square feet or one-half (1/2) square foot of sign area per linear foot of building frontage up to a maximum allowable square footage of attached sign of forty-eight (48) square feet, regardless of building frontage.
- c. Projecting signs may not exceed sixteen (16) square feet in area.
- d. Awning signs shall not exceed eight (8) square feet. Awning signs may be attached to the awning at the face of, side of, or under the awning. No sign may be attached to the support structures.

Signs which are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point.

Signs which are attached to the face or side of an awning may not exceed twelve (12) inches in height and no support structures shall be visible.

- e. All signs shall meet the additional requirements of Section 71.8.1.

g. In addition to the signs listed above, there shall also be allowed one of the following:

1. A projecting sign which may contain the name of the business and any logo which the business chooses to adopt. The sign may not exceed four (4) square feet in size, and the bottom of the sign shall be no more and not less than eight (8) feet above the sidewalk. It shall display only the name of the business and/or buildings which it is attached to and the building and/or business logo or logos and no more than one (1) per building.

2. A freestanding sign which may be a maximum size of two (2) feet by two (2) feet, and the bottom of said sign shall be no more and not less than eight (8) feet above the sidewalk. It shall display only the name of the business and/or building which it is located in front of, and the building and/or business logo or logos and no more than one (1) per building

- h. Cut-Outs of merchandise will be allowed, as a part of the total attached signage allowed by the district. (Note: not adding to sign allowance)

71.8.4 Signs Permitted in the B-3 and MA Districts

- a. Signs may be illuminated.
- b. Each business is permitted two signs. They may be chosen from the following categories: attached, freestanding, canopy, projecting. In no case may the signs be of the same category except that a business may have two attached signs. Painted wall signs are not permitted.
- c. Attached signs shall not exceed an area equal to one (1) square foot of sign area per linear foot of building frontage. The maximum allowable square footage of attached sign is eighty (80) square feet, regardless of the size of the building.
- d. Freestanding signs shall not exceed thirty (30) square feet in area and twenty (20) feet in height.
- e. Projecting signs may not exceed sixteen (16) square feet in area.
- f. Awning signs shall not exceed sixteen (16) square feet in area.

Awning signs may be attached at the face of, side of, or under the awning. No signs may be attached to the awning support structures.

Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point.

Signs which are attached to the face or side of an awning may not exceed twelve (12) inches in height.

g. All signs shall meet the general requirements of Section 71.8.1.

71.8.5 Signs Permitted in the B-2 District

The B-2 districts are located on all major access roads to Elkin. It is on these roads that the visitor receives a first impression of the Town. It is the intent of this ordinance to allow the visitor to locate business establishments easily and quickly and yet not to allow signs which might interfere with views and vistas. The B-2 districts provide a variety of services primarily oriented toward vehicular traffic. Because vehicles in this area travel at speeds up to 45 m.p.h., it is important to insure that signs are clear, distinct and readable in a brief space of time. The requirements identify establishments quickly and easily.

a. Signs may be illuminated.

b. Each business is permitted two (2) signs which may be of any type, however no more than one canopy sign per business.

c. Freestanding signs shall not exceed eighty (80) square feet in area and thirty (30) feet in height.

d. No freestanding sign shall be placed less than forty (40) feet from another freestanding sign.

e. Projecting signs may not exceed sixteen (16) square feet.

f. Awning signs may be attached to the awning at the face of, side of, or under the awning. No sign may be attached to the awning support structure.

Signs which are projecting or are suspended under an awning and/or cantilevered roof shall be at least eight (8) feet above the sidewalk at their lowest point.

Signs which are attached to the face or side of the awning may not exceed twelve (12) inches in height and no support structures shall be visible.

g. Attached signs and painted wall signs may not exceed an area equal to two (2) square feet of sign area per linear foot of the building frontage. For example, a building which is fifty (50) feet across the front may have a one hundred (100) square foot attached or painted wall sign. The maximum square footage of attached or painted wall signs is two-hundred-forty (240) square feet regardless of building size.

h. All signs shall meet the general requirements in Section 71.8.1.

71.8.6 Signs Permitted in the M-1 and M-2 Districts

Each industrial use shall be permitted one advertising sign. The sign must comply with Section 71.8.1 and the following:

a. The sign may be attached or freestanding.

b. It may be illuminated.

c. Attached signs may not exceed an area equal to two (2) square feet per linear foot of building frontage

not to exceed two-hundred-forty (240) square feet.

d. Freestanding signs may not exceed eighty (80) square feet in size and thirty (30) feet in height.

e. All signs shall meet the general requirements of Section 71.8.1.

71.8.7 Marquee Signs

Theaters, museums, auditoriums, and other entertainment facilities are permitted one changeable copy marquee in addition to their permitted signs. Marquee signs shall conform to the applicable sign requirements for the zone in which they are located, however the area of the marquee sign shall be permitted an increase in size up to an additional one-hundred (100%) percent provided that one of the other signs to which the business is entitled is reduced in size. The percentage of increase in area shall be equal to the reduction in area of the other permitted sign. If the marquee is a freestanding sign, the height of the marquee may not be increased over that permitted in the zone in which it is located.

71.8.8 Sign Regulations for Shopping Centers, Malls and Unified Business Establishments

a. Directory Signs - A shopping center, mall or unified business establishment consisting of two or more businesses in one building or in connecting buildings shall be permitted a directory sign which announces the name of the commercial center and/or establishments within. Directory signs may be attached or freestanding and shall conform to the area requirements as follows:

In the B-1 zone, the permitted area of an attached directory sign shall not exceed the greater of twenty (20) square feet or one-half (1/2) square foot per linear foot of total frontage of the building to a maximum of forty-eight (48) square feet. Freestanding directory signs shall not exceed twenty (20) square feet in area and ten (10) feet in height.

In the B-2 zone, the permitted area of an attached directory sign shall not exceed one (1) square foot per linear foot of frontage of the building to a maximum of eighty (80) square feet. A freestanding directory sign shall not exceed one-hundred-fifty (150) square feet in area, and thirty (30) feet in height.

In the B-3 and MA zones, an attached directory sign shall not exceed one (1) square foot per linear foot of building frontage to a maximum of one-hundred-twenty (120) square feet. A freestanding directory sign shall not exceed the greater of fifty (50) square feet in area or ten (10) square feet in area for each one-hundred-fifty (150) linear feet of arterial road frontage of the lot on which it is located. The height of the directory sign shall not exceed twenty (20) feet.

When a shopping center, mall or unified business establishment has in excess of four-hundred (400) feet on an arterial road(s) and consists of more than five (5) acres, one directory sign per arterial road upon which it fronts is permitted.

b. Entrances to interior malls may be identified by an attached sign in addition to the other sign permitted to the business establishment. Such signs shall be attached to the building over the entrances or besides the entrances only. The signs shall not exceed four (4) square feet in the B-1 zone, eight (8) square feet in the B-2 zone.

c. Signs for Tenants within Shopping Centers, Malls and Unified Business Establishments.

Businesses within shopping centers, malls and unified business establishments are permitted two (2) signs from the following categories: attached, canopy, and projecting.

71.9 Temporary Signs

71.9.1 Temporary signs must conform to all regulations of this section. These signs shall not be

required to obtain a sign permit but must be registered with the Town Zoning Officer. Information required to register a temporary sign will be name and address of sign owner, date of erection of sign, date for removal of sign, and description of sign (size, shape and material of construction).

71.9.2 Signs for Special Events of a Religious, Charitable, Civic, Fraternal or Political Nature.

It is the intent of this section to allow use of Community Marquee signs for the above purposes. Temporary signs as defined by Section 71.3.24 advertising special events of a religious, charitable, civic, fraternal or political nature may be erected provided that:

- a. The size of any such sign shall not exceed twenty-four (24) square feet in area.
- b. The signs may not be illuminated.
- c. The signs may not be displayed earlier than thirty (30) days prior to the event to which they pertain and must be removed within seven (7) days after the event.
- d. Only one sign per premise is allowed, except during an election year when the display of political advertising shall be liberally allowed.

71.9.3 Signs for Newly Established Businesses

Businesses which are newly established or have changed locations may display a temporary sign as defined by Section 1.3.24 above provided that:

- a. The size of any such sign is not in excess of twenty-four (24) square feet in area.
- B. The sign may be displayed for a period of sixty (60) days. This sixty day period may begin no earlier than sixty days prior to the opening date of the business nor later than thirty (30) days after the Certificate of Occupancy is issued by the Building Inspector.
- c. Only one such sign is allowed per premise, however, this one sign may be used in addition to other permitted signs.

71.9.4 Signs for Special Sales and Promotions

Temporary signs as defined by advertising special sales and promotions by merchants and other profit-making concerns may be erected in addition to other permitted signs provided:

- a. The size of such sign shall not exceed twenty-four (24) square feet.
- b. The signs may not be illuminated.
- c. The signs may be displayed for a period of ten (10) days only.
- d. Only one (1) sign per premise is allowed.
- e. A business establishment may receive registration for temporary signs for four (4) or less separate events during a twelve month period. An interval of thirty (30) days shall separate each event.

71.9.5 Coming Soon, Under Construction

Businesses which are under construction or will be may display a temporary sign as defined by Section 71.3.24 above provided that:

- a. The size is not in excess of thirty-two (32) square feet.

- b. The sign may be displayed for a period of six (6) months.
- c. The sign may not be illuminated.

71.10 Exceptions and Modifications

71.10.1 Business With Only One Sign

Where a business establishment elects to erect only one sign and that sign is to be an attached sign the permitted area of this sign may be increased as follows:

- a. The permitted area of an attached sign may be increased by fifty (50%) percent.
- b. The attached sign permitted by this section shall meet all other applicable requirements regarding placement, lighting, permit procedures, etc., of this ordinance.
- c. In the event that the business should desire a second sign after the attached sign allowed by this section is erected, no permit for the additional sign shall be issued until the attached sign meets the size requirements of the zone in which it is located as specified in Section 71.8

71.10.2 Portable Signs It is the intent of this Ordinance to discourage the use of portable signs as defined in Section 71.3.19. However, limited use will be allowed.

- a. Portable signs as defined in Section 71.3.19 will need a permit and the permit will be valid for only fourteen (14) days. Only four portable sign permits per business per year will be issued with an interval of 30 days between permits required.
- b. The sign will not exceed twenty-four (24) square feet in area.
- c. Only one such sign is allowed per premise in addition to other permitted signs.
- d. Portable signs will be permitted in the following zoning districts: B-2 Highway business, M-1 Light Industrial and M-2, Heavy Industrial.

71.10.3 Business or Industrial Parks Over 200 Feet from a Thoroughfare

An off-premises directory sign will be permitted in addition to other permitted signs for business and industrial parks located more than 200 feet from a thoroughfare.

- a. The sign will be limited to the name and logo only.
- b. The sign may be free standing.
- c. The sign may not exceed forty (40) square feet or ten (10) feet in height.
- d. It may not be illuminated.
- e. It must be outside the right-of-way.
- f. Permission of the property owner must be secured.

71.10.4 Interstate 77 Intersection

Business within 1200 feet of I-77 in the Highway Business Zoning District may seek a Conditional Use permit to deviate from the sign regulations for Highway Business as herein stipulated. The Board of Commissioners will act on the request on recommendation of the Planning Board.

71.10.5 Big Box Retailers

Big Box Retailers larger than 50,000 square feet located on corner lots may be allowed two free standing signs and one attached sign. Free standing signs may not exceed thirty (30) feet in height. The two free standing signs may not total more than one hundred sixty (160) square feet in surface area, however the maximum limit of any one sign is 126 square feet. The maximum limit for an attached sign is 350 square feet.

71.11 Maintenance of Signs

71.11.1 All sign supports, braces, poles, wires, and anchors thereof shall be kept in good repair. They shall be maintained in safe conditions, free from deterioration, missing parts, and peeling paint. Any sign not in compliance with these standards shall be deemed a nuisance and the following action may be taken.

a. The Town Zoning Officer shall give written notice to the owner specifying the sign indicated and telling what needs to be done to bring the sign into compliance.

b. The owner of the sign shall respond to the notice within two (2) weeks and shall have sixty (60) days to complete said repairs. Additional time shall be granted by the Zoning Officer only upon delay of parts when it has been clearly shown that the parts have been ordered.

c. Failure to complete repairs in the specified time shall result in the Zoning Officer causing the sign to be repaired, removed or altered at the expense of the owner(s). Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action in the nature of a debt.

d. In the event of a sign which is damaged in excess of fifty (50%) percent of its reproduction value, such sign shall be restored or repaired only in compliance with the provisions of this ordinance.

71.12 Relocation of Signs

Signs for which a sign permit has been issued may be relocated in conformance with the regulations of this article upon notification to the Zoning Officer. Signs which are non-conforming may not be relocated except upon removal of all non-conforming features of the sign.

71.13 Obsolete or Abandoned Signs

71.13.1 Signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists or that has not been in use for ninety (90) days or more shall be deemed to be an abandoned sign.

71.13.2 Obsolete or abandoned signs are prohibited and shall be removed by the owner or his agent within thirty (30) days of termination of the business, activity, event, etc., with the exception of political signs, which shall be removed within seven (7) days after elections.

71.13.3 Failure to remove such signs or parts of signs shall result in written notice from the Zoning Officer. Failure to comply with these terms shall result in the sign being removed at the owners expense. Costs of removal or repair, court costs and attorney fees incurred by the Town shall be assessed against the owner(s), to be collected by the Town in an action on the nature of the debt.

71.14 Non-Commercial Copy Permitted on Any Authorized Sign

Any sign authorized in this Ordinance is allowed to contain non-commercial copy in lieu of any other copy.

71.15 Appeals

The provisions of Section 145 of the Zoning Ordinance entitled "Duties of the Zoning Enforcement Officer, Board of Adjustment, Courts and Town Board of Commissioners on Matters of Appeal" shall apply to this sign Ordinance.

71.16 Validity

The provisions of Section 161 of the Zoning Ordinance, entitled "Validity" and containing severability provisions, shall be applicable to this sign Ordinance.

Section 72. OFF-STREET PARKING AND STORAGE

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established in all districts except the B-1 Central Business District. At the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use to another, permanent off-street parking space in the amount specified by this section shall be provided. Such parking space may be provided in a parking garage or properly graded open space.

- 72.1 Certificate of Minimum Parking Requirements. Each application for a zoning permit or certificate of occupancy submitted to the Zoning Enforcement Officer as provided for in Article XIII shall include information as to the location and dimensions of off-street parking and loading space and means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether the requirements of this section are met.
- 72.2 Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
- 72.3 Remote Parking Space. If the off-street parking space required by this ordinance cannot be reasonable provided on the same lot on which the principal use is located, such space may be provided on any land within five hundred (500) feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. Said land shall be used for no other purpose so long as no other adequate provision for parking space meeting the requirements of this ordinance has been made for the principal use.
- 72.4 Requirements for Parking Lots in Residential Districts. Where parking lots for more than five (5) automobile are permitted or required in residential districts, the following provisions shall be complied with:
 - 72.4 The lot may be used only for parking in relation to the principal use of the lot and not for any type of loading, sales, repair work, dismantling or servicing.
 - 72.42 All entrances, exits, barricades at side walks, and drainage works shall be approved by the Zoning Enforcement Officer prior to construction.
 - 72.43 A buffer strip shall be required along all side and rear lot lines. (See Section 78 Landscaping)
- 72.5 Minimum Parking Requirements. The required number of off-street parking spaces are specified below for each use:

LAND USE

REQUIRED PARKING SPACE

Automobiles sales and repair garages

One (1) space for each one (1) employee at maximum employment on a single shift, plus two (2) spaces for each three hundred (300) square feet of repair or maintenance space.

Bowling Alleys	Three (3) spaces for each lane, plus one (1) additional space for each one (1) employee.
Churches, Funeral Homes, Assembly Halls, theater, and Auditoriums	One (1) space for each four (4) seats.
Day Care Centers	One (1) space for each six hundred (600) square feet of gross floor area or fraction thereof, plus adequate off-street loading and unloading space.
Elementary School and Junior High School, plus Public or Private	One (1) space for each classroom and administrative office, plus adequate parking for buses.
Home occupations	In addition to residence requirements, one (1) parking space per five hundred (500) feet of floor devoted to the home occupation.
Hospitals	One (1) space for each four (4) patients beds plus one (1) space for each staff or visiting doctor plus one (1) space for each two employees.
Hotels, Motels, and Tourist Homes	One (1) space for each one (1) room plus one (1) additional space for each two (2) employees.
Libraries	One (1) space for each four hundred (400) square feet of gross floor area or fraction thereof in the principal building.
Medical Offices and clinics	Five (5) spaces for each doctor practicing at the clinic, plus one (1) space for each employee.
Mobile Homes	Two (2) spaces for each mobile home
Nursing Homes	One (1) parking space for each five (5) beds intended for patient use and one (1) space for each three (3) employees.
Offices, Business, Profession, or Public (including banks)	One (1) space for each two hundred (200) square feet of gross floor space or fraction thereof.
Places of Public Assembly, including Private Clubs, Lodges Dance Halls, Poolrooms, Gymnasiums, Amusement Parks, Community Centers, and all similar places of public assembly	One (1) space for each two hundred (200) square feet of gross floor space or fraction thereof.
Rescue Squads and Armories	Parking space equivalent to three (3) times the floor space in the main building.
Residential Dwellings, Single family, two family and multi-family	One (1) space for each dwelling unit.

Restaurants, Cafe, Tavern or other place serving food or drink, exclusively in the main building	One (1) space for each three (3) seats plus one (1) space for each two (2) employees.
Restaurants, drive-ins	Parking space equivalent to five (5) times the floor space in the main building.
Retail Business and Consumer Service outlets.	One space for each two hundred (200) square feet of gross floor area.
Rooming and Boarding Houses	One space for each room rented plus normal residential requirements
Senior High Schools, and Colleges, both public and private	One (1) space for each ten (10) students for whom the school was designed; one (1) space for each classroom and administrative office; and adequate parking and convenient loading and unloading areas for students.
Service Stations	Five (5) parking spaces for each grease rack or wash rack.
Shopping Centers	One (1) space for each two hundred (200) square feet of retail floor space.
Wholesale and Industrial Uses	One (1) space for each employee on the largest shift.
One bedroom dwelling units in apartments	One and one-half parking spaces

Section 73. OFF-STREET LOADING AND UNLOADING SPACE

Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purposes of this section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and an overhead clearance of fourteen (14) feet in height above the alley or street grade.

The number of required off-street loading berths for nonresidential structures shall be as follows:

<u>Square feet of gross floor area</u>	<u>Required number of berths</u>
0 to 40,000	1
40,000 to 100,000	2
100,000 to 160,000	3
160,000 to 240,000	4
240,000 to 320,000	5
320,000 to 400,000	6
Each 90,000 above 400,000	1

Section 74. TEMPORARY USES

74.1 Purpose. It is the intent of this section to permit the temporary uses customarily accompanying the erection of permitted structures or the establishment of permitted uses, or the accomplishment of permitted operations, as necessary to such work and not substantially injurious to the public

health, safety, welfare or morals. It is also the intent to permit customary uses of open land and of existing buildings and surrounding land, which are temporary in nature.

74.2 Temporary Uses Permitted

If applicable requirements of the Health Department are met, customary temporary use shall be permitted including but not limited to the following:

- a. Temporary structures, mobile homes, or storage areas on construction sites;
- b. Temporary structures on sites of grading operations;
- c. Temporary structures, mobile homes, or storage area of public agencies, in the conduct of proprietary or government operations.
- d. The use of open land for meetings, circuses or carnivals or fairs, or the sale of Christmas trees, baked goods, or collected clothing and the like if no structure is erected other than tents;
- e. The use of a trailer or camper by visitors to the occupant of the principal building for a period not exceeding seven (7) days without a permit.
- f. The use of a residence or other building and surrounding land by any non-profit, charitable, religious or educational organization for the purpose of exhibiting and purveying indoors and out-of-doors, art or craft products, jewelry, clothing, foods, beverages, horticultural specimens, home furnishings and decorations, and similar or related items and for presenting musical, film or theatrical programs indoors.

- 24.3 Permit. Any temporary use shall be established only after the issuance of a zoning permit by the zoning inspector for such use. Duration of the temporary use shall be specified on such permit except that the use of a trailer or camper by visitors shall not be more than thirty (30) days and shall not be renewed. A permit for a temporary use shall not be renewed more than twice. In no case shall any single permit or single renewal be issued for a temporary use to exceed one (1) year.

Section 75. ACCESSORY STRUCTURES, CSU

CSU's may not be permitted in any residential zone, except on a temporary basis for "moving in", "moving out", or construction projects, including re-model. The zoning enforcement officer shall issue a permit for these limited uses, which permit shall set forth the maximum permitted time, the CSU may be present on the property. There shall be a \$20.00 charge for this permit.

CSU's in Commercial zones shall be permitted only as follows:

- 1) A maximum of two CSU's shall be permitted on any commercial property for use as non-retailing storage of inventory or goods. These CSU's shall be located at the rear of the buildings; or, if located in the side, must be screened from view of the fronting street; shall be located on a paved or gravel surface, and shall not be in an area of "Approved parking spaces". These permits shall be \$100.00 for each CSU and shall be for a maximum of 90 days; but may be renewed for an additional 90 days for additional \$300.00 permitting fee, for each CSU. (*In accordance with current fee schedule*)

- 2) Construction trailers and “construction trash dumpsters” shall be exempt from permitting during demolition and construction. These trailers must be removed within ten (10) working days of construction completion or issuance of final Certificate of Occupancy (C.O.). If not removed after ten (10) days, they must be permitted
- 3) Utility trailers used by businesses for storage and sale of seasonal merchandise which are not expected to remain on the property in excess of two weeks; and, utility trailers used to collect used goods, donations, and equipment which are not expected to remain stationary in excess of two weeks shall be exempt from permitting.
- 4) CSU’s shall be allowed without permitting on industrial property (M-1 and M-2 Districts) subject only to “screening” requirements from residential and commercial zones set forth in other sections of this ordinance.

Section 78. LANDSCAPING, SCREENING AND BUFFER AREAS

PURPOSE

The following requirements are intended to enhance the appearance and natural beauty of the town and to protect property values through preservation and planting of vegetation, screening, and landscaping material. The requirements are intended to reduce excessive heat, glare, and accumulation of dust; to provide privacy from noise and visual intrusion; to prevent the erosion of soil and the excessive run-off of water and the consequent depletion of the ground water table and pollution of water bodies.

78.1 Applicability

The provisions of this section shall apply to all improvements of 3,000 square feet or more of impervious surface or rezoned areas except as hereinafter setforth. The provisions of Section 78.4 and 78.5 shall not apply to areas zoned B-1.

78.2 DEFINITIONS

berm An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

buffer A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

deciduous A plant with foliage that is shed annually.

evergreen A plant with foliage that persists and remains green year-round.

ornamental tree A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

screen A method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

shade tree Usually a deciduous tree--rarely an evergreen--planted primarily for its high crown of foliage or overhead canopy.

shrub A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

specimen tree A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomized the character of the species.

tree A large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

woodlands, Existing trees and shrubs of a number, size, and species that accomplish the same general function as new plantings.

78.3 General Provisions. Landscaping, trees, and plant material shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees, and plant material in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season.

A screening fence or wall area shall be maintained by the property owner, in good condition, throughout the period of the use of the lot.

To the extent possible, existing trees, vegetation, and unique site features shall be retained and protected. Existing healthy, mature trees, if properly located, shall be fully credited against the requirements of these regulations.

Trees shall be a minimum of 5 feet in height, with a minimum circumference of 2-2.5 inches measured at the top of the root ball, immediately after planting. Trees shall reach an expected height of 25-35 feet at maturity. Trees shall be planted 25 to 35 feet on center depending on species.

Evergreen trees shall be a minimum of 6 feet immediately after planting.

Shrubs and hedges shall be a minimum of 1-2 feet in height immediately after planting.

Ground cover may include any plant material that reaches an average height of not more than 12 inches. Alternative materials may be used in lieu of grass provided they present a finished appearance and provide a reasonably complete coverage at the time of planting.

Plants that restrict sight visibility at intersections of streets or driveways, such as tall shrubs or low branching trees, are prohibited.

Where lot size, shape, topography or existing structures make it not feasible to comply with the provisions of this ordinance, the Director of Planning may modify these provisions provided the alternate proposal will afford a degree of landscaping, screening and buffering equivalent to or exceeding the requirements of these regulations.

78.4 Front Landscaped Area. A front landscaped area shall be required for all two-family, multi-family, and non-residential uses. The required landscaped area shall be contiguous to the front lot line of the property and have an average minimum width of 10 feet. The area shall be covered with grass or other ground cover and shall include appropriate trees and shrubs. At a minimum, 1 tree and 10 shrubs shall be planted within the front landscaped area and for each 50 feet or fraction thereof of lot frontage. The purpose of the landscaping is to enhance the appearance of the use of the lot but not to negate access or screen the use from view.

78.5 Buffer Area. A buffer area shall be required to separate and screen incompatible land uses from each other. A buffer area shall be required along all boundaries of a two-family, multi-family, or non-residential lot abutting a less intensive use. Such buffer shall comply with the following minimum standards.

78.5.1 A buffer area shall be located within the boundaries of the subject property. The buffer may be

located on abutting property, provided the owners of all abutting properties agree in writing to the proposal. Said agreement must be recorded and run with the land and provide stipulations for maintenance and upkeep, as deemed necessary.

78.5.2 The minimum width of the buffer area shall be following the buffer matrix below:

Proposed Use

Single-Family	-	-	-	-	-	-	-
Two-Family	5	-	-	-	-	-	-
Medical	10	5	-	-	-	-	-
Commercial	15	10	5	-	-	-	-
Multi-Family	15	10	5	-	-	-	-
Industrial	25	20	15	10	10	-	-
	SF	TF	M	C	MF	IND	Adjacent uses

78.5.3 The buffer area shall consist of trees and shrubs of such a type, height, spacing and arrangement to effectively buffer the activity on the lot from the neighboring area. At a minimum, the planting shall consist of 2 trees and 10 shrubs per 100 linear feet for 5-10 foot buffers, 5 trees and 15 shrubs per 100 linear feet for 15-20 foot buffers and 8 trees and 20 shrubs per 100 linear feet for 25 foot buffers.

78.5.4 An earthen berm, fence, or wall of a location, height, design, and material approved by the Department of Planning may be substituted for any portion of the required planting and/or buffer area. Fences and walls, if substituted, shall be constructed of materials congruous with the materials of the main building. Trees and shrubs shall supplement earthen berms, fences, or wall areas.

78.6 Landscaped Parking area. Parking areas shall comply with the following minimum standards.

78.6.1 All uses required to have more than thirty (30) off-street parking spaces shall have at least 10 square feet of interior landscaping, within the paved portion of the parking area, for each parking space and at least one small tree for every ten (10) parking spaces or fraction thereof.

78.6.2 Each interior landscaped area shall contain a minimum of 200 square feet and shall be planted with shrubs and trees.

78.6.3 A landscaped area shall be provided along the perimeter of any parking area. The required landscaped area shall have a minimum width of 5 feet and shall be planted with 2 trees and 10 shrubs per 100 linear feet of perimeter area.

78.6.4 Interior landscaped areas shall be spaced throughout the lot to reduce the visual impact of long rows of parked cars. At a minimum, landscaped areas shall be distributed approximately once every 10 spaces for residential and once every 15 spaces for other developments.

78.6.5 Landscaped areas shall be provided at the ends of parking aisles and shall be planted with shrubs and/or trees.

78.6.6 The required number of parking spaces may be reduced by one parking space for each 150 square feet of interior planting area, not exceeding 10%.

78.7 Screening of Outdoor Storage Areas. (Defined Section 41.28 of the Zoning Ordinance of the Town of Elkin.) Outdoor storage areas shall be screened from view of adjacent streets, and from all residentially zoned land by a double row of evergreen shrubs or trees planted to form a continuous hedge of at least 6 feet in height within 2 years of installation.

78.8 Screening of Mechanical Equipment. All non-residential uses shall screen from view from public

places and neighboring properties all mechanical equipment, such as but not limited to, ground or roof mounted air conditioning, air conditioners, or pumps, through the use of features such as berms, fences, false facades or dense landscaping compatible with the site.

78.9 Central Solid Waste Storage Area. All new buildings and uses except for single-family and two-family dwellings, shall provide facilities for the central storage of solid waste within the lot. Where such facilities are provided outside of a building they shall be screened from adjacent property by an enclosure constructed of materials congruous with the materials on the exterior wall of the main buildings.

78.10 Outdoor Lighting. Adequate lighting for security purposes will be provided.

78.11 Unoccupied Lot Areas. All areas of a developed lot not occupied by buildings, structures, pedestrian and vehicle circulation ways, off-street parking and outside storage shall be appropriately improved with ground cover, trees, shrubbery or mulch.

No exposed soils shall be permitted after issuance of the Certificate of Occupancy, except for agricultural activities or extraction of earth products.

78.12 Planting List. The following trees and shrubs by way of example but not by way of limitation are suitable for use in the Elkin area.

Large Trees (mature height 35 feet or greater and 35 feet spacing)

Willow Oak	Black Gum
Sugar Maple	Littleleaf Linden
Red Maple	White Oak
Scarlet Oak	Japanese Scholartree
Pin Oak	Gingko
Southern Magnolia	English Oak
London Plane-tree	Japanese Katsuratree
River Birch	Schumard Oak
Japanese Zelkova	Chinese Elm
Tulip Poplar	

Medium Trees (mature height 25-35 feet and 30 feet spacing)

Mountain Silverbell	Weeping Cherry
Sourwood	Kwansan Cherry
Thornless Honeylocust	Yellowwood
Eastern Redbud	Ironwood
Mountain Ash	Pistachio
Yoshino Cherry	Redwood Linden
Golden-Rain-Tree	American Holly
Saucer Magnolia	

Small Trees (mature height less than 25 feet and 25 feet spacing)

Japanese Maple	Crabapple
----------------	-----------

Japanese Dogwood	Amur Maple
Flowering Dogwood	Russian Olive
Smoketree	Wax Myrtle
Crepe Myrtle	Star Magnolia

Shrubs (mature height approximately 36 inches)

Evergreen

Warty Barberry	Mugo Pine
Dwarf Burford Holly	Juniper
Japanese Holly	Euonymous
Azalea	Leatherleaf Viburnum

Deciduous

Forsythia	Potentilla
Dwarf Burning Bush	Ornamental Grass Varieties
Thunberg Spriea	Oregonholly Grape
Viburnum	Red Chokeberry
Oakleaf Hydrangea	Nandina
Japanese Flowering Quince	Dwarf Nandina

Screening Plants (installation height 6 feet)

American Holly	Hetz Juniper
Burford Holly	Arborvitae
Nelly Stevens Holly	Easter Red Cedar
Wax Myrtle	Japanese Black Pine

ARTICLE VIII

USE REQUIREMENTS BY DISTRICT

Section 80. R-12 RESIDENTIAL DISTRICT

The R-12 Residential District is established as a district where the principal use of land is for medium density single-family residential development along with limited home occupations and public and private community uses. It is expected that all dwellings will have access to municipal water and sewer supplies.

80.1 Permitted Principal uses

Churches and their customary related buildings including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.

Cemeteries

Dwellings, Single-family

Kindergartens and Day Nurseries, provided that not less than seventy-five (75) square feet of play area for each child is provided and provided that the aggregate play area is surrounded by a sturdy fence at least six (6) feet in height.

Public elementary and secondary schools and private schools having curricula approximately the same as ordinarily given in public schools.

80.2 Permitted accessory uses

Customary accessory uses.

Customary home occupations.

Signs, subject to Section 71.

80.3 Conditional Uses

Board of Commissioners

Planned Unit Developments, subject to Article XII

Short term housing

Multi-family-Subject to Article XII

Dwellings-Two family-subject to the dimensional requirements of Section 81.4

Board of Adjustment

Funeral Homes

Public works and public utilities including electrical transmission, distribution and substation equipment, pumping stations, water towers, and telephone exchange provided:

- a. such facilities are essential to the service of the immediate area and no vehicles or materials shall be stored on the premises;
- b. all buildings and apparatus (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.
- c. such facilities as water towers, pumping stations, etc., shall be surrounded by a chain link fence six (6) feet in height.

80.4 Dimensional Requirements

80.41 Twelve thousand (12,000) square feet minimum lot area per dwelling unit.

80.42 Eighty (80) feet minimum mean lot width.

80.43 Thirty (30) feet minimum building setback line.

80.44 Minimum required side yards for the principal building shall be at least ten (10) feet, except

that any side yard abutting a street or highway shall be at least fifteen (15) feet.

80.45 Minimum required rear yard shall be twenty (20) percent of the mean lot depth, provided that such rear yard need not exceed thirty (30) feet.

80.46 Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed thirty (30) percent of the total lot area.

80.47 Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.

80.48 Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line. An accessory building or use may be located in a rear yard provided it is located not less than ten (10) feet from the principal building and five (5) feet from the rear yard line.

80.49 Off-street parking shall be provided as required in Section 72 of this ordinance.

Section 81.

R-8 RESIDENTIAL DISTRICT

The R-8 Residential District is established in which the principal use of land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas in the community for those persons desiring small residences and multi-family structures in relatively high density neighborhoods. The regulations are intended to prohibit any use which, because of its character, would interfere with the residential nature of this district. It is expected that municipal water and sewerage facilities will be available to each lot in such districts.

81.1 Permitted Principal Uses

Churches and their customary related uses including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.

Dwellings, single-family.

Dwellings, two-family

Kindergartens and Day Nurseries, provided that not less than seventy-five (75) square feet of play area is provided for each child and the aggregate play space is surrounded by a sturdy fence at least six (6) feet in height.

Offices for doctors, dentists, chiropractors, attorneys, accountants, insurance men and similar professional persons (the determination of other appropriate professions shall be handled by the Board of Adjustment).

Public and private elementary and secondary schools if the private facilities have a curricula approximately the same as ordinarily given in public schools.

Public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools, fishing lakes, family campgrounds, and similar recreational uses.

Public safety facilities such as fire and police stations and rescue squad headquarters, provided:

- a. all vehicles and equipment shall be stored indoors;

b. all buildings shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

Rest and Convalescent Homes.

Rooming and boarding houses and tourist homes.

81.2 Permitted Accessory uses

Customary accessory use.
Customary home occupation.
Signs, subject to Section 71.

81.3 Conditional Uses

Board of Commissioners

Dwellings, multi-family, subject to Article XII
Planned Unit Development, subject to Article XII

Board of Adjustment

Funeral homes.

Public works and public utilities including electrical transmission, distribution and substation equipment, pumping stations, water towers, and telephone exchanges provided:

a. such facilities are essential to the service of the immediate area and no materials shall be stored on the premises;

b. all buildings and apparatus (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

c. such facilities as water towers, pumping stations, etc., shall be surrounded by a chain link fence six (6) feet in height.

81.4 Dimensional Requirements

81.41 Eight thousand (8,000) square feet minimum required lot area or the first dwelling unit, five thousand (5,000) square feet additional lot area required for the second dwelling unit, and three thousand (3,000) square feet additional lot area per dwelling unit in excess of two (2) up to a maximum of ten (10) dwelling units per acre.

81.42 Seventy (70) feet minimum required mean lot width for the first dwelling unit; then (10) feet additional mean lot width for the second dwelling unit and each dwelling unit in excess of two (2).

81.43 Thirty (30) feet minimum required front yard setback.

81.44 Minimum required side yards for the principal building shall be at least ten (10) feet, except that any side yard abutting a street shall be at least twelve (12) feet.

81.45 Minimum required rear yard shall be twenty percent (20%) of the mean lot depth, provided that such rear yard need not exceed forty (40) percent of the total lot area.

81.46 Maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed forty (40) percent of the total lot area.

81.47 Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.

81.48 Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street or highway line or within five (5) feet of any lot line not a street or highway line. An accessory building or use may be located in a rear yard provided it is located not less than ten (10) feet from the principal building and five (5) feet from the rear yard line.

81.49 Off-street parking shall be provided as required in section 72 of this ordinance.

Section 82. R-20 RESIDENTIAL DISTRICT

The R-20 Residential district is established as a district in which the principal use of the land is for low density residential or agricultural purposes, and to provide and protect low density residential areas for those desiring that type of environment. These districts are intended to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

82.1 Permitted Principal Uses

Any form of agriculture or horticulture, including the sale of products at a retail stand on the property where produced.

Backyard workshops.

Churches and their customary related uses including cemeteries, provided that all buildings and graves shall be set back at least twenty (20) feet from any property line.

Dwellings, Single Family.

Kindergartens and day nurseries, provided that not less than seventy-five (75) square feet of play area is provided for each child and provided further said aggregate play space is surrounded by a sturdy fence at least six (6) feet in height.

Public and elementary and secondary schools and private schools having curricula approximately the same as ordinarily given in public schools.

Public, or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools, fishing lakes, family camp grounds and similar recreational uses

Public safety facilities such as fire and police stations and rescue squad headquarters, provided:

(a) all vehicles and equipment shall be stored indoors;

(b) all buildings shall be set back at least twenty (20) feet from all property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

Rest and Convalescent homes not used primarily for the treatment of contagious diseases, alcoholics, drug addicts and psychotics.

82.2 Permitted accessory uses

Customary accessory uses.

Customary home occupations.

Signs, subject to Section 71.

82.3 Conditional Uses

Board of Commissioners

Mobile Homes on individual lots, provided they are treated as principal uses and meet the same area, yard and sanitary requirements as non-mobile dwelling units. Deleted 3/8/99

Multi-family dwellings, subject to Article XII.

Planned Unit Developments, subject to article XII.

Two-Family Dwelling Units.

Kennels - for boarding dogs and cats for fees, only if the enclosure (fenced area or building in which they are kept) is located at least 100 feet from the front lot line and 50 feet from the sides and back lot line of the property involved and the enclosure is shielded by evergreen trees or shrubs or fence so the enclosure cannot be seen from adjacent or across the street property.

Board of Adjustment

Funeral Homes

Mobile home parks, subject to Article XII.

Public works and public utility facilities such as transformer stations, pumping stations, water towers, and telephone exchanges, provided:

- a. such facilities are essential to the service of the immediate area and no vehicles or materials shall be stored on the premises;
- b. all buildings and apparatus (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.
- c. such facilities as water towers, pumping stations, and so forth, shall be surrounded by a chain link fence six (6) feet in height.

Winery

82.4 Dimensional requirements

82.41 Thirty thousand (30,000) square feet minimum required area for the first dwelling unit and twenty thousand (20,000) square feet of lot area for each additional dwelling unit. Where the residence is serviced by municipal water the first dwelling unit need only be twenty thousand (20,000) square feet and each additional unit five thousand (5,000) square feet. However, where the residence is served by municipal water and sewerage facilities, the lot area for the first dwelling unit need only be fifteen thousand (15,000) square feet and each additional unit five thousand (5,000) square feet.

82.42 One hundred (100) feet minimum required main lot width for the first dwelling unit and ten (10)

- feet for each additional dwelling unit.
- 82.43 Forty (40) feet minimum required building setback line.
- 82.44 Minimum required side yards for the principal building shall be at least twelve (12) feet except that any side yard abutting a street shall be at least fifteen (15) feet.
- 82.45 Minimum required rear yard shall be twenty (20) percent of the mean lot depth, provided that such rear yard need not exceed thirty (30) feet.
- 82.46 Maximum permissible lot coverage for the principal building and all accessory buildings shall not exceed twenty (20) percent of the total lot area.
- 82.47 Height of buildings shall not exceed thirty-five (35) feet unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.
- 82.48 Accessory buildings shall not be erected in any required front or side yard or within twenty (20) feet of any street line or within five (5) feet of any lot line not a street line. An accessory building or use may be located not less than ten (10) feet from the principal building and five (5) feet from the rear yard line.
- 82.49 Off-street parking shall be provided as required in Section 72 of this ordinance.

Section 83. MA-MEDICAL ARTS DISTRICT

The MA Medical Arts District is established where hospitals, clinics, professional offices for medical doctors, and other related medical facilities may be compatibly mixed in order to facilitate the interaction between doctor and patient while at the same time maintaining a healthy living environment for neighboring residential areas.

83.1 Permitted Principal Uses

Apothecary, prescription center, or drug store, subject to the following conditions:

- a. licensed pharmacist must be employed;
- b. prescription and non-prescription drugs may be sold on the premises, but the sale of general merchandise is prohibited;
- c. vending machine may be on the premise, but a soda fountain or lunch counter is prohibited.

Hospitals

Medical and dental clinics

Physical therapist's office

Professional offices for doctors

Public works and public utilities including electrical transmission, distribution and substation equipment, pumping stations, water towers, and telephone exchange provided:

- a.. such facilities are essential to the service of the area and no vehicles or materials shall be stored on the premises.

- b. all buildings and structures (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.
- c. such facilities as water towers, pumping stations, etc., shall be surrounded by a chain link fence at least six (6) feet in height.

Resthomes

83.2 Permitted Accessory Uses

Customary accessory uses.
Signs, subject to Section 71.

83.3 Conditional Uses

Board of Commissioners

Veterinary Hospitals

Board of Adjustment

Flower or gift shops

83.4 Dimensional Requirements

83.41 Minimum lot area and yard requirements shall be:

- a. Fifty (50) feet minimum front yard.
- b. Ten (10) feet minimum side yard.
- c. Twenty (20) feet minimum rear yard.

83.42 The total ground area covered by the principal building and all accessory buildings shall not exceed fifty (50) percent of the total lot area.

83.43 No building shall exceed thirty-five (35) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five feet.

83.44 Buildings constructed or converted to uses permitted in this district shall provide off-street loading and unloading space as required in Section 73 of this ordinance.

83.45 Off-street parking space shall be provided as required in Section 72 of this ordinance.

Section 83A MA MEDICAL ARTS DISTRICT ALTERNATIVE

In addition to Section 83. Section 83. MA Medical Arts District as set out in the "Zoning Ordinance of the Town of Elkin, North Carolina" an alternative to Section 83 of the said Zoning Ordinance is designated as Section 83A and hereby passed as follows:

The MA Medical Arts District Alternative is established where hospitals, clinics, professional offices for medical doctors, and other related medical facilities may be compatibly mixed in order to facilitate the interaction between doctors and patient while at the same time maintaining a healthy living environment for neighboring residential areas. The MA Medical Arts District Alternative allows for separate or additional owners to provide the open areas, loading space, and parking space required by this Ordinance.

83.1A Same as Section 83.1

83.2A Same as Section 83.2

83.3A Same as Section 83.3

83.4A Dimensional Requirements:

Section 83.4A (a), (b), (c) shall be the same as Section 83.41 EXCEPT the front yard, side yard, and rear yard requirements of Section 83.41 are met if an owner of the property adjacent to the building and the owner of the building continuously maintain the front yard, side yard, and rear yard therein set out free from building or structure and said open area does not extend into areas of front yard, side yard or rear yard reserved for other buildings or structures.

83.42A If the property owners meet all other requirements of Section 83, then the requirements set out in Section 83.42 are eliminated.

83.43A Shall be the same as Section 83.44 EXCEPT the property owner may join with adjacent property owners or contract with common owners to continuously provide space to meet the requirements of Section 73 of this Ordinance.

83.45A Shall be the same as Section 83.45 EXCEPT if the owner of the building along with other owners of buildings continuously furnish enough common parking spaces to satisfy the requirements of off-street parking spaces for all buildings within a single health-care complex or subdivision, the requirements of Section 83.44A are satisfied.

Section 84

B-1 CENTRAL BUSINESS DISTRICT

The Central business District (B-1) is established as the centrally-located trade and commercial service area of the community. The regulations of this district are designed to encourage the continued use of land for community trade and commercial service uses, and to permit a concentrated development of permitted uses while maintaining a substantial relationship between the intensity of land uses and the capacity of utilities and streets.

84.1 Permitted Principal Uses

Art Gallery / Museums

Art schools, music and dance studios and similar uses

Auction House

Automobile parking lots and structures

Banks and other financial institutions, including loan and finance companies

Barber and beauty shops

Billiard Halls

Brewery / Winery / Distillery

Car wash and auto detail shops

Drug stores, with or without fountains

Event Centers

Hotel, Motel and Vacation Rentals

Jewelry repair shops and Jewelry sales

Locksmith and gunsmith

Mixed uses, buildings erected for both dwelling and business purposes, provided such buildings shall have office retail business on the main street floor and residential on the second floor. Any other combination of use will be reviewed as a conditional use.

Murals.

Newspaper offices and printing shops incidental to such offices

Business and Professional Offices open to the public other than medical, dental and physical therapy clinics and offices

Outdoor / Outfitters

Photographic studios

Public safety facilities such as fire and police stations and rescue squad headquarters

Restaurants, including drive-in restaurants, provided such drive-in restaurants are fenced on all sides which abut residential districts. Such fences shall be solid from the ground to a height of six (6) feet.

Any business establishment for the sale to the public at retail goods and services including, but not limited to mercantile goods, clothing, shoes, arts, crafts, gifts, jewelry, toys, sporting goods, electrical and motor vehicle parts, books and stationary, floral products, firearms, furniture, hardware, equipment, appliances, floor coverings, food items, and similar products; excluding, however, the sale of motor vehicles, all-terrain vehicles and any other recreational vehicles.

Schools Public or Private, Learning Centers

Shoe repair and shine shops.

Tailor and dressmaking shops.

Taxicab stands and Limo services.

Video Arcade

Theaters, indoor.

84.2 Permitted Accessory Uses

Customary accessory uses and structures when located on the same block as the principal structure, excluding, however, open storage.

Signs, subject to Section 71

84.3 Conditional Uses

Board of Commissioners

Bus Stations
Business colleges, barber and beauty colleges, but excluding industrial trade schools
Churches and their customary accessory uses, but excluding cemeteries.
Dry Cleaning and laundry pick-up stations and dry cleaning plants having not more than two thousand (2,000) square feet
Funeral homes and mortuaries.
Launderettes and laundromats.
Multi-family dwellings, subject to Article XII
Automobile, Motor cycle, Recreational Vehicle and All-Terrain Vehicle Sales, new and used

Board of Adjustment

Light manufacturing operations.
Mixed uses, new buildings erected for both dwelling and business purposes, provided such buildings shall be furnished with side yards on each side of the building measuring not less than eight (8) feet in width, provided, however, that this regulation shall not apply to the street side of a corner lot.

Mixed uses, other than commercial on the main floor and residential on upper floors.

Single Family Residential.

84.4 Dimensional Requirements

84.41 No building shall be closer to the center of the street than the closer of either of the adjacent buildings. No other yards are required except that where the rear lot abuts a residential district there shall be a fifteen (15) foot rear yard and where a lot abuts the side of a lot zoned residential there shall be a side yard not less than ten (10) feet in width. On all other cases where a side yard, not required, is provided it shall be at least eight (8) feet in width.

84.42 In the B-1 Central Business District every building hereafter erected or structurally altered to exceed fifty (50) feet in height, shall be set back from the front lot line on the ratio of one (1) foot for each two (2) feet rise above said fifty (50) feet, but in no case shall the required set back exceed ten (10) feet.

84.43 Buildings constructed or converted to commercial use after the effective date of this ordinance which have access to a public alley shall provide off-street loading and unloading berths as required in Section 73 of this ordinance.

84.44 Any multi-family developments shall comply with R-8 Residential dwellings dimensional requirements specified in Section 81.4.

The B-2 Highway Business Districts are generally located on major thoroughfares and collector streets in the planning area. They are intended to provide for offices, personal services, and the retailing of durable and convenience goods for the community. Because these commercial uses are subject to public view and are important to the economy of the area, they should have ample parking, controlled traffic movement and suitable landscaping.

85.1 Permitted Principal Uses

Animal hospitals, provided no pens or kennels are located closer than twenty (20) feet to any property line.

Apple packaging sheds.

Assembly halls, coliseums, armories, ballrooms and similar structures.

Automobile sales, new and used.

Automobile washing establishments.

Auction Gallery/House

Bakeries and other establishments manufacturing or packaging food products for wholesale distribution.

Bicycle sales and repair shops.

Boat and trailer works and sales.

Bottling works.

Bowling alleys and skating rinks, miniature golf courses, riding stables, go-cart tracks, and other commercial recreation facilities.

Billiard, Pool Halls, Game rooms, or Amusement Centers.

Banks and other financial institutions including loan and finance companies.

Above ground storage tanks when constructed in conformance with National Fire Protection Association Standards.

Building materials storage and sales yards.

Cabinets, woodworking and upholstery shops.

Cemeteries

Churches

Contractors' offices and storage yards.

Dairy products processing and distributing facilities, including dairy bars.

Dry Cleaning and laundering plants.

Electrical supplies and equipment, sales and repairs.

Freezer lockers and ice plants.

Funeral homes.

Industrial trade schools and research laboratories.

Machine welding shops

Mobile home display lots.

Monument works and sales.

Motels and hotels.

Motorcycle, lawnmower and power saw sales and service.

Murals.

Newspaper offices, printing plants incidental to such offices and printing, publishing and reproduction establishments.

Plumbing and heating supply houses.

Public safety equipment facilities such as fire and police and rescue facilities.

Public works and utility facilities, including electrical transmission distribution and substation equipment, pumping station, water towers and telephone exchange

Public recreational parks

Professional offices

Restaurants, including drive-in.

Retail stores.

Service stations.

Second hand stores and swap shops

Sheet metal, roofing, plumbing and heating and refrigeration shops.

Sign painting and fabricating shops.

Trucking terminals, transfer companies.

Wholesale and warehousing establishments.

Wholesale storage of gasoline and oil products, including bottled gas and oxygen.

85.2 Permitted Accessory Uses

Customary accessory uses and structures including storage, provided the area devoted to open storage is enclosed by a solid fence not less than six (6) feet in height.

Signs, subject to Section 71.

85.3 Conditional Uses

Board of Commissioners

Multi-family dwellings, subject to dimensional requirements in R-8 Residential District and Article XII.

Kindergartens and day nurseries, provided that not less than seventy-five square feet of plan area is provided for each child and provided further that the space is surrounded by a sturdy fence at least six (6) feet in height. 9/11/06

Shopping Centers, subject to Article XII.

Short Term Housing

Single-Family dwellings, subject to dimensional requirements in R-8 Residential District.

Two-family dwellings, subject to dimensional requirements in R-8 Residential District and Article XII.

Big Box Retailers

Adult Establishment, for conditions see Ordinance passed March 2, 1998.

Tattoo Establishment, for conditions see Ordinance passed March 2, 1998.

Conditions to be required:

1. Location: No adult establishment or tattoo establishment shall be located within 500 feet of any zoning district boundary line of R-8, R-12, R-20; and/or within 1000 feet of a property line of any school, park, church, or similar place of religious service; and /or within one-half mile of any other adult establishment or tattoo establishment.

Use: Any adult establishment or tattoo establishment must meet all Town requirements regarding privilege license requirements as well as comply with Article 26A, Section 14-202.10 of the NC General Statutes as amended. Further, no adult establishment may be located on the same premises or in conjunction with a place of transient occupancy.

Enclosed Building. The adult establishment must be conducted within an enclosed building so that viewing, display, or sound from inside the building cannot be experienced outside the walls of the building.

Yard Requirements. Any building containing an adult establishment must be at least fifty (50) feet from the side and rear yard property lines and thirty (30) feet from the edge of right-of-way of a publicly owned road.

Screening. Any adult establishment located next to a residential use must be screened along all property lines with an opaque fence at least six (6) feet in height or a solid landscaped area at least fifteen (15) feet in width and at least five (5) feet in height at time of initial planting. The landscaped area shall be properly maintained at all times.

Signage. Signs shall comply with all requirements set forth in Section 71 Signs. Further, signs shall not contain materials, words, objects, images or displays that suggest or relate to specified anatomical areas and/or specified sexual activities as defined by NC General Statutes 14-202.10 or contain displays that have been determined by community standards to be harmful to minors as defined by NC General Statutes 14-190.13-15.

Licensing. No building, septic, health department permit or privilege license may be issued for sexually oriented establishments or tattoo establishments until a compliance permit has been obtained for the business.

Board of Adjustment

Light Manufacturing Operations

Mixed uses, such as building erected for both dwelling and business purposes, provided such buildings shall be furnished with side yards on each side of the building measuring not less than eight (8) feet in width; provided, however, that this regulation shall not apply to the street side of a corner lot.

Theaters, drive-in, provided that:

- a. No part of any theater screen projection booth or other building shall be located closer than five hundred (500) feet to any residential district or closer than fifty (50) feet to any property line or public right-of-way; and no parking space shall be located closer than one hundred (100) feet to any residential district;
- b. The theater screen shall not face a major street or highway; and reserved parking space off the street shall be provided for patrons awaiting admission in an amount of not less than thirty (30) percent of the vehicular capacity of the theater.

Wireless Communication Towers

85.4 Dimensional Requirements

85.41 Minimum yard requirements shall be:

- a. Fifty (50) feet minimum front yard where street or highway is less than seventy-five (75) feet in width; thirty-five (35) feet minimum front yard where street or highway is seventy-five feet or more in width.
- b. Ten (10) feet minimum side yard, except in a Shopping Center, different owners of property may have buildings contiguous with or without joint walls, or may be closer together than ten (10) feet.
- c. Twenty (20) feet minimum rear yard.

85.42 The total ground area covered by the principal building and all accessory buildings shall not exceed fifty (50) percent of the total lot area.

85.43 No building shall exceed thirty-five (35) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.

85.44 Buildings constructed or converted to uses permitted in this district shall provide off-street loading and unloading space as required in Section 73 of the ordinance.

85.45 Off-street parking space shall be provided as required in Section 72 of this ordinance.

Section 86. B-3 NEIGHBORHOOD BUSINESS DISTRICT

The B-3 Neighborhood business District is established as a district in which the principal use of land is for the retailing of goods and services to the adjacent residential neighborhoods. The regulations of this district are intended to provide for retail trades and services in designated shopping areas, with standards designed to protect abutting residential areas.

86.1 Permitted Principal Uses

Business, medical professional, public and financial offices (including branch banks)

Barber and beauty shops.

Public works and public utilities including electrical transmission, distribution and substation equipment, pumping stations, water towers, and telephone exchanges provided:

a. such facilities are essential to the service of the area and to vehicles or materials shall be stored on the premises.

b. All buildings and structures (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in with the surrounding area.

c. Such facilities as water towers, pumping stations, etc., shall be surrounded by a chain link fence at least six (6) feet in height.

Retail stores such as drug, electrical appliances, gifts and flowers, groceries, magazines, meats and notions stores.

Shoe shop.

Watch repair shop.

86.2 Permitted Accessory Uses

Customary accessory uses.

Signs, subject to Section 71.

86.3 Conditional Uses

Board of Adjustment

Mixed uses, such as buildings, erected for both dwelling and business purposes, such buildings, shall be furnished with side yards on each side of the building measuring not less than eight (8) feet in width, provided, however, that this regulation shall not apply to the street side of a corner lot.

86.4 Dimensional Requirements

86.41 No B-3 Neighborhood Business District shall contain less than one (1) acre nor more than five (5) acres.

86.42 No building shall be less than forty (40) feet from any street or highway right-of-way line, or ten (10) feet from any side lot line, or twenty (20) feet from any rear lot line.

86.43 No building in this district shall exceed thirty-five (35) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet, or fraction thereof, of building height in excess of thirty-five (35) feet.

86.44 The total ground area covered by the principal building and all accessory buildings including any roofed areas shall not exceed forty (40) percent of the total lot area.

86.45 Off-street loading and unloading space shall be provided as required in Section 73 of this ordinance.

86.46 Off-street parking space shall be provided as required in Section 72 of this ordinance.

Section 87. M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is established for those areas of community where the principal use of land is for light industrial and warehousing uses. These uses, by their nature, may create some nuisance but may properly be associated with residential, commercial and/or service establishments.

87.1 Permitted Principal Uses

Automobile parking lots and structures.
Amusement, recreation and sporting goods manufacturing.
Apparel and clothing manufacturing, including hosiery.
Automobile parts and accessories manufacturing.
Bakeries and other establishments manufacturing prepared food products for wholesale distribution.
Bedding and carpet manufacturing.
Boat and trailer works and sales.
Bottling works.
Building materials and specialties manufacturing.
Above ground storage tanks when constructed in conformance with National Fire Protection Association Standards.
Building materials storage and sales yards, provided all open storage is fenced by a solid fence not less than six (6) feet in height.
Business machines manufacturing.
Cabinet, woodworking and upholstery shops.
Contractors' offices and storage yards, provided all open storage is fenced by a solid fence not less than six (6) feet in height.
Dairy products processing and distributing facilities.
Drugs, medicines and cosmetics manufacturing.
Dry cleaning and laundry plants.
Electrical appliances and electronic equipment manufacturing.
Feed stores, fruit stands and produce markets.
Flour and feed mills.
Furniture manufacturing.
Greenhouses and horticultural nurseries.
Hardware and housewares manufacturing.
Ice and cold storage plants and freezer lockers.
Industrial supplies and equipment, sales and service, provided all open storage is fenced by a solid fence not less than six (6) feet in height.
Industrial trade schools and research laboratories.
Leather products, including luggage and shoe manufacturing.
Musical instruments manufacturing.
Murals.
Offices pertaining to any permitted use.
Outdoor recreation uses, such as miniature and par-3 golf courses, co-cart tracks and riding stables.
Manufactured Home Sales provided:

Provide a site plan to the Zoning Administrator which shows that the property boundary is 500 feet from any residential zone or use, is not in any designated 100 year floodway, defines all display and sales areas and designates the proposed use for each defined area, (other accessory uses may not be located on the site unless they have been designated on the site plan), all travel lanes and parking spaces shall be paved or graveled, display areas for homes may be natural grass and shall be regularly maintained, display area for any one unit shall be not less than 5000 square feet, parking spaces shall be at a ratio of 1 space for each 250 sq. ft. of office space and 1 space for each 5,00 sq. ft. of display area., maximum lot coverage allowed is 80%, the display area shall be set back a minimum of 75 feet from the street ROW or the front zoning district and 10 feet from all other property lines, storage and repair of damaged homes on site is prohibited, signs are prohibited on the homes except for 1 sign not to exceed 3 sq. ft in size stating the price of that home, must provide proof of a state licensing authority and a landscaped strip averaging eight feet in width but in no case less than five feet shall be located between the front lot line

and the vehicle display area and shall be heavily landscaped with evergreen shrubs and flowering plants. (The number of plants may be reduced if used in conjunction with and placed on the street side of an opaque, decorative wall at least two and one half feet in height. June 2005

Plastic products manufacturing.

Plumbing and heating supply houses, provided all open storage is fenced by a solid fence not less than six (6) feet in height.

Precision instruments and jewelry manufacturing.

Printing, engraving and publishing establishments.

Public safety facilities such as fire and police stations and rescue squads.

Public works and public utilities including electrical transmission, distribution, and substation equipment.

Restaurants, including drive-in restaurants.

Service stations, including major repair work provided that all gasoline pumps shall be located at least twelve (12) feet behind the property line.

Sheet metal, roofing, plumbing heating and refrigeration shops.

Sign painting and fabricating shops.

Textile and cordage manufacturing.

Tobacco basket and pallet manufacturing.

Trucking terminals.

Wholesale and warehousing establishments, except for the storage of dangerous or offensive items such as uncured hides and explosives.

87.2 Permitted Accessory Uses

Customary accessory uses and structures, including open storage, provided the area devoted to open storage is enclosed by a fence at least six (6) feet in height.

Signs, subject to Section 71.

87.3 Conditional Uses

Board of Adjustment

Other light manufacturing uses not otherwise listed , but which meet the intent and spirit of this zoning district.

Commercial uses

Wireless Communication Towers

87.4 Dimensional Requirements

87.41 Minimum yard requirements shall be:

- a. Fifty (50) feet minimum front yard setback.
- b. Fifteen (15) feet minimum side yard on each side of every principal building.
- c. Twenty (20) feet minimum required rear yard.

87.42 No building shall exceed fifty (50) feet in height unless the depth of the front and total width of the side yards required herein shall be increased by one (1) foot for each two (2) feet or fraction thereof, of building height in excess of fifty (50) feet

87.43 Buildings constructed or converted to uses permitted in this district shall provide off-street loading and unloading space as required in Section 73 of this ordinance.

87.44 Off-street parking shall be required as specified in Section 72 of this ordinance.

Section 88. M-2 HEAVY INDUSTRIAL DISTRICT

The M-2 Heavy Industrial District is established to provide and protect areas for those industrial uses which would offend the community by excessive noise, odor, smoke, dust, airborne debris, other objectionable characteristics.

88.1 Permitted Principal Uses

All uses permitted in the M-1 Light Manufacturing District
Acid manufacturing and storage
Bulk petroleum plants and storage
Concrete products manufacturing and storage
Livestock sales pavilion or auditorium
Machine and welding shops
Metal fabricating plants.
Monument works and sales.
Murals.
Paper products manufacturing
Above ground storage tanks when constructed in conformance with National Fire Protection Association Standards.
Planing and saw mill.
Recycling collection and distribution centers, provided all open storage is enclosed being a solid fence not less than six (6) feet in height.
Quarrying and mining.
Railroad and freight classification yards
Rubber and glass products
Slaughterhouses or stockyards.
Stone and gravel works

88.2 Customary Accessory Uses

Customary accessory uses.
Signs, subject to Section 71.

88.3 Conditional Uses

Board of Adjustment

Other manufacturing uses not otherwise named which meets the general spirit of the heavy manufacturing district.
Wireless Communication Towers –8/9/04

88.4 Dimensional Requirements

88.41 All manufacturing uses shall comply with the requirements specified in the M-1 Light Manufacturing district under Subsection 87.4

Section 89 MH MANUFACTURED HOME PARK DISTRICT

The MH, Manufactured Home Park District is created to accommodate manufactured home parks that have been developed in the past and to provide appropriate standards for manufactured home parks within the Town's jurisdiction.

89.1 Permitted Principal Uses

Manufactured Homes – single family

Dwellings – single family

Recreational areas

Kindergartens and Day Nurseries, provided that not less than seventy-five (75) square feet of play area for each child is provided and provided that the aggregate play area is surrounded by a sturdy fence at least six (6) feet in height.

89.2 Permitted accessory uses

Customary accessory uses

Customary home occupations

Signs, subject to Section 71

89.3 Conditional Uses

Board of Commissioners

None

Board of Adjustment

Public works and public utilities including electrical transmission, distribution and substation equipment, pumping stations, water towers, and telephone exchanges provided:

- a. such facilities are essential to service of the immediate area and no vehicles or materials shall be stored on the premises;
- b. all buildings and apparatus (except utility lines) shall be set back at least twenty (20) feet from any property lines and shall be designed and landscaped in such a way as to blend in the with the surrounding area; and
- c. such facilities as water towers, pumping stations, etc., shall be surrounded by a chain link fence six (6) feet in height.

89.4 Dimensional Requirements

Developments will be built to the development standards for Mobile Home Parks found in Article XII. Section 125 of the Zoning Ordinance of the Town of Elkin or to the Surry County Manufactured Home Park Ordinance, whichever standards are more restrictive shall apply.

Table of Contents

Village Development District52

Ordinance52

(A) Purpose..... 54

(B) Requirements..... 54

(C) Development Parameters..... 54

 (1) Development Size..... 54

 (2) Development Density..... 54

 (3) Perimeter Buffer Requirements..... 54

(D) Design Standards..... 55

 (1) Neighborhood Form..... 55

 (2) Land Uses and Allocation of Different Uses..... 55

 (3) Lot and Building Placement..... 56

 (4) Streets, Alleys and Pathways..... 57

 (5) Parking..... 57

 (6) Landscape..... 58

(E) Master Plan Application and Approval Process..... 58

 (1) Submittal Procedure..... 58

 (2) Hearing Schedule..... 58

 (3) Filing Fees..... 58

 (4) Review Schedule..... 58

 (5) Approval/Refusal..... 58

 (6) Re-submission..... 59

 (7) Revisions and Minor Amendments..... 59

 (8) Procession..... 59

(A) Purpose. The purpose of this district is to allow for the development of fully integrated, mixed-use pedestrian oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation.

The provisions of this district are based on urban design and development conventions which were widely used in the United States from colonial times until the 1940's and were based on the following principles:

- (1) All neighborhoods have identifiable centers and edges.
- (2) The center of the neighborhood is easily accessed by non-vehicular means from lots on the edges (i.e. approximately ¼ mile from center to edge, or a 5-minute walk).
- (3) Uses and housing types are mixed and in close proximity to one another.
- (4) Street networks are interconnected and blocks are small.
- (5) Civic buildings are given prominent sites throughout the neighborhood.

(B) Requirements. It is recommended that a Master Plan in compliance with *traditional neighborhood design* principles (listed above) be provided with any application to reclassify a property using the Village Development designation. A rezoning request for Village Development zoning is contingent upon the approval of a Master Plan; if a Master Plan is not approved for the property, then it reverts to its previous zoning classification(s). No use or development of any property located in a Village Development district shall be permitted until a Master Plan, showing the proposed uses and development of the property, has been approved by the Board of Commissioners, upon a recommendation made by the Planning Board. Once the Master Plan has been approved, the developer must follow the processes and regulations set forth in the Town of Elkin's Subdivision Regulations to proceed with development of the property.

If a developer proposes to construct the subdivision in phases, then the Master Plan shall be prepared for the entire property, and shall show the proposed phases of development. Each phase of development shall be preceded by the submission and approval of a preliminary plat for that phase as outlined in Town of Elkin Subdivision Standards followed by the submission and approval of a final plat as outlined in by the Article II: Review Procedure for Major Subdivision Plats.

The Master Plan shall:

- (1) show the topography of the site using available contour information
- (2) show floodplain and floodway boundaries,
- (3) show natural features such as wooded areas, rock outcrops, marshes, water bodies and any other natural features affecting the site, and show plans to preserve the unique features of the property,
- (4) show the location and hierarchy of streets and public open spaces,
- (5) show the location of residential, commercial and civic building lots, street sections and/or plans,
- (6) provide an outline of any additional regulatory intentions,
- (7) show intended phasing of development, and
- (8) include any other information, e.g. conceptual building prototypes, which may be required to evaluate the interior pedestrian environment and conditions at project edges.

The Master Plan shall be certified by a registered architect, registered landscape architect or certified planner.

A. (C) Development Parameters

(1) Development Size

- (a) No minimum development size; however 20 acres is recommended.
- (b) No maximum development size; however 200 acres is recommended.

(2) Development Density

- (a) Maximum permitted densities and total number of dwelling units shall be established during the Master Plan review process, and shall not exceed the maximum number of permitted units in the underlying zoning classification.

(3) Perimeter Buffer Requirements

- (a) Perimeter buffer requirements shall be established during the Master Plan review process.

B. (D) Design Standards

(1) Neighborhood Form

- (a) Dwellings at the edge of the neighborhood shall be roughly a five-minute walk to the center of the neighborhood.
- (b) A great variety of housing types shall exist in the neighborhood.
- (c) Within a neighborhood the following land uses shall be arranged to serve the needs of the residents in a convenient walking environment: open space/recreational areas, civic buildings, low and high density residential, retail/commercial, business/workplace, and parking.
- (d) The neighborhood shall be made up of blocks, streets, lots and open space.
- (e) Similar land uses shall generally affront across each street. Dissimilar land uses shall generally abut at rear lot lines. Corner lots which front on streets of dissimilar use shall generally observe the setback established on each fronting street.
- (f) Along existing streets, new buildings shall respect and be compatible with the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.
- (g) The appearance of the neighborhood should blend in with existing neighborhoods and feature the use of natural materials in construction.
- (h) In addition to open space the Master Plan will identify developed areas as Core, Center, General, and Edge.

(2) Land Uses and Allocation of Different Uses

- (a) **Permitted Uses.** Permitted uses shall be based on the general category of use that has been established for a lot or group of lots in the Master Plan. The lot compatibility matrix illustrates the lot types that could be allowed within each zone. All residential dwellings are permitted to have accessory dwelling units. Civic buildings are permitted in every zone.

LOT COMPATIBILITY MATRIX

Zone	● ●	●							Core
	● ●	●	●	●	●	●			Center
	●	●	●	●	●	●	●		General
	●	●			●	●	●	●	Edge
	Mixed-Use Building	Live/work Building	Mansion Apartment	Rowhouse	Courtyard House	Tree House	Cottage	House	Villa

The general land use categories are listed below with particular uses allowed and suggested amounts for each, expressed as a percentage of the total gross area of the neighborhood:

- (1) Public Parks, plazas, squares, greenbelts, sidewalks/ walkways, streets, alleys

- (2) Residential (Single, two & multi-family homes, apartments, flats, condominiums, rowhouses, etc.)*
- (3) Civic Buildings (include, but are not limited to municipal buildings, churches, libraries, recreation facilities and places of assembly)
- (4) Office,
- (5) Retail, including eating establishments, and
- (6) Other commercial uses provided they produce little or no noise, odor,
- (7) Lodging

(b) Conditional Uses:

- (1) Churches
- (2) Electric power and public utility stations or substations and public utility transmission lines
- (3) Group care facilities
- (4) Nurseries, day care centers, day care homes, kindergarten or pre-school
- (5) Agriculture and agricultural operations
- (6) Stalls or merchandise stands for outdoor sale of goods at street front

(c) Prohibited Uses:

- (1) Any commercial use which encourages patrons to remain in their automobiles while receiving goods or services, including service stations
- (2) Carting, moving, or hauling terminal or yard
- (3) Chemical manufacturing, storage or distribution as a primary use
- (4) Enameling, painting or plating, except artist's studios
- (5) Kennels with pens for more than 8 animals
- (6) Landfills
- (7) Manufacturing, storage or disposal of hazardous waste materials
- (8) Mobile homes
- (9) Outdoor advertising or billboard as a principle use
- (10) Parking lot as principal use
- (11) Prisons, detention centers, or half-way houses
- (12) Sand, gravel, or other mineral extraction
- (13) Scrap yards
- (14) Any use which produces the following adverse impacts; noise at a level greater than typical street or traffic noise, offensive vibration, emission of noxious solids, liquids, or gases.
- (15) Permanent Outdoor movie theaters.
- (16) Public swimming pools
- (17) Adult Establishments, as defined in the Town of Elkin Ordinance.

* Accessory structures may be used for rental housing on attached and detached home lots.

(3) Lot and Building Placement

Each lot will be assigned a side yard setback, which shall be a minimum. In the event of a discrepancy between fire codes or building codes and the minimum setback, the fire code or building code shall take precedence.

- (a) All lots shall share a frontage line with a street or public space; lots fronting on a public space shall have access to a rear alley.
- (b) Build-to lines shall be established along all streets and public space frontages in accordance with zones designated in the Master Plan.
- (c) All buildings, except accessory structures, shall have their main entrance opening on a street or public space.

- (d) No structure shall exceed 45 feet in height. Towers, cupolas, steeples, or other vertical architectural elements are permitted to exceed 45 feet so long as they are less than 200 square feet in area.
- (e) Large-scale, single use facilities (e.g. conference centers, theaters, athletic facilities) shall generally occur above or behind smaller scale street front space.
- (f) Front porches are required on all detached dwellings and shall be no less than 8 feet deep. Front porches may encroach into front build-to area. Balconies, awnings, colonnades or marquis are required on all mixed use buildings and live/work dwellings and shall occur forward of the Build-to-line and may encroach into the Right of Way, but shall not extend to the planting zone. Balconies may have roofs, but are required to be open, un-air-conditioned parts of the building. On corners buildings, balconies may wrap around the side of the building facing a side street. Colonnades shall be no less than 8 feet deep and shall occur forward of a build-to-line, but shall not extend past the curb line.

Specific Dimensional Requirements

	Core	Center	General	Edge
Front Built-to-line	0' (from front property line)	0' – 5' (from front property line)	4' – 10' (from front property line)	10' – 12' (from front property line)
Rear Setback	5' (from rear property line)	5' (from rear property line)	5' (from rear property line)	5' (from rear property line)
Side Setback	0' (from side property line)	0' (from side property line)	0' or 5' (from side property line)	5' (from side property line)
Height (stories)	2 stories minimum 4 stories maximum	2 stories minimum 3 stories maximum	1 story minimum 3 stories maximum	2 stories minimum 3 stories maximum
Parking	On-street, in rear*	On-street, in rear*	On-street, in rear*	On-street, in rear*

* Alleys or lanes shall be the primary source of access to off-street parking.

(4) Streets, Alleys and Pathways

- (a) Designs shall permit comfortable use of the street by motorists, pedestrians, and bicyclists. Pavement widths, design speeds and the number of motor travel lanes should be minimized to enhance safety for motorists and non-motorists alike. The specific design of any given street must consider the building types which front on the street and the relationship of the street to the overall town street network.
- (b) All tracts and lots shall have access to public or private streets
- (c) Streets and alleys shall, wherever practical, terminate at other streets within the neighborhood and connect to existing and projected streets outside the development. Cul-de-sacs and dead-end streets are discouraged and should only occur where absolutely necessary due to natural conditions.
- (d) No block face should have a length greater than 500 feet without dedicated alley or pathway providing through access.
- (e) To prevent the build-up of vehicular speed, disperse traffic flow, and create a sense of visual enclosure, long uninterrupted segments of straight streets should be avoided.
- (f) A continuous network of rear alleys is recommended for all lots.
- (g) Utilities shall be underground and shall run along alleys wherever practical.
- (h) Streets shall be organized according to a hierarchy based on function, size, capacity and design speed. Streets and rights-of-ways are therefore expected to differ in dimension. The proposed hierarchy of streets shall be indicated on the submitted Master Plan and each street type shall be separately detailed in the Master Plan.
- (i) Every street, except alleys, shall have a sidewalk on at least one side that is at least 5 feet wide.

(5) Parking

- (a) On-street parking should be provided on all streets. Occasional on-street parking can be accommodated without additional pavement width. For streets which serve workplace and storefront buildings, on-street parking is required and should be marked as such. On-street parking should be parallel to street unless the street lends itself to other parking layouts.
- (b) Parking lots shall generally be located at the rear or at the side of buildings and shall be screened from public rights-of-way and adjoining properties by land forms or evergreen vegetation so as to provide a barrier that will be at least three feet high and provide a 75 percent visual barrier within two years.

- (c) To the extent practicable, adjacent parking lots shall be interconnected.
- (d) Small and strategically placed parking areas are recommended.
- (e) Common parking areas shall be prepared as required in Section 72 of the Town of Elkin Zoning Ordinance and all parking areas and traffic lanes shall be clearly marked.
- (f) The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
- (g) Off-street parking and loading requirements are outlined in Section 72.
- (h) Shared parking is encouraged and the developer shall demonstrate the provision of adequate parking and off-street loading areas for different areas of the development, based on the uses allowed and the density of development.
- (i) In addition to landscaping provided for screening above, trees should be planted around the perimeter and interior of parking lots to provide shade.

(6) Landscape

- (a) Trees shall be planted within right-of-ways parallel to the street along all streets except alleys.
- (b) Tree spacing shall be determined by species type. Large maturing trees shall be planted a minimum of 30 feet and a maximum of 50 feet on center. Small and medium maturing trees shall be planted a minimum of 10 feet and a maximum of 30 feet on center.
- (c) Large maturing trees shall generally be planted along residential streets and along the street frontages and perimeter areas of parks, squares, greenbelts and civic structures.
- (d) Small maturing trees shall generally be planted along nonresidential streets, interior portions of parks, squares, greenbelts and civic lots. Storefronts shall not be obstructed by the planting pattern.
- (e) All other landscape elements shall conform to Section 78 of the Elkin Zoning Ordinance.

C. (E) Master Plan Application and Approval Process.

(1) Submittal Procedure

The owner or developer shall submit ten copies of the Master Plan to the Zoning Administrator for consideration by the Planning Board at least **ten (10)** working days prior to the next scheduled meeting of the Planning Board.

(2) Hearing Schedule

The Zoning Administrator shall submit to the Planning Board at its next meeting any Master Plan that is in compliance with the Design Standards set forth in the Village Overlay District.

(3) Filing Fees

A filing fee of \$250.00 (With recommendation to be made by Planning Director to Board of Commissioners for consideration as to what the fees should be.) shall be paid with the submitted documents. Any Master Plan resubmitted within one year for substantially the same property shall not pay an additional filing fee.

(4) Review Schedule

The Planning Board shall review a Master Plan submission or re-submission for no more than 60 days from the first meeting it is presented, in order to make a recommendation to the Board of Adjustment. Failure to make a recommendation accordingly shall cause the Master Plan to be forwarded to the Board of Commissioners without a recommendation. The applicant may withdraw a Master Plan by a written request to the Zoning Administrator. A withdrawn Master Plan may be re-submitted to the Planning Board for further reconsideration at a later time.

(5) Approval/Refusal

Due to the general nature of the requirements for the Village Overlay, the Board of Commissioners may refuse to approve a master land use plan (or phase thereof) for any of the following reasons:

- (a) Failure to comply with any specific requirement of this chapter.
- (b) Failure to protect nearby properties from the adverse effects of higher intensity uses.

- (c) Failure to protect the public from dangerous volumes and arrangements of vehicular traffic.
- (d) Size of project.

(6) Re-submission

Master Plans not approved by the Board of Commissioners and subsequently revised shall be re-submitted through the approval process.

(7) Revisions and Minor Amendments

Approved Master Plans shall not be revised without re-submission through the approval process. However, minor amendments at the site plan level for specific land uses or developments may be approved by the Zoning Administrator, provided:

- (a) building floor areas are not changed by more than 20 percent,
- (b) building or structure heights are not increased by more than 20 percent,
- (c) parking areas or spaces are not diminished by more than 20 percent,
- (d) relocated buildings or uses maintain the same general building relationships, landscaping and utility standards, and
- (e) The natural features of the landscape shall be incorporated into the landscaping plan.
- (f) All plantings shall be with native or appropriate species
- (g) the amendment preserves compliance with any specific requirement of this Chapter.

(8) Procession

Once a Master Plan has been approved, the project may proceed through the Subdivision and other review and permitting processes outlined by the Town of Elkin Planning Director.

ARTICLE IX

AREA, YARD LOT COVERAGE AND HEIGHT REQUIREMENTS

Districts	Minimum Lot Size		Minimum Yard Requirements				Maximum Height
	Maximum Lot						
	Coverage						
Residential	Lot area in	Square feet	Lot width	Front yard	Side yard	Rear yd.	
R-20	Principal buildings	In feet	in feet at	set back	in feet	ratio	
	and all accessory	per additional	building line				
	buildings	dwelling					
<hr/>							
(without public water + sewer)							
Single-family	30,000		100	40	12 (a)	20% of the mean	
	Shall not exceed 20% of the	35(c)				lot depth (b)	
	Total lot area						
Multi-family	30,000	20,000	100	40	12 (a)	same	
		35(c)					
<hr/>							
(With public water and without sewer)							
Single-family	20,000						
Multi-family	20,000	5,000	SAME AS ABOVE				
<hr/>							
(With public water and public sewer)							
Single family	15,000						
Multi-family	15,000	5,000	SAME AS ABOVE				

(a) When side yard abuts a street or highway, it shall be at least fifteen (15) feet.

(b) Provided further that such rear yard need not exceed thirty (30) feet.

(c) See subsection 80.47 of this Ordinance

DIMENSION REQUIREMENTS (CON'T)

Districts	Minimum Lot Size Maximum Lot	Minimum Yard Requirements Maximum Height				
Residential	Coverage Lot area in Principal buildings square feet and all accessory buildings	Square feet In feet per additional dwelling	Lot width in feet at building line	Front yard set back	Side yard in feet	Rear yd. ratio
R-12	(with public water + sewer) Single-family 12,000 Shall not exceed 30% of the Total lot area	35(c)	80	30	10 (a)	20% of the mean lot depth (b)
R-8 Residential (with public water and sewer)	Single-family 8,000 Shall not exceed 40% of the Two-family 8,000+ total lot	35 (c)	70	30	10(a)	20% (b)
Multi-family	8,000 5,000 for 35 (c) Second unit + 3,000 for each unit in excess of two		80	30	10(a)	20% (b)

(a) When side yard abuts a street or highway, it shall be at least fifteen (15) feet.

(b) Provided further that such rear yard need not exceed thirty (30) feet.

(c) See subsection 80.47 of this Ordinance

DIMENSION REQUIREMENTS (CON'T)

Districts	Minimum Lot Size		Minimum Yard Requirements			
	Maximum Lot		Maximum Height			
	Coverage Lot area in Principal buildings square feet and all accessory buildings	In feet	Lot width in feet at building line	Front yard set back	Side yard in feet	Rear yd. feet
B-1, Central Business NA	of street than adjacent	50(f)	NA	No closer to center buildings	10(e)	15 (e)
B-2, Highway Business 50%	75 ft. or more in width	35 (c)	NA	50 ft. where street is less than 75 ft. in width; 35 ft. where st. is b)	10	20
B-3, Neighborhood 40% Business	Not more than 5 acres nor less than 1 acre	35(c)	NA	50ft. from r-o-w	10	20
MA, Medical Arts 50%	NA	35(c)	NA	50 Ft.	10	20
M-1, M-2, INDUSTRIAL NA	NA	50 (f)	NA	50 Ft.	15 (e)	20 (e)
MH, Manufactured Home Park	At least two acres			See Section 125		

NA – Not applicable

(e)required only where the side or rear of a lot abuts a residential district. Where a side yard not required is provided, it shall be at least eight (8) feet in width.

(f) Every building hereafter erected or structurally altered to exceed fifty (50) feet in height shall be set back from the front lot line on the ratio of one (1) foot for each two (2) feet or fraction thereof, of rise above fifty (50) feet. In the M-1 Industrial District, this incremental set back shall be measured from the normal fifty (50) foot set back.

ARTICLE X

EXCEPTIONS AND MODIFICATIONS

Section 100. LOT OF RECORD

Where the owner of a lot of official record in any residential district at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this ordinance, such a lot may be used as a residential building site provided, however, that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.

Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for the district in which such lots are located.

Section 101. FRONT YARD FOR DWELLINGS

The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case the front yard on such lots may be less than the required front yard but not less than the average of the existing front yard on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way, whichever is greater.

Section 102. HEIGHT LIMITATIONS

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers observation towers, utility poles, structures, and transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers television towers, masts, aerials and similar structures, except as otherwise provided in the vicinity of airports.

Section 103. VISIBILITY AT INTERSECTIONS

On a corner lot in any residential district no planting, structure, sign, fence, wall or obstruction to vision more than three (3) feet in height measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way lines each of which is thirty-five (35) feet distant from the point of intersection

Section 104. FENCES IN RESIDENTIAL ZONES: RETAINING WALLS

In any residential district fences or walls may be erected in a required side yard adjacent to a side lot line provided such wall or fence does not exceed five (5) feet in height. Fences and walls may be erected in a required rear yard adjacent to a rear lot line provided such wall or fence does not exceed eight (8) feet in height. For retaining walls the height limitations specified herein shall apply only to the height above the top of the soil retained by such wall. Utility substations in Residential zones may be surrounded by a fence that exceed these height limitations.

Section 105 Rules Applicable Specifically to the Watershed Overlay Districts (WSII-CA, WSII-BW, WSIV-CA, AND WSIV-PA)

Several departures from traditional zoning were incorporated when the Water Supply Watershed Classification and Protection Act was ratified in 1989. A thorough understanding of this section forms the foundation for understanding some of the complexities of the watershed *protection overlay* districts. This amendment to the existing zoning ordinance is adopted under the authority of Section 143.214.4 (Chapter 143, Article 21) of the North Carolina Statutes.

Any land use determined by the Town of Elkin to be detrimental to the quality of water in the Big Elkin Creek watershed by posing a threat of runoff, leaching or other types of pollution shall be a prohibited use in the Watershed Protection Overlay District (WS-II Surface Waters in the jurisdiction of the Town).

The Town of Elkin has defined "High Quality Water Zones" as areas that are within one mile and drain to high quality waters which are classified as such in Title 15A of the North Carolina Administrative Code subchapter 02B[15A NCAC 2B.0101(e)(5)]. This designation in the Code includes all water supply watersheds which are either classified WS-I or WS-II.

In High Quality Water Zones (HQW) the following design standards shall apply:

a. Limit on Uncovered Areas: *Uncovered areas in HQW zones shall be limited at any time to a maximum of twenty acres within the boundaries of the tract. Only the portion of the land disturbing activity within the HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Zoning Enforcement Officer.*

b. Maximum Peak Rate of Runoff Protection: *Erosion and sedimentation control measures, structures and devices within the HQW zones shall be planned, designed and constructed to provide protection from the runoff of the 25 year storm which produces the maximum peak rate of runoff as calculated according to the procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.*

c. Settling Efficiency: *Sediment basins within HQW zones shall be designed and constructed so that the basin will have a settling efficiency of at least 70% for the 40 micron size soil particle transported into the basin by the runoff of the two-year storm that produces a maximum peak runoff calculated according to the procedures in the United States Department of Agriculture and Soil Conservation Services "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.*

d. Grade: *Newly constructed open channels in HQW zones shall be planned, designed and constructed with side slopes no steeper than two feet horizontal to one foot vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices or other ditch liners sufficient to restrain accelerated erosion. The angle for side slopes shall be sufficient to restrain accelerated erosion.*

A. Exceptions to Applicability. Existing development, as defined in this ordinance, is not subject to the requirement of this ordinance. Expansion to structures classified as existing development must meet the requirements of this ordinance; however, the built-upon area of the

existing development is not required to be included in the density calculations.

If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes.

B. Cluster Development. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 105 J, K, L, or M. The overall residential density or non-residential built-upon area shall not exceed that allowed for the critical area, the balance of the watershed, or the protected area, whichever is applicable.

All built-upon areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.

The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

C. Buffer Area Required. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights, public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted. With a high-density option, a minimum 100 foot vegetative buffer is required.

D. Zoning Enforcement Officer and Duties Thereof.

It shall be the duty of the Zoning Enforcement Officer to administer and enforce the provisions of this ordinance as follows:

a) The Zoning Enforcement Officer shall keep records of all amendments to these overlay provisions and shall provide copies of all amendments upon adoption to the Division of Water Quality.

b) The Zoning Enforcement Officer shall keep a record of all minor and major watershed variances to these overlay provisions. The record of all minor watershed variances shall be submitted to the Division of Water Quality on or before January 1st of each year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

E. Major Watershed Variances. To hear upon appeal in specific cases such major watershed variances from the terms of this ordinance that exceed the definition contained herein within Subsection G.

a) Appeals, hearings, notice, appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town of Elkin affected by a decision of the Zoning Enforcement Officer. Such appeals shall be taken

within not more than sixty days from the date the order, interpretation, decision, or determination is made by filing with the Zoning Enforcement Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board of Adjustment a notice of appeal specifying the grounds thereof. The zoning papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matters referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney,

b) Proceedings of the Board of Adjustment. The Chairman or in his absence, the vice-chairman may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. The secretary shall record minutes of the proceedings, showing the vote of each member upon each questioner, if absent or failing to vote, indicating such fact. The Board shall keep records of the proceedings, prepare a report containing findings of fact, conclusions of law and recommended decision and forward such record to the Environmental Management Commission (which must approve all major watershed variances) A denial of a major watershed variance by the Board of Adjustment need not go to the EMC for review. One copy of any report forwarded to the EMC shall be kept on file by the clerk.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from or make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major watershed variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

F. Bona Fide Farms. Notwithstanding the provisions of Section 31, the provisions of Section 105 where specified shall apply to bona fide farms. *Normally uses permitted in all districts as "a matter of right" include "bona fide farms", but some normally permitted uses need to be managed as "Special Uses" and require a "Special Use Permit" because of their inherent nature, extent and external effects. They require special care in the control of their location and methods of operation. They are subject to review in relation to general and specific requirements, rather than being a "use permitted by right".*

G. Definitions of Specific Terms and Words.

a) *Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

- b) *Animal Unit. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.
- c) *Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- d) *Buffer. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
- e) *Built-upon Area (BUA). Built-upon areas shall include that portion of development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel road, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)
- f) *Cluster Development. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.
- g) *Composting Facility. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.
- h) *Critical Area. The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as the *land area in Elkin's jurisdiction within 1/2 mile on each side of Big Elkin Creek for a creek upstream distance of 1.5 miles (straight line distance) from the Elkin Reservoir intake, or the ridgeline of the watershed, whichever is less.* Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.
- i) *Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.
- j) *Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.
- k) *Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.
- l) *Existing Development. These projects that are built or those projects that at a minimum have met one of the following criteria under North Carolina zoning law as of the effective date of this ordinance based on:
- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received valid local government approval to proceed with the project, or
 - (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 160A-385.1), or

(3) having an approved site specific or phased development plan as authorized by the General Statutes (G>S> 160A-385.1)

m) *Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

n) *Hazardous Material. Any substance listed as such in SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, Section 311 of CWA (oil and hazardous substances).

o) *High Quality Water (HQW). *A supplemental classification of surface waters intended to protect waters which are rated excellent based on biological and physical/chemical characteristics through the NC Department of Environmental Quality monitoring or special studies, primary nursery areas designated by the Marine Fisheries Commission, and other functional nursery areas designated by the Marine Fisheries Commission. WS-II waters are High Quality Water by definition.*

p) *Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use of storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

q) *Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

r) *Major Watershed Variance. A variance from the minimum statewide water supply watershed protection rules that results in the relaxation, by a factor greater than ten (10) percent, of any standard under the low-density option.

s) *Minor Watershed Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low-density option.

t) *Nonconforming Lot of Record. A lot described by plat or deed that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

u) *Non-residential Development. All development other than residential development, agriculture and Silviculture.

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

w) *Protected Area. *The area adjoining and upstream of the critical area of WS-II (which includes WS-II Balance of the Watershed) and the area adjoining and upstream of the critical area of WS-IV. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream; and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.*

x) *Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, town houses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

y) *Special Use. *Any "new" use which has the potential to adversely impact the water quality of the water supply of Elkin, either through (a) storm water runoff which discharges pollutants from point sources to the Big Elkin Creek or its tributaries proximate to the Elkin Reservoir, or by (b) air pollution in significant*

quantities to lead to pollution of the waters of Big Elkin Creek or the Elkin Reservoir. This "new" use requires a "Special Use Permit".

z) *Toxic Substances. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

aa) *Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, dock and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

bb) *Watershed. The entire land area contributing surface drainage to a specific point (ie. the water supply intake).

*Particularly applicable to the watershed overlay district.

H. Use District Names

For the purposes of this section, four overlay districts are hereby created:

- a) WSII-CA(O) Watershed II - Critical Area (Overlay)
- b) WSII-BW(O) Watershed II - Balance of Watershed (Overlay)
- c) WSIV-CA(O) Watershed IV - Critical Area (Overlay)
- d) WSIV-PA(O) Watershed IV - Protected Area (Overlay)

I. Rules Governing Interpretation of District Boundaries

Where conflict exists as to whether a tract is inside or outside a watershed area, it shall be the responsibility of the petitioner to present topographical data supporting his/her case.

J. WSII-CA(O) Watershed II Critical Area (Overlay)

The WS II CA(O) is established as an overlay district to impose higher standards in the critical area because the risk of water quality degradation from pollution is greater than in the balance of the watershed, which lies beyond the extraterritorial boundary of the Town. The regulations of this district are intended to promote higher developmental standards and not limit unnecessarily developmental options. In order to maintain a predominantly undeveloped land use intensity pattern, residential and non-residential uses shall be allowed at a maximum of one dwelling unit per two acres and six percent (6%) built-upon area, respectively.

a) Permitted Uses

Uses permitted in this overlay district are indicated in Section 82 (R-20),
as well as:

Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and provided that all agricultural activities will be encouraged to participate in the Agricultural Cost Share Program for Nonpoint Source Pollution Control.

Poultry agriculture, when in compliance with this Section 105 and subject to the "Operating Guidelines and Standards for Poultry Production Operations in North Carolina effective April 1, 2016.

Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C .0101-.0209).

b) Limitations:

Agricultural activities conducted after January 1, 1993, shall maintain a minimum 10 feet vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best management Practices (BMP's) by July 1, 1994 recommended by the Soil and Water Conservation Commission.

Residential Development at one dwelling unit per two acres on a project by project basis. For purposes of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the public except for stormwater control structures approved under the high density option. No residential lot shall be less than two acres, except within an approved cluster development.

Development of any nature will require:

- 1) *Five copies of the site plan on 18" x24" sheets,*
- 2) *Site plan scale of 1" = 100';*
 - a) *Property lines with total acreage;*
 - b) *North arrow;*
 - c) *Location map;*
 - d) *Proposed buildings and other impervious improvements;*
 - e) *Total impervious area;*
 - f) *Easements - location, purpose, and width;*
 - g) *Location of perennial streams;*
 - h) *Septic tank drainage field;*
 - i) *Sedimentation and erosion controls; and*
 - j) *Front, side, and rear yard setbacks.*

c) Prohibited Uses:

The following uses are prohibited in the Watershed Protection Overlay District:

1. *Processing of mineral products;*
2. *Lumber mills and saw mills;*
3. *Processing of animal and vegetable products;*
4. *The storage of toxic and hazardous materials unless a spill containment plan is implemented;*
5. *Landfills and discharging landfills;*
6. *Sites for land application of sludge/residuals or petroleum contaminated soils;*
7. *Discharges of sewage, domestic wastewater, industrial wastes, non-process industrial wastes, or other wastes except as permitted by the Division of Environmental Health, N.C. Department of Environment, Health and Natural Resources or successor authority;*
8. *Any use determined by the Town of Elkin to be detrimental to the quality of water in the water supply watershed by posing a threat of run-off, leaching or other types of pollution.*

d) Dimensional Requirements

Lot area. Eighty-seven thousand, one hundred twenty (87,120) square feet: (or two acres) minimum lot area per dwelling unit. Because of the high likelihood of a septic tank, a potential buyer should first check with the Surry County Health Department to determine adequacy of the lot, as a larger lot could be required.

K. WSII-BW(O) WSII-Balance of Watershed (Overlay)

The WSII-BW(O) is established as an overlay district to impose lower standards in the balance of the watershed area because the risk of water quality degradation from pollution is less than in the critical area of the watershed. The regulations of this district will allow residential uses at a maximum of one dwelling unit per acre and non-residential development at twelve percent built-upon area. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed.

a) Permitted Uses

Uses permitted in this overlay district are indicated in Section 82 (R-20),85(B-2) and 87(M-1), as well as:

Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and provided that all agricultural activities will be encouraged to participate in the agricultural Agricultural Cost Share Program for Nonpoint Source Pollution Control.

Poultry agriculture, when in compliance with this Section 105 and subject to the "Operating Guidelines and Standards for Poultry Production Operations in North Carolina effective April 1,2016.

Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C .0101-.0209).

b) Limitations

Residential development at one dwelling unit per acre on a project by project basis. For purposes of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the public except for stormwater control structures approved under the high density option. No residential lot shall be less than 1 acre, except within an approved cluster development

Development of any nature will require:

- 1) *Five copies of the site plan on 18" x 24" sheets,*
- 2) *Site plan scale of 1" = 100';*
 - a) *Property lines with total acreage;*
 - b) *North arrow;*
 - c) *Location map;*
 - d) *Proposed buildings and other impervious improvements;*

H. Use District Names

For the purposes of this section, four overlay districts are hereby created:

- a) *WSII-CA(O) Watershed II - Critical Area (Overlay)*
- b) *WSII-BW(O) Watershed II - Balance of Watershed (Overlay)*
- c) *WSIV-CA(O) Watershed IV - Critical Area (Overlay)*
- d) *WSIV-PA(O) Watershed IV - Protected Area (Overlay)*
- e) *Total impervious area;*

- f) Easements - location, purpose, and width;
- g) Location of perennial streams;
- h) Septic tank drainage field;
- i) Sedimentation and erosion controls; and
- j) Front, side, and rear yard setbacks.

c) Prohibited Uses:

The following uses are prohibited in the Watershed Protection Overlay District:

1. *Processing of mineral products;*
2. *Lumber mills and saw mills;*
3. *Processing of animal and vegetable products;*
4. *The storage of toxic and hazardous materials unless a spill containment plan is implemented;*
5. *Landfills and discharging landfills;*
6. *Sites for land application of sludge/residuals or petroleum contaminated soils;*
7. *Discharges of sewage, domestic wastewater, industrial wastes, non-process industrial wastes, or other wastes except as permitted by the Division of Environmental Health, N.C. Department of Environment, Health and Natural Resources or successor authority;*
8. *Any use determined by the Town of Elkin to be detrimental to the quality of water in the water supply watershed by posing a threat of run-off, leaching or other types of pollution.*

d) Density and Built-upon Areas

Single Family Residential - No residential lot shall be less than one acre, except within an approved cluster development.

All other Residential and Non-residential - Development may exceed the twelve percent (12%) built-upon area on a project by project basis in that up to ten percent (10%) or (137acres) of the balance of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

L. WSIV-CA(O) Critical Area (Overlay)

The WSIV-CA(O) is designed to impose higher standards in the critical area than in the balance of the watershed because the risk of water quality degradation from pollution is greater in the critical area than in the protected area. Only new development activities that require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this ordinances when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, residential and non-residential uses are allowed at a maximum of two (2) dwelling units per acre and twenty-four percent (24%) built-upon area, respectively.

a) Permitted Uses

Uses permitted in this overlay district are indicated in Section 80 (R-12), as well as:

Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and provided that all agricultural activities will be encouraged to participate in the agricultural Agricultural Cost Share Program for Nonpoint Source Pollution Control.

Poultry agriculture, when in compliance with this Section 105 and subject to the "Operating Guidelines and Standards for Poultry Production Operations in North Carolina effective April 1,2016.

Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C .0101-.0209).

b) Limitations

Agricultural activities conducted after January 1, 1993, shall maintain a minimum 10 feet vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best management Practices (BMP's) by July 1, 1994 recommended by the Soil and Water Conservation Commission.

Non-residential development shall not exceed twenty-four percent (24%) built upon area on a project by project basis.

Residential Development at two dwelling unit per acre on a project by project basis. For purposes of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the except for stormwater control structures approved under the high density option. No residential lot shall be less than one-half (1/2)acre except within an approved cluster development.

The Department of Transportation must use BMP's as described in their document "Water Supply Watershed Best Management Practices."

c) Prohibited Uses:

 The following uses are prohibited in the Watershed Protection Overlay District:

- 1. Processing of mineral products;*
- 2. Lumber mills and saw mills;*
- 3. Processing of animal and vegetable products;*
- 4. The storage of toxic and hazardous materials unless a spill containment plan is implemented;*
- 5. Landfills and discharging landfills;*
- 6. Sites for land application of sludge/residuals or petroleum contaminated soils;*
- 7. Discharges of sewage, domestic wastewater, industrial wastes, non-process industrial wastes, or other wastes except as permitted by the Division of Environmental Health, N.C. Department of Environment, Health and Natural Resources or successor authority;*
- 8. Any use determined by the Town of Elkin to be detrimental to the quality of water in the water supply watershed by posing a threat of run-off, leaching or other types of pollution.*

d) Dimensional Requirements

Lot area. Twenty-one thousand seven hundred eight (21,780) square feet minimum lot area per dwelling.

M. WAIV-PA(O) - Protected Area (Overlay)

The WSIV-PA(O) is intended to allow development with fewer restrictions because the risk of water quality degradation is less in the protected area than in the critical area. Only new development activities that require an erosion/sedimentation control plan under State law or approved local

government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to address a moderate to land use intensity pattern, residential and non-residential uses shall develop at a maximum of two (2) dwelling units per acre and twenty-four percent (24%) built-upon area, respectively. A maximum of three (3) dwelling units per acre or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

a) Permitted Uses

Uses permitted in this overlay district are indicated in Section 80 (R-12), as well as:

Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and provided that all agricultural activities will be encouraged to participate in the Agricultural Cost Share Program for Nonpoint Source Pollution Control.

Poultry agriculture, when in compliance with this Section 105 and subject to the "Operating Guidelines and Standards for Poultry Production Operations in North Carolina effective April 1, 2016.

Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (02 NCAC 60C .0101-.0209).

b) Limitations

Residential development, not to exceed two dwelling units per acre, on a project by project basis. The projects without a curb and gutter street system residential density shall not exceed three dwelling units per acre. For purposes of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the public, except for stormwater control structures approved under or dedicated to the public, except for stormwater control structures approved under the high density option. No residential lot shall be less than one-half (1/2) acre for projects without a curb and gutter system, except within an approved cluster development.

Non-residential development, shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis.

The Department of Transportation must use BMP's as described in their document, "Water Supply Watershed Best Management Practices."

c) Prohibited Uses:

The following uses are prohibited in the Watershed Protection Overlay District:

- 1. Processing of mineral products;*
- 2. Lumber mills and saw mills;*
- 3. Processing of animal and vegetable products;*
- 4. The storage of toxic and hazardous materials unless a spill containment plan is implemented;*
- 5. Landfills and discharging landfills;*
- 6. Sites for land application of sludge/residuals or petroleum contaminated soils;*
- 7. Discharges of sewage, domestic wastewater, industrial wastes, non-process industrial wastes, or other wastes except as permitted by the Division of Environmental Health, N.C. Department of Environment, Health and Natural Resources or successor authority;*

8. Any use determined by the Town of Elkin to be detrimental to the quality of water in the water supply watershed by posing a threat of runoff, leaching or other types of pollution.

d) Dimensional Requirements

Lot Area. Twenty-one thousand, seven hundred eighty (21,780) square feet minimum lot area per dwelling unit (with curb and gutter); fourteen thousand, five hundred twenty (14,520) square feet minimum lot area per dwelling unit (without curb and gutter).

N. Development Plan. Any submitted development plan, in addition to the requirements of Section 121, shall also depict the BUA calculations.

O. Shopping Centers. Development shopping center shall be bound by the BUA limitations of Section 122.

Q. Planned Unit Development (PUD). PUD's within watershed areas shall not exceed the overall residential density or non-residential BUA allowed in the critical area or balance of the watershed or protected area (whichever applies).

R. Remedies Available. In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of the ordinance, the Zoning Enforcement Officer or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation. In addition, the N.C. Environment Management Commission may assess civil penalties in accordance with G.S. 143.215(6)(a), whenever watershed violations occur. Each day that the violation continues shall constitute a separate offense.

S. Record of Amendments

The Zoning Enforcement Officer shall keep records of all amendments to this ordinance and when such amendments apply to the watershed overlay district *Watershed Protection Overlay District*, copies of such upon adoption, shall be sent to the *N.C. Environmental Management Commission and the N.C. Department of Environmental Quality*.

T. Records for the 10/70 Watershed Provisions Within the WSII-BW(O)

The Zoning Enforcement Officer shall keep records of the Town's utilization of the provisions that a maximum ten percent (10%) of the balance of the watershed area may be developed with non-residential and residential development to a maximum of seventy percent (70%) built-upon area. Records shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.

U. Minor or Major Watershed Variances.

a) A minor watershed variance shall not be granted by the Board of Adjustment unless and until the provisions of Section 143.3 have been met.

b) A major watershed variance shall not be granted by the Board of Adjustment unless and until the provisions of Section 143.3 and 105 E have been met.

c) When considering minor or major watershed variances, the Town of Elkin shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the watershed variance is being considered. Local governments receiving such notification shall submit comments to the Zoning Enforcement Officer prior to a Board of Adjustment decision. Such comments shall become a part of the public record.

d) The Board of Adjustment shall refuse to hear an appeal or an application for a minor or major watershed variance previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

e) A map or plot shall accompany any written application and shall remain as a permanent part of the variance application. The map of plot shall be drawn to scale and show the following information:

1. size of lots;
2. size and location of the building or buildings on the lot;
3. size and location of any proposed building or additions to an existing buildings on the lot;
4. location, or proposed location, of any outdoor sign on the lot;
5. location and number of parking space, and/or proposed parking spaces on the lot;
6. surface water drainage.

V. Conflict. Where this section of the ordinance imposes a greater restriction upon the lot size than are imposed by other sections, the provisions of this section shall govern.

W. Effective Date

This amendment was adopted on September 13, 1993, and shall take effect on October 1, 1993. Amended April 1997. Amended September 11 2017.

Section 106

Commercial Corridor Overlay

Intent – The Commercial Corridor Overlay is established as an overlay district whose geographic coverage shall encompass the NC 268 By-pass from Interstate 77 west to the limited access portion of the highway. The corridor covers all lands within 400 feet of the right-of-way along both sides of the road. It is intended to supplement, rather than replace the underlying zoning in this area. It does not address elements such as use or intensity (which are still controlled by the underlying zone), rather, it addresses design elements such as lighting and access. Single-family residences are specifically exempted from the requirements of the overlay.

Design Standards – Developments shall comply with all applicable requirements of this Ordinance. In addition, the following design standards shall be followed. In the event of inconsistencies, the standards contained in this section shall govern.

1. Exterior Lighting Standards

a. Standards

The following standards are required of all exterior lighting except the outdoor recreational uses specifically exempted below. Many uses have the option of providing a lower light post with a non-cutoff type of luminaire or a higher pole, up to forty (40) feet, with a luminaire that totally cuts off light spillover at a cutoff angle smaller than ninety (90) degrees.

The maximum height light post permitted is dependent on amount of cutoff provided. This is designed as a protection against excessive glare and light spilling over to neighboring properties. The exceptions which are permitted provide adequate protection for highway corridors and neighboring residential property.

Exterior lighting shall meet one (1) of the following standards:

1. When lighting source or luminaire has no cutoff:

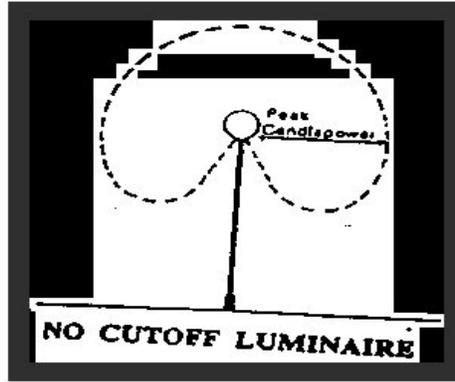
<i>Standard</i>	<i>Maximum Permitted Maintained Illumination</i> ⁷	<i>Maximum Permitted Mounting Height of Illumination</i> ⁸
Residential Districts	0.20 foot-candles ⁹	16 feet
Commercial Districts	0.20 foot-candles	16 feet
Industrial Districts	0.30 foot-candles	20 feet

⁷ Measured at the property line and any public right-of-way line.

⁸ Measured from the ground to the light source.

⁹ Foot –candles (F) are to be calculated by dividing the lumens (L) by the distance to the property line squared (D²) (i.e. $F = L / D^2$).

An illustration of this type of luminaire is provided below.



2. When a luminaire has total cutoff at ninety (90) degrees:
 The maximum illumination and the maximum permitted luminaire height shall be:

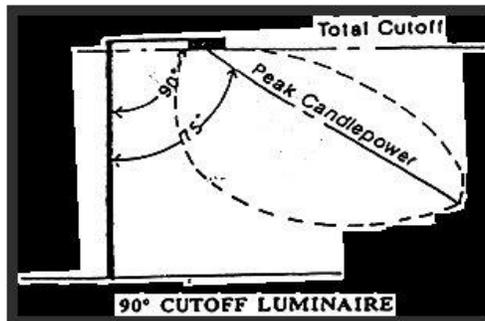
<i>Standard</i>	<i>Maximum Permitted Maintained Illumination</i> ⁷	<i>Maximum Permitted Mounting Height of Illumination</i> ⁸
Agricultural & Residential Districts	1.00 foot-candles ⁹	25 ft.
Commercial and Industrial Districts	2.00 foot-candles 3.00 foot-candles	30 ft. 40 ft.

⁷ Measured at the property line and any public right-of-way line.

⁸ Measured from the ground to the light source.

⁹ Foot –candles (F) are to be calculated by dividing the lumens (L) by the distance to the property line squared (D2) (i.e. $F = L / D^2$).

An illustration of this type of luminaire is provided below.



3. Exemption for specified outdoor recreational uses.

- a) These standards shall not apply to properties subject to State or Federal safe lighting standards.
- b) Because of their unique requirements for nighttime visibility and their limited hours of operation, ball fields and tennis courts are exempt from the exterior lighting standards provided above. These outdoor recreation uses must meet all other requirements of this Section and of this Ordinance.
- c) The outdoor recreational uses specified above shall not exceed a maximum permitted post height of eighty (80) feet.
- d) The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent roadway corridor or residential property. The maximum permitted illumination at the interior bufferyard line shall not exceed two (2) foot-candles.

b. Additional Regulations

Notwithstanding any other provision of this Section to the contrary:

- 1. This Section does not apply to public street lighting.
- 2. No flickering or flashing lights shall be permitted.
- 3. Light sources or luminaires shall not be located within buffer yard areas except on pedestrian walkways.
- 4. Adequate lighting must be provided for the public safety in parking and similar areas.

c. Exterior Lighting Plan.

At the time any exterior lighting is installed or substantially modified, and whenever a zoning certificate is sought, an exterior lighting plan shall be submitted to the Planning Department in order to determine whether the requirements of this Section have been met.

2. Access Management & Parking Areas

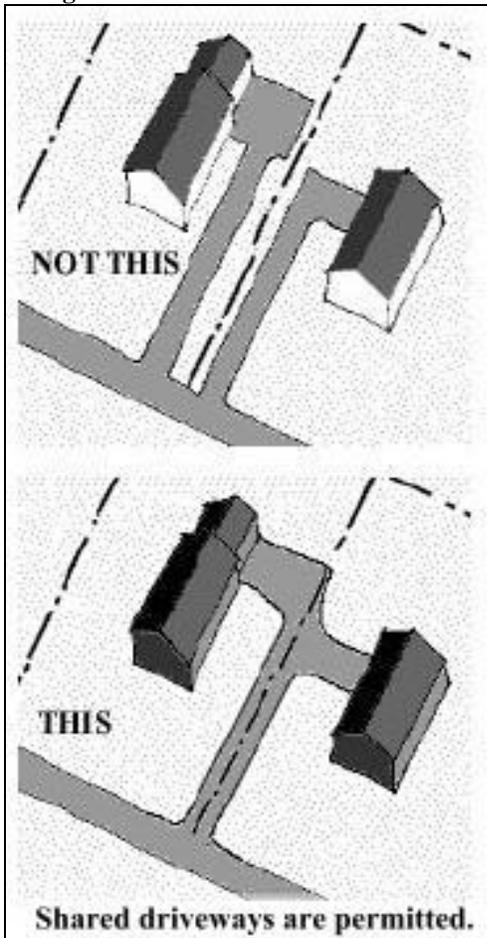
a. *Standards*

1. Access points to the development (such as curb cuts or driveways) shall be minimized for each separately owned property. The following chart lists the number of access points allowed based on road frontage:

0-500 Feet -	1 Vehicle Access Point Allowed
501-1,000 Feet -	2 Vehicle Access Points Allowed
More than 1,001 Feet -	3 Vehicle Access Points Allowed
Corner Lots -	2 Vehicle Access Points Allowed

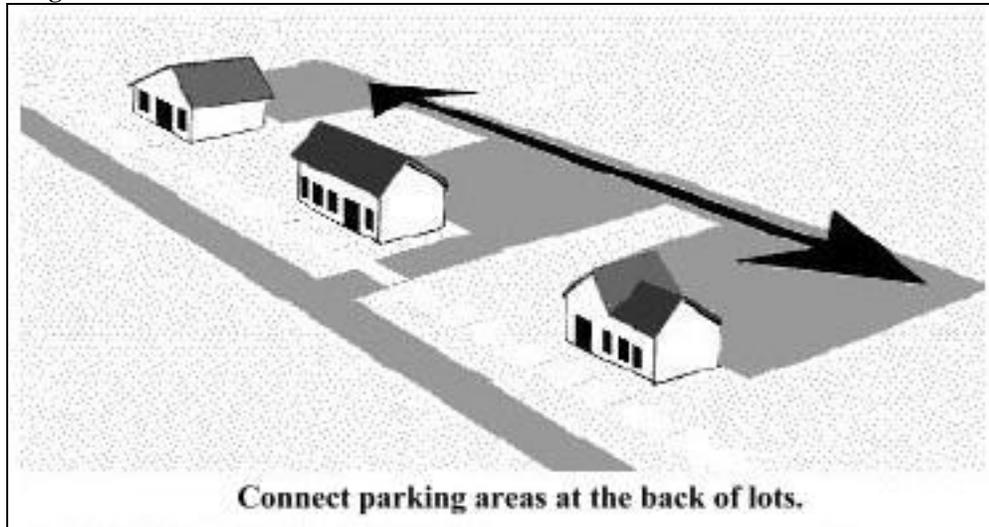
2. Joint driveways are permitted and recommended (see Figure 2).

Figure 2



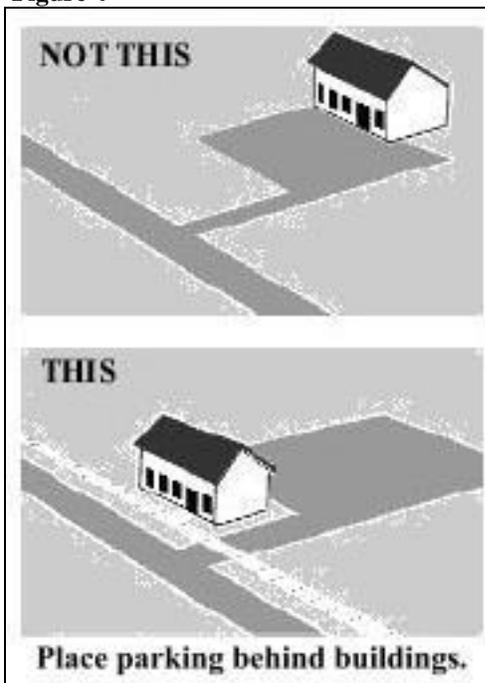
3. Interior access between adjoining lots is mandatory. Location and specifications for the interior lot access points shall be determined during site-plan review (see Figure 3).

Figure 3



4. This Section encourages the placement of parking in the side or rear of the lot (see Figure 4). The suggested maximum coverage of a front yard for driveway and parking is 20%. Amended 07/16/07

Figure 4



5. Normal Landscaping requirements will still apply to parking areas. In addition, landscaped areas shall be surrounded by a concrete curb or other material, such as landscape timbers, in order to protect the landscaped area and to define its borders.
6. Any land use generating more than 60 trips per peak hour, estimated by using the NC Department of Transportation guidelines, may be required to provide a deceleration lane (to be determined by the Site Plan Review Committee).
7. It is the intent of these regulations to exempt from this requirement any subdivision of lots clearly intended for single-family residential development.
8. No access point is allowed within one hundred (100) feet of the centerline of any intersecting street. Corner lots are allowed to have access points within fifty (50) feet of the centerline of any intersecting street.
9. No access point shall be allowed within thirty (30) feet of the side property line of any property or development except where a mutual access agreement exists between adjoining owners.
10. Any parcel of record on the effective date of this Section which has prohibited all vehicular access based on the provisions herein shall be allowed one (1) access point.

3. Utility Wiring

a. Standards

1. All wiring must be placed underground on the entire lot or lots being developed. Wiring for utilities such as telephone, electrical, cable television, etc. or related functions shall be included.

4. Building Orientation

a. Standards

1. All principal buildings within the overlay district shall be placed no closer than the twenty (20) feet from the right-of way line. (see Figure 5)

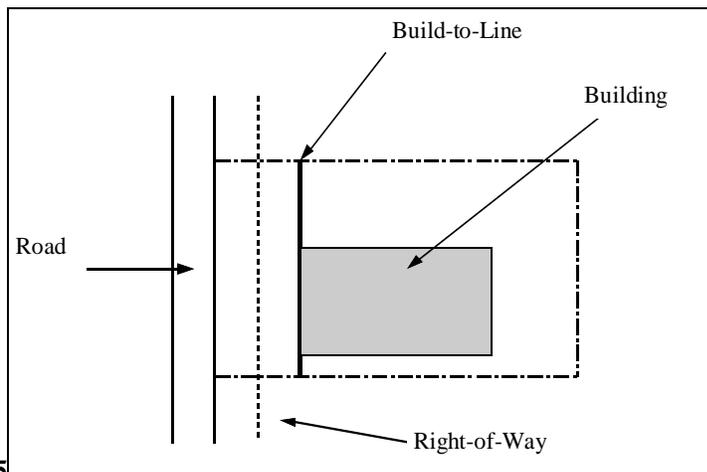


Figure 5

2. The primary entrance shall be designed for the pedestrian, and be distinguishable

from the rest of the building. Such entrances shall provide a sense of entry and add variety to the streetscapae. Secondary entrances shall be for shipping and receiving shall be oriented away from the public street.

5. Screening

a. Standards

1. Dumpsters or trash handling areas shall always be screened from adjacent properties and public view from ground level, with a minimum six-foot high solid wooden fence or solid (and finished) masonry wall, with a solid closeable gate. Dumpsters shall not be allowed in any required setback or yard space.
2. Mechanical equipment at ground level shall be placed on the parking lot side of the building and away from buildings on adjacent sides. It shall be screened from the public street by walls, fencing and/or landscaping. Mechanical equipment on rooftops shall be screened from the view of the public street. No chain link fencing may be used to comply with any part of this Section.
3. A developer may choose to substantially screen from public view a parking area by utilizing an earthen berm, masonry wall or other suitable means of screening as determined by the Site Plan Review Committee.

6. Design Elements

b. Standards

1. Type of Construction – Manufactured and mobile units shall be prohibited, except for temporary use during construction or for storage of materials during construction.
2. The use of vinyl siding or unpainted cinder-block walls shall be prohibited, but the use of decorative, split-faced masonry products is permissible.
3. Metal, modular, and vertical sided buildings which include but are not limited to buildings sided with vinyl and masonite, and which are located with this overlay are prohibited unless architectural building plans and elevations are submitted to the Board of Commissioners for review and approval based on the following criteria:
 - A minimum of 50 percent of each wall elevation mass shall be a nonmetal or vertical siding material; and horizontal runs shall have a vertical break in building materials.
 - The color(s) of the metal or vertical siding shall be complementary with the color of nonmetal or vertical siding materials used on the building.
 - Metal or vertical siding shall be used in a manner which maintains the architectural unity and integrity of the entire building.
 - In a multi-building development, metal or vertical sided building(s) shall utilize a uniform architectural theme with other buildings on the site, and shall be designed to create a harmonious style through consideration of scale, proportion, detail, materials, color and site planning.
 - Corrugated and/or sheet metal are prohibited.
4. Recognizing topographical and other physical features of a site, decorative screening and/or landscaping shall be installed so as to obscure as much as reasonably possible from view from public-rights-of-way all trash rooms, trash holding receptacles, loading or service areas,

mechanical or electrical equipment, storage facilities or bins, or other unsightly building appurtenances. Appropriate screening shall also be provided to obscure as much as reasonably possible all roof-mounted equipment, appurtenances, and roof vents from view from public rights-of-way.

5. Design guidelines for multi-tenant commercial developments and/or nonresidential group developments shall be required for the purpose of facilitating unified developments with compatible architecture, scale, proportion, and building elements that provide visual unity and are harmonious with other buildings in the surrounding area. Prior to the development of any phase of a commercial multi-tenant and/or nonresidential group development, design guidelines governing the appearance of all buildings within the property shall be submitted by the developer for the review of the Architectural Review Committee and the approval of the Director of Planning prior to the approval of any final development plan or the issuance of any permits. Said guidelines shall address and include the following criteria:
 - a. Common signage plan requirements and criteria, including locations, area(s), copy, illumination proposed, height(s), material(s), proposed color schemes, and provisions for shared use of signage.
 - b. Exterior building materials and colors, including examples of materials and colors to be consistent throughout the development.
 - c. Façade design, mass, and rhythm.
 - d. Common landscaping scheme, including street yard(s) and peripheral plantings, parking area plantings, and tree preservation.

In addition, at the discretion of the developer, the design guidelines shall address at least two (2) of the following criteria, which shall be unified throughout the development:

- e. Building heights.
- f. Roof shapes.
- g. Pedestrian circulation, sidewalks.

7. Landscaping

Section 78 of the Town of Elkin Zoning Ordinance shall apply.

8. Signs

Section 71 of the Town of Elkin Zoning Ordinance shall apply.

Notwithstanding the above sign requirement, Big Box Stores shall prepare and submit to the Planning Board a proposed sign design plan for their property which shall include size, location, color scheme and lighting of all signs. The Planning Board, working with the developer, owner or tenants on a “case by case basis”, shall make a recommendation to the Town Board for a final approval and permitting of signs.

Section 107. **DOWNTOWN DESIGN**

A – Introduction

1. Purpose

The Downtown Design Overlay District for Elkin is intended to promote a high level of future development and redevelopment that will:

- a. Contribute to Downtown Elkin
- b. Stimulate investment in and strengthen the economic vitality of Downtown Elkin; and
- c. Build upon the positive physical image and identity of Downtown Elkin.

This overlay acknowledges the prevailing architectural character and development patterns within Downtown. The overlay does seek to assist in promoting and building upon the positive design features and architectural character that exists in Downtown today.

Additionally it is not the intent of this overlay to eliminate freedom or discourage innovative design. The purpose of this overlay is to complement the Town of Elkin’s existing zoning ordinance and development guidelines for Downtown. This overlay is less quantitative than the mandatory development standards found within the Zoning Ordinance of the Town of Elkin or Elkin’s Subdivision Standards and this allows some inherent flexibility in application to specific projects.

2. Organization

The overlay District is organized into the following sections:

- A. **Introduction** provides an overview of the purpose, organization, applicability and other aspects of the overlay.
- B. **Context and compatibility** establishes basic “rule of thumb” for integrating new development into the existing urban fabric of Downtown Elkin, and emphasizes the proper treatment of the “edge condition” of existing and proposed development.
- C. **Downtown Guidelines** provides standards of design and development, within an historic architectural context, for use in the Overlay. This section is divided into two categories: 1) infill and 2) storefront design.
- D. **Signs** set forth general and specific guidelines, which tend to enhance the image of Downtown and improve the effectiveness of signs for businesses.
- E. **Landscaping** provides a basic landscape design framework, which is to be used in conjunction with new development, and as a helpful tool for property owners interested in upgrading the landscaping of existing development.
- F. **Secretary of the Interior Guidelines** for the rehabilitation of older buildings that are eligible for Historic Tax Credits.

3. Understanding the Terminology

To aid in the understanding of this Overlay District, a development applicant should differentiate the meaning of “should,” “encouraged,” and “discouraged.”

Overlay District guidelines, which employ the word “should”, are intended to be applied as stated. An alternative measure may be considered, if it meets or exceeds the intent of the guideline.

Guidelines using the words “encouraged” or “discouraged” are not mandatory, but express a more or less desirable design solution.

4. Applicability

The provisions of this section are applicable to all development within the B-1, Central Business District.

Any new building, additions, exterior alterations, or landscaping, and any modification to an approved landscaping plan or parking lot design, should adhere to the Downtown Design Overlay District as applicable. It is important to note, however, that these guidelines do not affect existing buildings that are not proposed for new construction, exterior alterations, landscaping or changes in the parking lot layout.

The Overlay District requirements will be utilized during the Town's Development Approval process (and should be provided to applicants during pre-application conferences) to encourage the highest level of design quality, and concurrently provide the flexibility necessary to encourage creativity on the part of project designers in response to existing site conditions.

5. Exemptions

When in compliance with all other Town ordinances, the following projects are exempted from all provisions of the Downtown Design Overlay District:

- a. Construction underground, which will not leave any significant, permanent marks on the surface after completion: utility boxes, pipes, and poles shall be considered "significant, permanent marks;"
- b. Maintenance work on buildings, landscaping, or grounds, (including parking lots), which does not significantly alter the appearance or function of the building, landscaping or grounds;
- c. Interior remodeling work;
- d. Landscape maintenance and upkeep, including relatively minor replacement of plants other than trees;
- e. Temporary uses and structures as defined by the Elkin Zoning Ordinance;
- f. Routine roof maintenance and repair. Overall roof reconstruction is subject to this overlay.

B — Context & Compatibility

Existing buildings, streetscape, and landscaping establish the frame of reference for new development. This is particularly true throughout Downtown Elkin where an historic urban fabric is well represented by commercial structures.

Generally, to create harmony between the existing urban fabric and new elements introduced into the Downtown, all new structures, additions and uses should be compatible with the prevailing historic architectural character of the surrounding area. Site amenities, such as large mature trees, should be preserved and should become part of any new project or addition, and structures and activities should be located and designed to avoid creating nuisances and hazards for adjoining properties, particularly residential properties.

The concept of "compatible" design is one of the most important concepts to be aware of when using these design guidelines. Compatible designs do not seek to imitate the historic architecture found in Downtown, but do reflect their surroundings in terms of design concepts — mass, scale, rhythm, color, materials, and building arrangement. Compatible designs will be in harmony with the best designs of surrounding developments.

"Rules of Thumb" pertaining to context and compatibility include:

1. All new construction and development should incorporate those characteristics of the Downtown that exhibit a positive distinctive architectural style and/or established functional or landscape patterns.
2. New buildings and additions should be sited in a manner that will complement rather than conflict with existing adjacent buildings, landscape, streetscape, parking, and access.
3. Transitions between existing and new buildings or additions should be gradual. The height and mass of new projects or construction should not create abrupt changes from those of existing buildings
4. Natural amenities, such as mature trees and views, should be preserved and incorporated in the design of Downtown projects where applicable. Buildings shall front the street and should not turn their backs to existing or potential amenities.
5. Buildings should be oriented to connect with high activity areas, such as restaurant dining areas or major pedestrian areas, in order to create connections and linkages.

6. Noise or odor generating activities in general, and loading areas, trash and storage areas, and rooftop equipment in particular should be located as far as possible from adjacent residences and shall never be located next to residential properties without fully mitigating their negative effects. They should also be screened from view of either Bridge Street, Market Street or Main Street.
7. Commercial and other nonresidential buildings and associated activity areas should be oriented to avoid significant shading of adjacent residences and compromising residents' privacy.
8. Where Downtown buildings are adjacent to residential neighborhoods, Downtown buildings should maintain low profiles and heights should be stepped down to the height of adjacent residential zones, utilizing architectural elements such as gables or hip roofs to reduce building mass.
9. Windows in commercial and other nonresidential buildings should be oriented to preclude a direct line of sight into adjacent residential buildings, or property.

C — Downtown Guidelines

The construction of new buildings and rehabilitation of existing buildings within the Central Business District (B-1) in Downtown Elkin is important for continued economic growth and diversity in the Town. It is extremely important that new buildings erected in the Downtown are compatible with existing buildings, which generally reflect the architectural styles of the early to mid-twentieth century. It is the desire of the Town to have buildings in the Central Business District represent architectural styles of this era rather than some contemporary franchise architectural dictate from some other place.

1. Infill

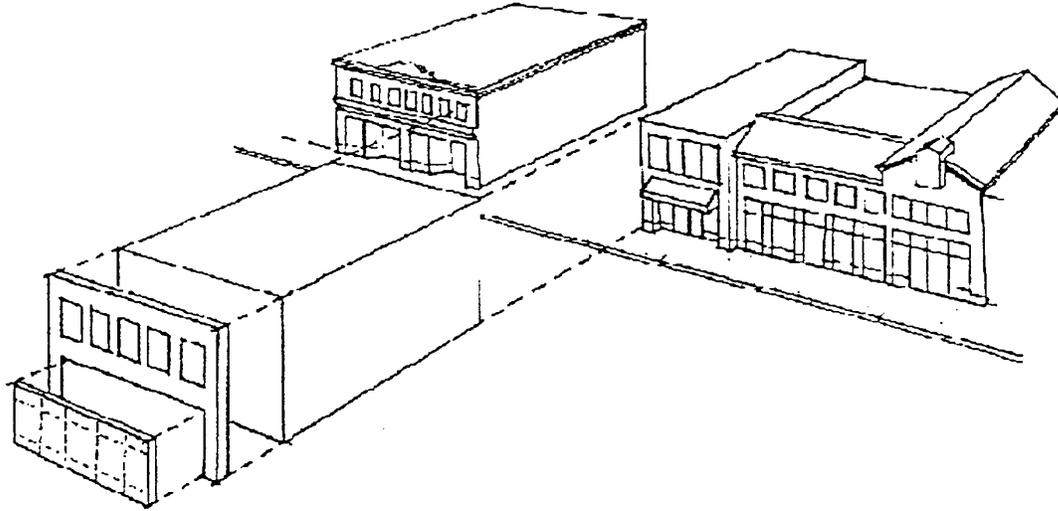
Since these buildings will be constructed on vacant or underutilized lots, thus filling a “hole” in the street frontage, they are called “infill” construction.

The design of an infill building, particularly its front facade, should be influenced by the other facades on the street but should not attempt to create an exact replica. The infill structure should be sympathetic and compatible with surrounding buildings in terms of mass, scale, height, façade rhythm, placement of doors and windows, storefront design, color and use of materials.

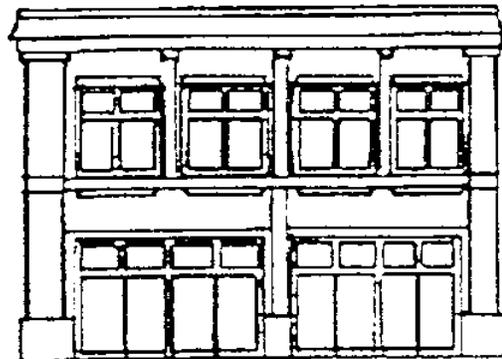
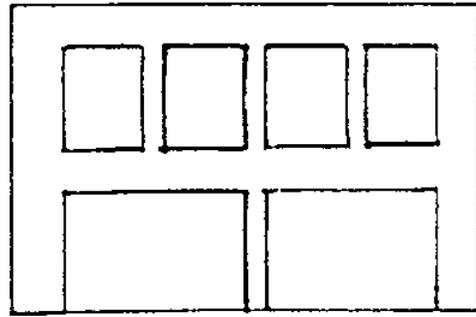
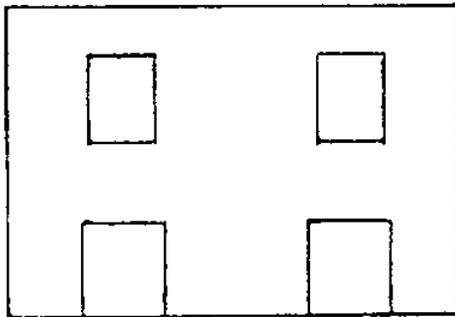
Since good infill design responds directly to its surroundings, it is not possible to develop specific guidelines, which apply in every case. There are, however, several general design principles, which should govern the visual ties between a new infill building, and its neighboring historic structures found in Downtown Elkin.

a. Façade Proportion

1. The characteristic proportion (relationship of height to width) of existing facades should be respected in relation to new infill development.



2. Whenever an infill building is proposed, that is much “wider” than the existing characteristic facades on the street, the infill facades should be broken down into a series of appropriately proportioned “structural bays,” storefronts, or components typically segmented by a series of columns or masonry piers which frame window, door and bulkhead components.



c. Horizontal Rhythms

1. Whenever an infill building is proposed, identify the common horizontal elements (e.g. cornice line, window height/width, and spacing) found among local historic structures and develop the infill design utilizing a similar rhythm or alignment.
2. If maintaining a horizontal rhythm or alignment in an infill building is very difficult or otherwise impossible, the use of fabric canopies or awnings is strongly encouraged to establish a shared horizontal storefront rhythm.

d. Wall Articulation

1. Long, blank, unarticulated street wall facades without window or door openings are strongly discouraged and should be divided into a series of structural bays (e.g. characterized by masonry piers which frame window and door elements).
2. Monolithic street wall facades should be “broken” by vertical and horizontal articulation (e.g. sculpted, carved or penetrated wall surface defined by recesses and reveals) characterized by: (a) breaks (reveals, recesses) in the surface of the wall itself; (b) placement of window and door openings; or (c) the placement of balconies, awnings, and canopies.
3. Avoid large unbroken façade surfaces at the storefront level. This can be achieved in a number of ways including; (a) dividing the façade into a series of display windows with smaller panes of glass; (b) constructing the façade with small human scale materials such as brick or decorative tile along bulkheads; (c) providing traditional recessed entries; (d) careful sizing, placement, and overall design of signage; and (e) providing consistent door and window reveals.

e. Roofs

1. Roofs may be flat or sloped consistent with surrounding buildings. Older twentieth century, commercial vernacular buildings used flat roofs with decorative parapets and heavy cornice lines.
2. Cornice lines of new buildings (horizontal rhythm element) should be aligned with buildings on adjacent properties to avoid divergent clashes in building height.
3. Radical roof pitches, which create overly prominent or out-of-character buildings, such as A-frames, massive mansards, geodesic domes, quonset hut roofs, or chalet style buildings are strongly discouraged.
4. The use of decorative parapets is encouraged if they have substantial visual interest, which incorporates vertical articulation.

f. Building Material Palette

Building materials to be used on infill buildings are to be consistent with the materials used on adjacent buildings. The following tables present recommended and discouraged building materials for infill construction.

Recommended materials for infill structures

(Not Including Existing Buildings)

Building Walls:

- Clear glass, glass block (storefront only)
- Glass block (transom)
- New or used face-brick
- Cut stone, rusticated block (cast stone)
- Ceramic tiles (bulkhead)
- Stucco
- Horizontal clapboard, lap, wood siding (not allowed in the fire district)

Roofs (where visible):

- Standing seam metal roof or other metal roofing
- Class “A” composition shingles (limited to refurbishment of residential structures)
- Tile of neutral color
- Rolled rubber roofing

Discouraged Materials

- Imitation masonry (e.g. imitation, rusticated block) of any kind
- Reflective or opaque glass
- Imitation stone or flagstone parquet
- Rough sawn or “natural (unfinished) wood
- “pecky” cedar
- used brick with no fired face (salvaged from interior walls)
- vertical wood siding (Board & Batten)
- coarsely finished “rough-saw” on rustic materials (e.g. wood shakes, barnwood, board and batten or T-111 siding
- plastic panels/vinyl siding
- steel or metal siding

Discouraged Roofs (where visible):

- crushed stone
- shake
- brightly colored tile (orange, blue, etc.)
- corrugated fiberglass
- asphalt sheeting

g. Mechanical Equipment Screening

It is strongly encouraged that any mechanical or utility equipment, whether on the roof, beside of the building, or on the ground, be screened. The method of screening shall be architecturally integrated with the structure in terms of materials color, shape and size. Where freestanding mechanical equipment is provided, a continuous solid screen is desirable. On-roof mechanical equipment should be screened by solid building elements (e.g. parapet wall or roof well) instead of after-the-fact add-on-screening (e.g. wood or metal slats).

h. Setbacks and “Build To” lines

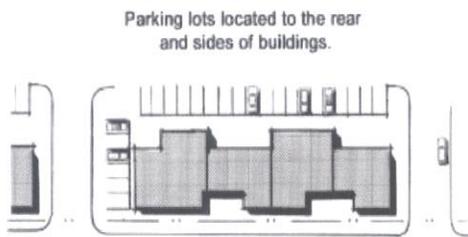
- The first floor of any new infill building shall be built at the front property line. If a building proposes to have a plaza area located between its front and the front property line, this may be allowed on a case-by-case basis. In no event will surface parking be allowed between the building and front property line.
- Canopies, trellises and other accessory structures, which are relatively open and do not restrict pedestrian or vehicular movement may project over the right-of-way with a Town or NCDOT encroachment approval.

i. Street Orientation

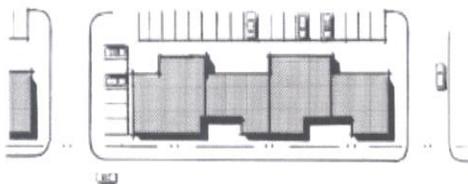
- It is strongly encouraged that the front building façade be oriented parallel to the street.
- Storefronts should be designed to orient to the major street frontage. While side or rear entries may be desirable, the predominant major building entry shall be oriented toward the major street.

j. Parking Lot Orientation

- Parking lots shall be located to the rear or sides of buildings.
- Locating parking lots between the front property line and the building storefront is prohibited anywhere in the overlay.
- Rear parking lots shall be designed and located contiguous to each other so that vehicles can travel from one private parking lot to the other (reciprocal access) without having to enter the street.
- Private parking lots with side street frontage should be attractively landscaped with trees and shrubs in order to continue the linear street frontage created by the existing flanking buildings and to screen parked vehicles. Low masonry garden walls or landscaping (3 feet maximum height) at the setback line are also encouraged to screen parking from the side street.
- Common reciprocal access driveways, which provide vehicular access to adjacent parcels, are required. Shared parking and circulation aisles coordinated between adjacent businesses and/ or developments are also encouraged.



Parking lots located to the rear and sides of buildings.



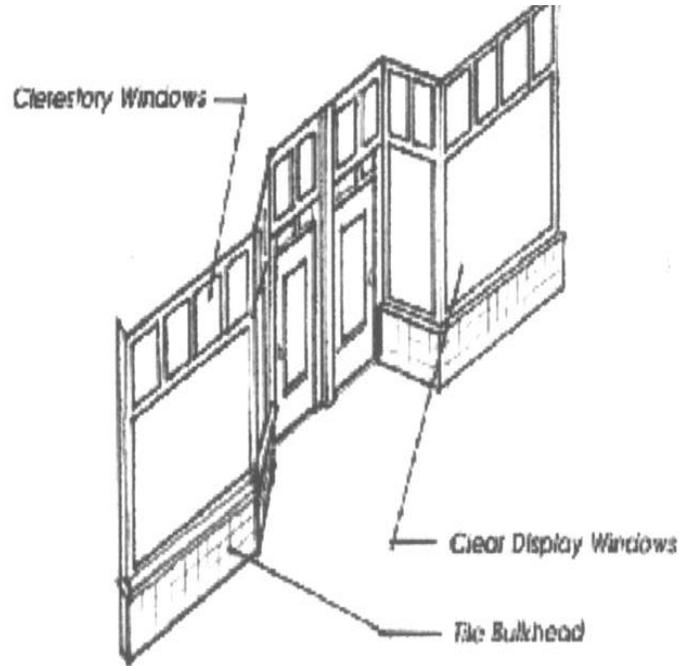
- Whenever possible locate parking lot entries on side streets in order to minimize pedestrian/vehicular conflicts along the primary street frontage. (Main Street)

2. Storefront design

Building facades, including the storefront, are the most important visual elements of commercial structures. Facades also experience significant change during a building's life and hold the most potential for creative alterations affecting both the characters of the building and the streetscape. In an effort to promote quality design for new infill building, and the rehabilitation of existing buildings, the following specific storefront and façade guidelines are presented.

a. Entries/Doorways

Commercial storefront entries are typically recessed and/or sheltered by a covered arcade structure, canopy or awning. This provides more area for display space, a sheltered transition area to the interior of the store and emphasizes the entrance. Recessed entries should be retained and are strongly encouraged.



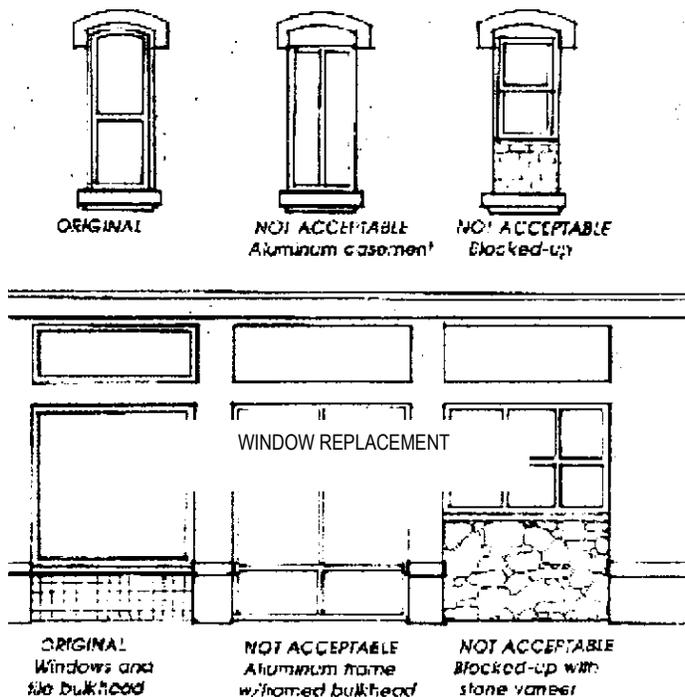
b. Façade Color

- The use of light, subdued or neutral (earth tone) colors and natural building materials, such as brick, or stone are encouraged.
- Adjacent buildings should be painted different, but complementary colors. (no strikingly contrasting colors)
- One base color should be used for the entire façade. Different trim colors are encouraged, but should not exceed three different colors
- Different window frame and sash colors are encouraged but should complement the main color of the building.
- Primary colors are prohibited on façade exteriors.
- Stripes, polka dots, checkerboard patterns and other distracting paint combinations are prohibited.

c. Awnings and Canopies

- Awnings are encouraged and should have a single color or two-color stripes. Lettering and trim, utilizing other colors is allowed but will be considered as sign area.
- Awning shape should relate to the window or door opening. Barrel shaped awnings should be use to complement arched windows.

WINDOW REPLACEMENT

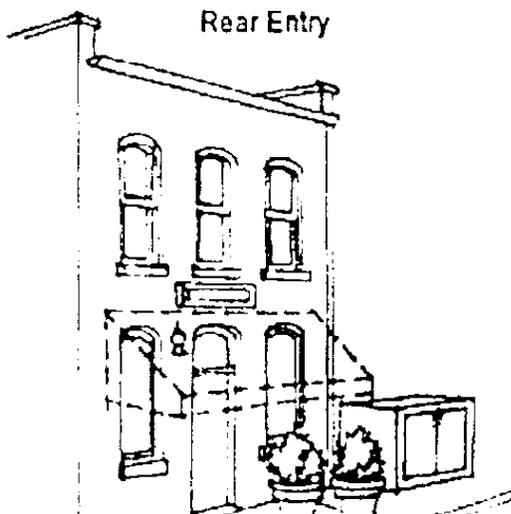


- All awnings should be well maintained, washed regularly and replaced when faded or torn.
- When there are several businesses in one building awnings of the same color should be used with simple signs on the valance flap that may vary in type and style and color to differentiate the individual businesses within the building; ORIGINAL NOT ACCEPTABLE NOT ACCEPTABLE
Aluminum casement Blocked-up

d. Door and Window Design

- Accentuate the door with simple details such as a handsome brass door pull, brass kick plate or an attractive painted sign.
- Doors to retail shops should contain a high percentage of glass in order to view the retail contents.
- When considering new window fenestra (ORIGINAL Windows and tile bulkhead NOT ACCEPTABLE Aluminum frame w/framed bulkhead NOT ACCEPTABLE Blocked-up with Stone veneer window materials), it is important that the façade theme of the whole block. (streetscape).
- Use of clear glass (88% light transmission) on the first floor is highly recommended.
- Storefront windows should be as large as possible and no closer than 18” from the ground (bulkhead height). By limiting the bulkhead heights, the visibility to the storefront displays and retail interior is maximized. Maximum bulkhead heights for new construction shall be 36”.
- Discourage introducing or changing the location or size of windows or other openings that alter the architectural rhythm, alignment or character of the original building.

e. Rear Entry Design



- Design the rear entry to fit the casual visual character of the alley or rear entrance and provide a pleasant protected space
- The rear entry door should be wood and glass similar to the front door. Special security glass is permitted.
- Security lighting should be modest and should focus on the rear entry door.
- Selective use of tree plantings, potted plants and other landscaping can subtly

improve

a rear façade.

- Refuse containers and service facilities should be screened from view by solid masonry walls with metal doors or metal fence. Use landscaping (shrubs and vines) to screen walls and help deter graffiti.

Window Replacement

- If a window has deteriorated beyond repair or is missing, the replacement should match the original window in terms of design and materials. Replacement windows should fill the existing opening and duplicate the original window pattern. For example, a double-hung sash window should not be replaced by a single fixed pane of glass.
- Avoid the use of windows and shutters that are not in keeping with the original style of the building.

g. Door Replacement

Every effort should be made to maintain and/or repair an original door, if possible.

h. Removal of Existing Canopies and Metal Awnings

Metal aluminum canopies have a thin, unsubstantial and “tacked on” appearance which is inconsistent with the desirable design concept for Downtown Elkin. Existing metal canopies should be removed and if appropriate, replaced with fabric awnings, consistent with the architectural style of the building.

i. Removal of Elements Inconsistent with Original Façade

Building owners contemplating renovation, will be encouraged to remove building elements incompatible with the original façade design. These include: overdone exterior embellishments and “modernized” elements such as board and batten or “themed” materials.

j. Preserve Traditional Decoration

Many times in the remodeling of storefronts, original decorative details are intact as visual “leftovers” or simply covered up with new construction. If the building is to be refurbished, these forgotten details should not be wasted. If enough of them remain, they can be restored as part of the original design. If only a few remain, they can be incorporated as design features in a new storefront. In either case, the design of any improvements should grow out of the remaining traditional details and create a harmonious background that emphasizes them.

k. Selection of Building Materials

Some contemporary materials are often used to apply “shopping mall” style facades over the rich character of traditional downtown buildings. Materials such as cedar shakes, textured plywood, stone veneer, stucco veneer and plastic are not appropriate for use on traditional facades in Downtown Elkin.

D—Signs

Signs in Downtown Elkin should advertise a place of business or provide directions and information. An effective sign and graphics system functions not as a separate entity but as an integral part of the built environment. Carefully planned, signs communicate essential information, while also ordering and enhancing the architectural character of Downtown. A sign's use of color, size, shape placement, and selection of lettering can attract or detract from its effectiveness. An effectively designed sign should:

- Be compatible with the surrounding physical and visual character of the area;
- Promote the “individuality” of establishments;
- Identify the business clearly and attractively;
- Enhance the building on which it is located; and
- Reduce the amount of visual clutter caused by excessive and poorly placed signage.

The Town's Sign Ordinance has regulations to control the size, location, and number of signs, but code restrictions alone may not be enough. Design criteria are needed to encourage and coordinate well-designed signs.

The following sign guidelines are intended to assure the local merchant that all other Downtown commercial establishments are similarly regulated.

1. Preferred Sign Types

While many sign types are permitted in Downtown, the following sign types are preferred.

- Under canopy signs
- Business wall-mounted ID signs in sign board area at upper portion of first story;
- Awning signs;
- Projecting signs;
- Murals and supergraphics not advertising a business (painted on a wall surface);
- Permanent painted window signs, first floor limited to 25% of the window area;
- Building signs containing the name of the business at rear entrances used by customers; and
- Signs made of carved or sandblasted wood or metal.

2. General Design Guidelines



DELICATESSEN

*Letters take up too much
of the sign area*



DELICATESSEN

*Letters occupy approx. 75%
of the sign area (max.)*

a. Clear Sign Message

- Use a brief message. The fewer the words, the more effective the sign. A sign with brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.
- Avoid hard-to-read, overly intricate typefaces. These typefaces are difficult to read and reduce the sign's ability to

communicate.

- Lettering should be in proportion to the size of the sign. As a rule of thumb, the recommended size of letters is between one-third (1/3) to one-half (1/2) the height of the sign.
- Avoid signs with strange shapes. Signs that are unnecessarily narrow, oddly shaped, or unrelated to the product or services being provided on the site can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.
- Use widely recognized logos rather than print/test whenever possible.
- Make signs smaller if they are oriented to pedestrians. The pedestrian-oriented sign is usually read from a distance of fifteen to twenty feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller the sign needs to be.

b. Sign Color

- Colors should be selected to contribute to legibility and design integrity of signage. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection.
- A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read in both day and night.
- Limit colors to three on a single sign. Color is most effective when used simply. Too many colors, particularly accent colors, may distract the reader, reduce legibility, and make the sign less effective.
- Vertical or horizontal wooden signs can be effectively utilized in a variety of ways on windows, building surfaces or as accent bands. A wooden wall sign can be painted or stained and sealed for a more natural look, depending upon the appearance of the surrounding structures. Lettering can consist of metal or raised wood and when placed within a sign band, will serve to unify the building façade. Carved or sandblasted wood signs are also appropriate.
- Metal sign panels can utilize raised lettering on metal bands. Printing and lettering can also be applied directly to a flat metal sign band with letters consisting of wood, acrylic or metal.

c. Sign Architectural Compatibility

- Signs should make a positive contribution to the general appearance of the street and neighborhood in which they are located.

- Sign size should be proportionate. The size and shape of a sign should be proportionate with the scale of the structure.
- Signs should be an appropriate scale with the building on which they are placed and should not overwhelm the architecture of the building and the character of the neighborhood.
- Place wall signs to establish façade rhythm, scale, and proportion where façade rhythm doesn't exist. In many buildings that have a monolithic or plain façade, signs can establish or continue appropriate design rhythm, scale, and proportion.
- As an alternative to an attached sign, lettering may be attached directly on the building façade.

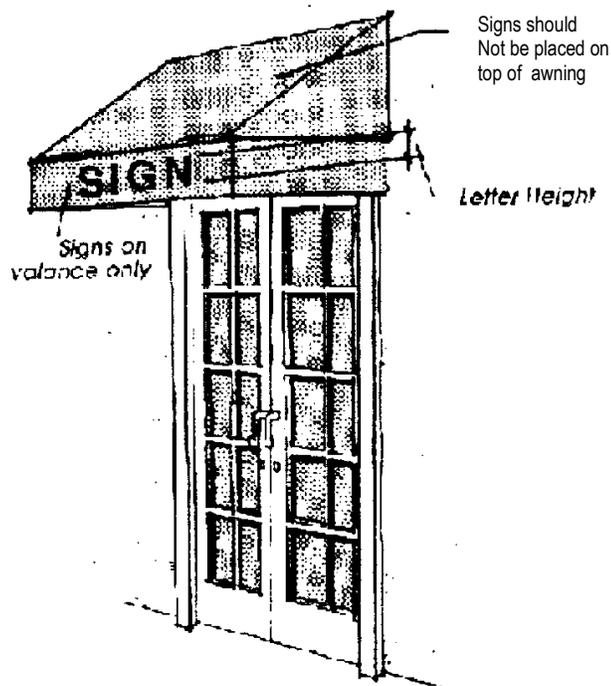
3. Wall Mounted Signs

- The identification of each building or store's address in six-inch high numbers over the main entry doorway or within ten feet of the main entry is recommended.
- Sign lettering for storefront wall mounted signs should meet the following recommendations:
- For storefronts 30' wide or less, a maximum letter height of 8" is recommended;
- For storefronts 30' – 60' wide, a maximum letter height of 12" is recommended; or
- For storefronts 60' wide or greater, a maximum letter height of 16" is recommended.

4. Awning Signs

An awning is a roof-like covering or shelter, which is usually constructed of canvas or other fabric extending over a pedestrian walkway. Awnings provide shelter from weather, provide scale to the building architecture, and add color and liveliness to the pedestrian path and street.

- An awning is permanently attached to a building or can be raised or retracted to a position against the building when not in use. An awning sign is message painted, printed, sewn, or stained onto the awning or awning flap.



- The sign on awnings may be allowed on the shed portion of the awning, but is preferred on the valance flap. The flap should be at least eight (8) inches in height so that the letters and symbols are big enough to read easily.
- The color of an awning sign should be compatible with and complementary to the color and material of the building to which it is attached.

5. Hanging Sign

A hanging sign is a sign suspended from a support and projects from the building wall. Similar to awning signs, a hanging sign can add interest and vitality to a street. Hanging signs can include pictorial images, logos, and symbols.

A hanging sign is generally intended to be read by pedestrians along a sidewalk or arcade, and motorists in slow-moving vehicles.

- The size of a hanging sign should be proportional to the building façade to which it is attached and typically, should not exceed ten (ten) square feet.
- A hanging sign should be hung perpendicular to and should not project more than four (4) feet from the face of the building.
- To minimize visual clutter, hanging signs should not be located within close proximity to other hanging signs or projecting signs, preferably at least twenty-five (25) feet from each other.
- The placement of a hanging sign should not impede the safe movement of people or vehicles within a public right-of-way and shall be properly secured to a building using a structurally sound method.

6. Window Signs

A window sign is a permanent sign painted on or attached to the inside of a window and is designed to be viewed principally from outside the business by pedestrians and motorists.

- To minimize clutter, window signs should not occupy more than twenty-five (25) percent of the total area of the window in which they are displayed.
- The sign copy of window signs should be proportional to the glass surface area.
- Signs should be restricted to ground floor windows facing the primary street frontage or adjoining parking lot.
- Temporary window signs should be allowed to identify special events and sales provided they are removed immediately following the event.

7. A-Frame, Portable Signs and Merchandise

A portable sign is any sign or advertising device, which rests on the ground and is not designed to be permanently attached to a building or permanently anchored to the ground. A-frame signs in Downtown are for attracting pedestrians, not passing motorists. Publicly placed benches, trash receptacles, planters, etc. are excluded.

- Merchandise or signage (sandwich board/A-frame sign) must be within 3' space abutting the building, leaving 5' clear sidewalk space as allowed by regulations spelled out in the Downtown Design Overlay District Guidelines. No existing business shall be allowed to have more than one A-frame sign.

- A-frame signs shall have a maximum sign area of six (6) square feet. The maximum height, from ground level, should be three (3) feet, and the maximum width should be two (2) feet.
- A-Frame signs should only be located on private property or within the public right-of-way, provided they do not interfere with vehicle access, pedestrian movement or wheelchair access to, through, and around the site. A minimum access width of five (5) feet should be maintained along all sidewalks and building entrances accessible to the public.
- A-Frame signs shall not encroach into required off-street parking areas, public roadways or alley, and may not be arranged so as to create site distance conflicts or other traffic hazards. Portable signs shall not be placed within the corner curb return areas of intersections.
- A-Frame sign should be utilized only during regular business hours and should be removed during non-business hours.
- Materials for portable signs should be of a permanent nature and not be subject to fading or damage from weather. The use of paper or cloth is not permitted unless located within a glass or plastic enclosure.
- Portable signs should be designed in an attractive manner and present an image of quality and creativity for Downtown Elkin.
- Portable signs should be maintained in a neat, orderly fashion so as not to constitute an unsightly appearance or a public nuisance in downtown.

E – Landscaping

1. Introduction

Landscaping in Downtown Elkin shall achieve three specific ends: 1) to beautify Downtown 2) to soften commercial development; and 3) to unify the area as a pleasant environment for residents and visitors alike. These three ends will be accomplished by a recognizable use of repeated planting treatments. Consistency and continuity within the street right-of-way and building setback areas is extremely important.

2. General Design Guidelines

All development is encouraged to follow these general landscape guidelines:

- Save existing mature trees.
- Use specimen trees (boxed trees) for immediate effect and accent.
- Give consideration to rapidly growing trees.
- Emphasize use of varieties, which require low maintenance in public and commercial areas, especially in large landscaped areas.
- Use boxed and potted plants in clay or similar type containers, especially for enhancement of sidewalk shops. The color of the containers shall be subject to approval by the Town.
- The use of materials such as crushed rock, redwood bark chips, pebbles, and stone or masonry slabs should not be used in place of live plant materials in landscaped areas.
- Use color plantings at the base of a building, in planter boxes, and focal points.

- Trees should not obstruct the sight lines of motorists or pedestrians, especially at pedestrian crosswalks.
- Trees and shrubbery should not be located so that they interfere with the effectiveness of parking lot and street lighting.
- Landscaping material, so long as it is properly maintained, is the preferred method used to buffer the view of any parking or storage area adjacent from a public street or pedestrian area.
- Landscape screen plant materials should be large enough at planting to provide effective screening and be capable of growing to the height and density desired within a reasonable period of time.
- All commercial projects should provide complete automatic sprinkler or drip irrigation systems.
- Keep all plants healthy and growing with all planting areas free of weeds and debris.

F—Secretary of the Interior’s Standards for Rehabilitation

Every reasonable effort shall be made to provide a compatible use for a property, which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose. These additional guidelines are especially applicable when a developer is interested in receiving tax credits for the rehabilitation project from either the State and/or Federal Government.

The following standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

- New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Adopted: August 9, 2004

Section 108 Wireless Communication Towers

(ARTICLE 10. WIRELESS COMMUNICATION TOWERS of the Surry County Zoning Ordinance)

(Amendment #2, 03/17/03)

Section 1. Purpose

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed wireless communication towers. This Article is intended to protect property values, create a more attractive economic and business climate, and to enhance and protect the scenic and natural beauty of designated areas.

Section 2. Development Application

Before developing a tower, the tower owner must apply and receive a **Conditional Use Permit**, unless otherwise stated in this Article. The tower owner shall prepare an application for review by the Planning Board and other applicable government agencies.

Section 2.1 Area Map

The application shall contain an area map prepared by a Registered Land Surveyor on a full sheet or full sheets of the Surry County Tax Maps showing property to be developed. The area map shall show the following:

- A. The boundary of the property to be developed;
- B. The names and addresses of adjoining property owners;
- C. The location of existing streets, buildings, railroads, transmission lines, sewers, bridges, culverts, drainpipes, and easements, to the extent that these may be ascertained from a field inspection by the County;
- D. Municipal boundaries and extraterritorial jurisdictions, township lines, zoning district classifications;
- E. Name of the applicable fire district;
- F. Topography, proximity to streams, susceptibility to flooding as determined from available flood maps, soil characteristics, and other natural features which may impose restrictions on the development of the site;
- G. Distance to airports in Elkin and Mount Airy.

Section 2.2 Detailed Development Plan

The application shall contain a detailed development plan showing the following information on a sheet or sheet not less than 18"x 24" drawn at a scale of sufficient size to accurately and clearly show all required information including additional information as required with the Area Map. The Detailed Development Plan shall be recorded, with, or part of, the boundary survey in the Office of Register of Deeds. Approved Detailed Development Plans shall be recorded before issuance of a Zoning Permit. The Detailed Development Plan shall include:

- A. Name and address of owner and surveyor, engineer, and land planner;
- B. Scaled vicinity map inset showing the location of the tower in relationship to near by towns, communities, and roads;
- C. Boundaries of tract to be developed shown with bearings and distances as established by the boundary survey;
- D. Site Data Table, including total square footage of lease or purchase site, impervious surfaces calculations, and total acreage;
- E. Proposed rights of ways or easements, location, widths, and purposes;
- F. Proposed setback lines from property boundaries;
- G. Title, date, north arrow, and graphic scale;
- H. Watershed designation, if applicable;
- I. A letter from the N.C. Division of Highway Engineers indicating that his office has reviewed the area map and site plan and specifying any problems such as highway access or right-of-way encroachments, which need to be resolved prior to approval of the application;
- J. A letter stating approval of a Sedimentation and Erosion Control Plan from NCDENR;
- K. Identification of the intended wireless user(s) of the tower. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated;
- L. Documentation provided by a registered engineer that the tower that the tower has sufficient structural integrity to accommodate more than one user;
- M. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant;
- N. Proof of ownership of the proposed site or authorization to utilize it;
- O. Landscape and lighting plan;
- P. FAA certification that the tower is not a hazard to air navigation.

Section 2.3 Additional Requirements

The application shall also be accompanied by the following items:

- A. Written indemnity document from the property owner and the applicant; and
- B. Certificate of insurance to the County showing applicant's liability arrangements.

Section 3. Planning Board Action

The applicant shall file fourteen (14) copies of the complete application thirty (30) days before the next regularly scheduled Planning Board meeting. The Zoning Administrator shall set and advertise a date and time for a public hearing before the Planning Board. Notice of

such hearing shall be published in a newspaper of general local circulation at least fifteen (15) days before the date set for the public hearing. At the public hearing all interested parties shall be permitted to testify in sworn testimony. Prior to the hearing all adjacent property owners shall be mailed a notice of the hearing, via certified mail. The person mailing notices shall certify that such notices have been mailed. Cost of postage shall be reimbursed by the applicant through fees set by the Board of County Commissioners. In addition, the property for which the wireless communication tower is proposed shall be posted at least one (1) week before the public hearing.

The Planning Board shall consider the application and comments at the public hearing and may grant or deny the Conditional Use Permit. If the Conditional Use Permit is granted, the Planning Board shall use as a guide, the specific conditions outlined in this Article for each use proposed. In addition, the Planning Board shall find:

- A. That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- B. That the use meets all required conditions and specifications;
- C. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- D. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Surry County Land Use Plan.

In granting the Conditional Use Permit the Planning Board may designate only those conditions, in addition to those stated herein, which, in its opinion, assure that the use and its proposed location will be harmonious with the area and with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the Conditional Use Permit is granted, on the Conditional Use Permit itself, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applications for the Conditional Use Permit, their heirs, successors, and assigns.

Section 4. Denial and Appeal

If the Planning Board denies the Conditional Use Permit for a Wireless Communication Tower, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken from the action of the Planning Board in granting or denying a Conditional Use Permit for the Wireless Communication Tower except through the Surry County Superior Court within thirty (30) days of the decision or forever be barred.

Section 5. Compliance with District Regulations

In addition to the conditions specifically imposed in this paragraph and such further conditions as the Planning Board may deem reasonable and appropriate, Wireless Communication Towers shall comply with all other regulations for the zoning district in which they are located unless the provisions for the conditional use provide to the contrary.

Section 6. Failure to Comply with Plans/Notifications of Adjacent Property Owners

In the event of failure to comply with the plans approved by the Planning Board, or with any other conditions imposed upon the Conditional Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificates of Occupancy under this Conditional Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance. In such cases, owners of adjoining property shall be notified that the Conditional Use Permit is no longer in effect.

Section 7. Development Standards

Towers and associated equipment shall be subject to the following development standards:

- A. Towers shall not interfere with normal radio and television reception in the vicinity. Commercial messages or signage shall not be displayed on any tower. Violations shall be corrected under the enforcement provisions of this Ordinance.
- B. All towers regardless of height must be registered with the FAA to ensure that such towers are appropriately constructed, marked, painted, and lighted so that they do not create a hazard to air navigation. Lighting shall meet the Federal Aviation Administration (FAA) minimum lighting requirements. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
- C. Towers shall be constructed and maintained in conformance with all applicable building code requirements.
- D. In order to protect the public from unnecessary exposure to radio frequency emissions, the tower owner shall provide accurate documentation certifying that the power output levels do not exceed FCC federally approved levels.
- E. Towers may be constructed to a height of 199 feet. If the Board of Adjustment grants a variance, it shall not permit a tower to exceed a height of 300 feet.
- F. All towers shall be self-supporting, of either monopole or lattice construction.
- G. No new tower shall be located within two (2) miles of an existing tower. The Planning Board may allow a tower to be placed within two (2) miles of an existing tower upon being presented written documentation that supports one of the following: (1) appropriate space on the tower is not available; or (2) the new

sponsor has made good faith efforts to negotiate an agreement with the owner of the current tower and submit documents outlining those negotiations; or (3) equipment currently on the tower is not compatible with the proposed equipment; or (4) the coverage objective cannot be met at that location with the provisions set forth herein.

- H. All new towers shall be engineered and constructed in such a manner as to be able to accommodate at least two (2) or more antennas so that future co-location may be possible. In addition, reasonable accommodation for public service uses such as, but not limited to, local or state government wireless communications systems, is suggested.
- I. No outdoor storage yards shall be permitted on tower sites.
- J. Towers must comply with the requirements of the National Environmental Policy Act (NEPA) which addresses such things as wilderness areas, wildfire preserves, endangered species, historical sites, Indian religious sites, floodplain, wetlands, high intensity white lights in residential neighborhoods, and excess radio frequency emissions. Prior to final application, the applicant shall be required to submit documentation that all of the requirements of the NEPA have been met.
- K. Towers must meet the ANSI/EIA/TIA-222.E standards and the North Carolina Department of Insurance, Building Code Standards.
- L. Towers, with the exception of stealth towers, are prohibited within a radius of three (3) nautical miles around conservation areas, designated as Pilot Mountain State Park, Cumberland Knob State Park/Blue Ridge Parkway National Park, and the Raven Knob Scout Reservation. Towers, with the exception of stealth towers, are also prohibited within the entire viewshed of Pilot Mountain along United States Highway 52. Stealth towers shall only exceed 20% above the treeline or vegetative cover in the area of the towers proposed location. In addition, the communications tower provider will be required to present, to scale, a 360-degree visual analysis or simulation, graphic illustrations, and elevation analysis to establish what the tower will look like in its surroundings to determine potential visual impact. To ensure compliance, all proposed sites will be inspected on-site by the planning staff, to verify compliance with this requirement. This general requirement is not subject to a variance request, with the exception of EMS, sheriff's department, or fire department requirements and/or needs in these areas. The communication provider shall not use EMS, sheriff's department, or fire department's potential co-location as reasoning for a variance from this general requirement.

Section 8. Dimensional Requirements

Towers shall conform to the following dimensional requirements:

- A. Towers shall be setback 2.5 times the height of the tower from any residential or non-residential structure on the same parcel or on parcels in the vicinity of the tower site.

- B. Towers shall be setback the height of the tower from all property lines.

Section 9. Buffers

To prevent a clear view of the base of the tower, the setback area shall contain an established-forested area with a depth of at least 100 feet. When the 100 foot forested area requirement cannot be met because of the lack of the sufficient natural vegetation, a planted buffer shall be planted as required below:

- A. The base of the tower, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. The developer shall: a) provide the landscape buffer around the tower base, or b) provide a buffer around the perimeter of the entire site.
- B. For safety purposes all towers shall be screened in the form of a wall or fence, such wall or fence shall be opaque and shall be composed materials such as wood, brick, or metal with a height of no less than eight (8) feet.
- C. The planting shall consist of deciduous or evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with a maximum spacing of 25 feet on centers. The minimum height at planting for trees shall be six (6) feet, and they shall have an expected minimum maturity height of 35 feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight (8) feet on centers. Shrubs shall be a minimum of two (2) feet in height at planting and shall have a minimum expected maturity height of eight (8) feet under normal growing conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement. The tower owner is responsible for maintaining the buffer at all times.

Section 10. Road Requirements

Access to the tower site shall be provided by a deeded easement of no less than thirty (30) feet in width. The road base shall be no less than eight (8) feet in width with a three (3) inch gravel base. Unless the easement is a common use easement it shall be gated for security purposes. Each site shall have two (2) signs composed of night reflective material, 2'x 2', which state the name of the owner and an emergency contact number. Each sign shall be located in a conspicuous place.

Section 11. Co-location

To further encourage co-location, additional users and associated equipment, which do not add to the tower height, may be added without additional approval from the respective County Boards. However, additional building code regulations may apply, and a site plan in accordance with this Article, must be submitted to the Zoning Administrator. The Zoning Administrator shall review and approve or disapprove the application based on the provisions provided herein.

Section 12. Removal of Towers

Towers which are not used for transmission or relay for a period of six (6) months or more shall be removed by the owner within one hundred eighty (180) days after receiving notice from the County to remove said tower. The tower users shall notify the Zoning Administrator within thirty (30) days after discontinuing the tower use, and submit its removal plans. To assure the removal of towers which do not meet the requirements of use or maintenance, this section serves as notice that the County may remove said tower and may file a lien collectable as taxes against the property, pursuant to G.S. 153A-123.

Section 13. Modification of Plans

Where plans are required to be submitted and approved as part of the application for a Conditional Use Permit, modifications of the original plans may be authorized by the Planning Board.

Section 14. Low Coverage Stealth Wireless Systems *(Amendment #20, 05/17/04)*

This provision is designed to assist the development of wireless coverage in rural areas that will not benefit from the construction of a wireless communication tower. Wireless communication antennae and supporting equipment that are developed in a small-scale, stealth manner to be located on existing structures (i.e. utility poles or rooftops) that were constructed for purposes other than supporting wireless communication equipment, shall be permitted administratively. Application should be made to the Zoning Administrator meeting the following requirements:

- A. Maximum height of the wireless antennae shall be determined by the height of the existing structure, not to exceed 100 feet above ground level. The existing structure shall only be replaced if the structural integrity will not support the proposed wireless system. The height of the new structure shall not exceed the height of the existing structure. If the wireless antenna is placed on a rooftop, the height of the antennae shall not exceed six (6) feet above the rooftop.
- B. Minimum distance between two structures with antennas shall be 2,000 feet;
- C. Antennae size shall be no greater than six (6) square feet; no more than 3 antennae per structure;

- D. Equipment cabinet/shelter shall be no larger than 12 square feet and shall be guarded from tampering by the public;
- E. Application shall comply with Article 10, Section 2, and Section 7, A-D only, as well as other sections of this Ordinance as the Zoning Administrator deems necessary. However, the following sections in Article 10 shall not apply to this Section: Sections 3, 4, 5, 6, 8, 9, 10, and 11.

Section 108 Wireless Communication Towers

(ARTICLE 10. WIRELESS COMMUNICATION TOWERS of the Surry County Zoning Ordinance0
(Amendment #2, 03/17/03)

Section 1. Purpose

The purpose of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed wireless communication towers. This Article is intended to protect property values, create a more attractive economic and business climate, and to enhance and protect the scenic and natural beauty of designated areas.

Section 2. Development Application

Before developing a tower, the tower owner must apply and receive a **Conditional Use Permit**, unless otherwise stated in this Article. The tower owner shall prepare an application for review by the Planning Board and other applicable government agencies.

Section 2.1 Area Map

The application shall contain an area map prepared by a Registered Land Surveyor on a full sheet or full sheets of the Surry County Tax Maps showing property to be developed. The area map shall show the following:

- H. The boundary of the property to be developed;
- I. The names and addresses of adjoining property owners;
- J. The location of existing streets, buildings, railroads, transmission lines, sewers, bridges, culverts, drainpipes, and easements, to the extent that these may be ascertained from a field inspection by the County;
- K. Municipal boundaries and extraterritorial jurisdictions, township lines, zoning district classifications;
- L. Name of the applicable fire district;
- M. Topography, proximity to streams, susceptibility to flooding as determined from available flood maps, soil characteristics, and other natural features which may impose restrictions on the development of the site;
- N. Distance to airports in Elkin and Mount Airy.

Section 2.2 Detailed Development Plan

The application shall contain a detailed development plan showing the following information on a sheet or sheet not less than 18"x 24" drawn at a scale of sufficient size to accurately and clearly show all required information including additional information as required with the Area Map. The Detailed Development Plan shall be recorded, with, or part of, the boundary survey in the Office of Register of Deeds. Approved Detailed Development Plans shall be recorded before issuance of a Zoning Permit. The Detailed Development Plan shall include:

- Q. Name and address of owner and surveyor, engineer, and land planner;
- R. Scaled vicinity map inset showing the location of the tower in relationship to near by towns, communities, and roads;
- S. Boundaries of tract to be developed shown with bearings and distances as established by the boundary survey;
- T. Site Data Table, including total square footage of lease or purchase site, impervious surfaces calculations, and total acreage;
- U. Proposed rights of ways or easements, location, widths, and purposes;
- V. Proposed setback lines from property boundaries;
- W. Title, date, north arrow, and graphic scale;
- X. Watershed designation, if applicable;
- Y. A letter from the N.C. Division of Highway Engineers indicating that his office has reviewed the area map and site plan and specifying any problems such as highway access or right-of-way encroachments, which need to be resolved prior to approval of the application;
- Z. A letter stating approval of a Sedimentation and Erosion Control Plan from NCDENR;
- AA. Identification of the intended wireless user(s) of the tower. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated;
- BB. Documentation provided by a registered engineer that the tower that the tower has sufficient structural integrity to accommodate more than one user;
- CC. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant;
- DD. Proof of ownership of the proposed site or authorization to utilize it;
- EE. Landscape and lighting plan;
- FF. FAA certification that the tower is not a hazard to air navigation.

Section 2.3 Additional Requirements

The application shall also be accompanied by the following items:

- C. Written indemnity document from the property owner and the applicant; and
- D. Certificate of insurance to the County showing applicant's liability arrangements.

Section 3. Planning Board Action

The applicant shall file fourteen (14) copies of the complete application thirty (30) days before the next regularly scheduled Planning Board meeting. The Zoning Administrator shall set and advertise a date and time for a public hearing before the Planning Board. Notice of

such hearing shall be published in a newspaper of general local circulation at least fifteen (15) days before the date set for the public hearing. At the public hearing all interested parties shall be permitted to testify in sworn testimony. Prior to the hearing all adjacent property owners shall be mailed a notice of the hearing, via certified mail. The person mailing notices shall certify that such notices have been mailed. Cost of postage shall be reimbursed by the applicant through fees set by the Board of County Commissioners. In addition, the property for which the wireless communication tower is proposed shall be posted at least one (1) week before the public hearing.

The Planning Board shall consider the application and comments at the public hearing and may grant or deny the Conditional Use Permit. If the Conditional Use Permit is granted, the Planning Board shall use as a guide, the specific conditions outlined in this Article for each use proposed. In addition, the Planning Board shall find:

- E. That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- F. That the use meets all required conditions and specifications;
- G. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- H. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Surry County Land Use Plan.

In granting the Conditional Use Permit the Planning Board may designate only those conditions, in addition to those stated herein, which, in its opinion, assure that the use and its proposed location will be harmonious with the area and with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the Conditional Use Permit is granted, on the Conditional Use Permit itself, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applications for the Conditional Use Permit, their heirs, successors, and assigns.

Section 4. Denial and Appeal

If the Planning Board denies the Conditional Use Permit for a Wireless Communication Tower, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

No appeal may be taken from the action of the Planning Board in granting or denying a Conditional Use Permit for the Wireless Communication Tower except through the Surry County Superior Court within thirty (30) days of the decision or forever be barred.

Section 5. Compliance with District Regulations

In addition to the conditions specifically imposed in this paragraph and such further conditions as the Planning Board may deem reasonable and appropriate, Wireless Communication Towers shall comply with all other regulations for the zoning district in which they are located unless the provisions for the conditional use provide to the contrary.

Section 6. Failure to Comply with Plans/Notifications of Adjacent Property Owners

In the event of failure to comply with the plans approved by the Planning Board, or with any other conditions imposed upon the Conditional Use Permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or Certificates of Occupancy under this Conditional Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance. In such cases, owners of adjoining property shall be notified that the Conditional Use Permit is no longer in effect.

Section 7. Development Standards

Towers and associated equipment shall be subject to the following development standards:

- M. Towers shall not interfere with normal radio and television reception in the vicinity. Commercial messages or signage shall not be displayed on any tower. Violations shall be corrected under the enforcement provisions of this Ordinance.
- N. All towers regardless of height must be registered with the FAA to ensure that such towers are appropriately constructed, marked, painted, and lighted so that they do not create a hazard to air navigation. Lighting shall meet the Federal Aviation Administration (FAA) minimum lighting requirements. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
- O. Towers shall be constructed and maintained in conformance with all applicable building code requirements.
- P. In order to protect the public from unnecessary exposure to radio frequency emissions, the tower owner shall provide accurate documentation certifying that the power output levels do not exceed FCC federally approved levels.
- Q. Towers may be constructed to a height of 199 feet. If the Board of Adjustment grants a variance, it shall not permit a tower to exceed a height of 300 feet.
- R. All towers shall be self-supporting, of either monopole or lattice construction.
- S. No new tower shall be located within two (2) miles of an existing tower. The Planning Board may allow a tower to be placed within two (2) miles of an existing tower upon being presented written documentation that supports one of the following: (1) appropriate space on the tower is not available; or (2) the new

sponsor has made good faith efforts to negotiate an agreement with the owner of the current tower and submit documents outlining those negotiations; or (3) equipment currently on the tower is not compatible with the proposed equipment; or (4) the coverage objective cannot be met at that location with the provisions set forth herein.

- T. All new towers shall be engineered and constructed in such a manner as to be able to accommodate at least two (2) or more antennas so that future co-location may be possible. In addition, reasonable accommodation for public service uses such as, but not limited to, local or state government wireless communications systems, is suggested.
- U. No outdoor storage yards shall be permitted on tower sites.
- V. Towers must comply with the requirements of the National Environmental Policy Act (NEPA) which addresses such things as wilderness areas, wildfire preserves, endangered species, historical sites, Indian religious sites, floodplain, wetlands, high intensity white lights in residential neighborhoods, and excess radio frequency emissions. Prior to final application, the applicant shall be required to submit documentation that all of the requirements of the NEPA have been met.
- W. Towers must meet the ANSI/EIA/TIA-222.E standards and the North Carolina Department of Insurance, Building Code Standards.
- X. Towers, with the exception of stealth towers, are prohibited within a radius of three (3) nautical miles around conservation areas, designated as Pilot Mountain State Park, Cumberland Knob State Park/Blue Ridge Parkway National Park, and the Raven Knob Scout Reservation. Towers, with the exception of stealth towers, are also prohibited within the entire viewshed of Pilot Mountain along United States Highway 52. Stealth towers shall only exceed 20% above the treeline or vegetative cover in the area of the towers proposed location. In addition, the communications tower provider will be required to present, to scale, a 360-degree visual analysis or simulation, graphic illustrations, and elevation analysis to establish what the tower will look like in its surroundings to determine potential visual impact. To ensure compliance, all proposed sites will be inspected on-site by the planning staff, to verify compliance with this requirement. This general requirement is not subject to a variance request, with the exception of EMS, sheriff's department, or fire department requirements and/or needs in these areas. The communication provider shall not use EMS, sheriff's department, or fire department's potential co-location as reasoning for a variance from this general requirement.

Section 8. Dimensional Requirements

Towers shall conform to the following dimensional requirements:

- C. Towers shall be setback 2.5 times the height of the tower from any residential or non-residential structure on the same parcel or on parcels in the vicinity of the tower site.

- D. Towers shall be setback the height of the tower from all property lines.

Section 9. Buffers

To prevent a clear view of the base of the tower, the setback area shall contain an established-forested area with a depth of at least 100 feet. When the 100 foot forested area requirement cannot be met because of the lack of the sufficient natural vegetation, a planted buffer shall be planted as required below:

- D. The base of the tower, and any associated structures, walls, or fences shall be surrounded by a landscaped buffer. The developer shall: a) provide the landscape buffer around the tower base, or b) provide a buffer around the perimeter of the entire site.
- E. For safety purposes all towers shall be screened in the form of a wall or fence, such wall or fence shall be opaque and shall be composed materials such as wood, brick, or metal with a height of no less than eight (8) feet.
- F. The planting shall consist of deciduous or evergreen trees and evergreen shrubs. Trees shall be planted along the full length of the buffer strip in a triangular pattern with a maximum spacing of 25 feet on centers. The minimum height at planting for trees shall be six (6) feet, and they shall have an expected minimum maturity height of 35 feet under normal growing conditions. There shall also be one row of dense shrubs, spaced not more than eight (8) feet on centers. Shrubs shall be a minimum of two (2) feet in height at planting and shall have a minimum expected maturity height of eight (8) feet under normal growing conditions. It is the intent of this section to encourage the use of existing vegetation in whole or in part to substantially meet this requirement. The tower owner is responsible for maintaining the buffer at all times.

Section 10. Road Requirements

Access to the tower site shall be provided by a deeded easement of no less than thirty (30) feet in width. The road base shall be no less than eight (8) feet in width with a three (3) inch gravel base. Unless the easement is a common use easement it shall be gated for security purposes. Each site shall have two (2) signs composed of night reflective material, 2'x 2', which state the name of the owner and an emergency contact number. Each sign shall be located in a conspicuous place.

Section 11. Co-location

To further encourage co-location, additional users and associated equipment, which do not add to the tower height, may be added without additional approval from the respective County Boards. However, additional building code regulations may apply, and a site plan in accordance with this Article, must be submitted to the Zoning Administrator. The Zoning Administrator shall review and approve or disapprove the application based on the provisions provided herein.

Section 12. Removal of Towers

Towers which are not used for transmission or relay for a period of six (6) months or more shall be removed by the owner within one hundred eighty (180) days after receiving notice from the County to remove said tower. The tower users shall notify the Zoning Administrator within thirty (30) days after discontinuing the tower use, and submit its removal plans. To assure the removal of towers which do not meet the requirements of use or maintenance, this section serves as notice that the County may remove said tower and may file a lien collectable as taxes against the property, pursuant to G.S. 153A-123.

Section 13. Modification of Plans

Where plans are required to be submitted and approved as part of the application for a Conditional Use Permit, modifications of the original plans may be authorized by the Planning Board.

Section 14. Low Coverage Stealth Wireless Systems *(Amendment #20, 05/17/04)*

This provision is designed to assist the development of wireless coverage in rural areas that will not benefit from the construction of a wireless communication tower. Wireless communication antennae and supporting equipment that are developed in a small-scale, stealth manner to be located on existing structures (i.e. utility poles or rooftops) that were constructed for purposes other than supporting wireless communication equipment, shall be permitted administratively. Application should be made to the Zoning Administrator meeting the following requirements:

- F. Maximum height of the wireless antennae shall be determined by the height of the existing structure, not to exceed 100 feet above ground level. The existing structure shall only be replaced if the structural integrity will not support the proposed wireless system. The height of the new structure shall not exceed the height of the existing structure. If the wireless antenna is placed on a rooftop, the height of the antennae shall not exceed six (6) feet above the rooftop.
- G. Minimum distance between two structures with antennas shall be 2,000 feet;
- H. Antennae size shall be no greater than six (6) square feet; no more than 3 antennae per structure;

- I. Equipment cabinet/shelter shall be no larger than 12 square feet and shall be guarded from tampering by the public;
- J. Application shall comply with Article 10, Section 2, and Section 7, A-D only, as well as other sections of this Ordinance as the Zoning Administrator deems necessary. However, the following sections in Article 10 shall not apply to this Section: Sections 3, 4, 5, 6, 8, 9, 10, and 11. *Adopted 8/9/04*

Section 109. SOLAR FARMS REGULATED

(A) *Purpose.* The purpose of this section is to allow and encourage solar energy systems in locations where impacts on adjoining properties can be mitigated by buffers and setbacks.

(B) *Definition.* A solar energy system is defined as the components and subsystems required to convert solar energy into electric or thermal energy suitable for public use. For the purposes of this chapter, this term applies only to solar photovoltaic systems, and excludes private solar thermal systems and solar hot water systems. A system fits into one of the two system types: Level 1 SES or Level 2 SES.

- (1) Level 1 Solar Energy Systems includes the following:
 - a. Roof mounted on any code-compliant structure.
 - b. Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but no more than one acre.
 - c. Covering permanent parking lot and other hardscape areas.
 - d. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
- (2) Level 2 Solar Energy Systems are ground-mounted solar collection systems not included in the definition of Level 1 Solar Energy Systems located on sites twelve acres or larger.

(C) *Where Allowed.*

- (1) Level 1 systems shall be allowed in all zoning districts by right.
- (2) Level 2 systems shall be allowed by right in the B-2, M-1, and M-2 zoning districts and as a conditional use in R-20 zoning districts, subject to the development standards in Subsection (D).

(D) *Development Standards.* All Level 2 systems shall meet the following development standards.

- (1) The minimum lot size of the host parcel or parcels shall be twelve acres at the time of application and the maximum lot usage shall be seventy-five percent (75%) of the total acreage of the proposed site.
- (2) The minimum size of the Solar Energy System facility, as measured by the acreage within the boundary fence, shall be 8 acres.
- (3) All solar energy systems shall have a boundary fence that (a) is no less than 6 feet in height; (b) encloses the solar arrays and inverters; and (c) is setback 50 feet from abutting property lines and public rights-of-way. If the facility sits on more than one side of adjoining parcels, then setbacks shall not be required within the facility but measured only from the perimeter boundary fence.
- (4) Solar arrays shall not exceed 18 feet in height.
- (5) All electric components must have a UL listing.
- (6) All solar collection systems shall meet N.C. State Building Code and National Electric Code requirements and shall be inspected by a county.
- (7) If the proposed solar energy system is to be located within one mile of an existing public airport, the FAA shall be properly notified at the time of permit application using FAA Form 7460-1.

(E) *Screening.* All facilities shall be screened by a solid row of evergreen shrubs no less than 6 feet in height at time of planting to shield solar arrays from adjoining properties and public rights-of-way.

Evergreens shall be selected from the planting list in Ordinance Section 78.12. Planted vegetative screening shall be required only if there is not sufficient natural vegetation to provide a reasonable buffer between the Solar Energy System and adjoining uses.

(F) *Lighting.* Night-time security lights or other mounted lighting shall be prohibited.

(G) *Decommissioning.*

(1) The owner of the solar energy system shall be responsible for removing all solar arrays, inverters, equipment, structures, foundations, fencing, and other parts of the system upon the earlier of (a) the end of the lease term, or (b) the passing of 6 months after the system has ceased generating energy.

(2) The property shall be restored to its condition prior to the installation of the solar energy system within 3 months of the occurrence that triggered the need for decommissioning.

(3) A decommissioning plan shall be filed with the County Manager or his or her designee prior to the issuance of building permits. The plan shall be updated every 5 years and upon the change in ownership of the solar energy system. The plan shall address (a) who is responsible for decommissioning; (b) whether the solar energy system owner is lessee or fee owner of the property; and (c) demonstrate that the net value of recyclable materials is greater than the cost of decommissioning. If the cost of decommissioning is higher than the net value of recyclable materials, then the solar energy system owner shall be required to provide a bond or other form of surety equal to the cost of decommissioning not covered by net value of recyclable materials.

Section 2.

Article VIII, Section 82.3, is hereby amended to add Solar Energy Systems to the list of conditional uses approved by the Board of Commissioners.

Section 3.

Article VIII, Section 85.1 is hereby amended to add Solar Energy Systems as an allowed principal use.

Section 4.

Article VIII, Section 87.1 is hereby amended to add Solar Energy Systems as an allowed principal use.

Section 5.

Article VIII, Section 88.1 is hereby amended to add Solar Energy Systems as an allowed principal use.

ARTICLE XI

CONDITIONAL USES

Section 110. _____ PURPOSES

The development and execution of this ordinance is based upon the division of the planning area into districts where the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use in the particular location.

Section 111. JURISDICTION

The responsibility of evaluating conditional uses may be handled by the Governing Body or the Board of Adjustment or both bodies may share the responsibility. Conditional uses that involve broad policy considerations affecting the entire community may be handled by the governing body. Uses involving only local impact may be handled by the Board of Adjustment. Specific responsibility shall be indicated under each use district.

Section 112. PROCEDURE FOR OBTAINING A CONDITIONAL USE APPROVAL

- 112.1 Initiation of Conditional Use. Any person having freehold interest in land, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest or an exclusive possessory interest, and which is specifically enforceable, may file an application to use such land for one or more of the conditional uses provided in this ordinance in the district where the land is located.
- 112.2 Application for Conditional Use. Applications for Conditional Use approval shall be addressed to the responsible body (either the Governing Body or the Board of Adjustment) and presented to the Zoning Officer. A fee of \$150.00 shall be paid to the local government for each application to cover the cost of administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information to completely describe the proposed use and existing conditions. Copies of the application are forwarded to the Elkin Planning Board for review and to the responsible body (either the Governing Body or the Board of Adjustment) for action.
- 112.3 Public Hearing. The Zoning Enforcement Officer shall schedule a public hearing on the application for a conditional use to be held within sixty (60) days after the application is filed. Public notice of the hearing shall be published in a newspaper of general circulation in the community at least once each week for two successive weeks prior to the public hearing. The Zoning Enforcement Officer shall also post notice on the property involved for a period of two weeks prior to the hearing.
- 112.4 Action by the Planning Board. The Planning Board shall review the application prior to the public hearing and shall present its recommendations to the responsible body prior to or at the public hearing. The Planning Board may revise its recommendations following the public hearing and present such recommendations to the responsible body before final action is taken.
- 112.5 Action by the Responsible Body. (Either Governing Body or Board of Adjustment). Following quasi-judicial procedures the responsible body shall approve, modify, or deny the application for conditional use following the public hearing.

No vote greater than a majority vote shall be required for the town council to issue Conditional Use permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority. §160A-381 Amended 2/13/06

In granting a conditional use the responsible body shall insure:

- a. The request is listed among the conditional uses in the district for which application is made
- b. The requested use is essential or desirable to the public convenience or welfare;
- c. The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals or welfare;
- d. Due consideration has been given to the suitability of the property for the use applied for with respect to trends of growth or change; the effect of the proposed use upon the community; requirements for transportation, schools, parks, playgrounds, recreational areas, conservation of natural resources, preservation of floodplains, and encouraging the most appropriate use of the land;
- e. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided;
- f. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

Additional finding required for multi-family developments in any district.

- g. The viability and character of the surrounding neighborhoods will not be adversely affected.
- h. The proposed use will serve the Town's long-term best interests and shall substantially add to the equality and diversity of the Town's housing stock.
- i. The streets and driveways as proposed provide adequate circulation for on-site and off-site vehicular movement.
- j. The existing and/or proposed public infrastructure, including but not limited to streets, water and sewer, is adequate to serve the site.

Section 113. CONDITIONS AND GUARANTEES

Prior to the granting of any conditional use, the Planning Board may recommend, and the responsible body (either the Governing Body or the Board of Adjustment) may stipulate, such conditions and restrictions upon the establishment, location, reconstruction, maintenance, and operation of the conditional use as it deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in Subsection 112.5 above. In all cases in which conditional uses are granted, the responsible body shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated are being met. Conditions may include but not be limited to the following:

- 113.1 Conditions may be imposed to abate or restrict noise, smoke, dust, or other elements that may affect surrounding properties;
- 113.2 Establish setback, side front, and rear yard requirements necessary for orderly expansion and to prevent traffic congestion.
- 113.3 Provide adjoining property with a buffer or shield from view of the proposed use if necessary;
- 113.4 Establish time limit at expiration of which the permit or approval shall no longer be valid, or shall require renewal.

Section 114. GENERAL PROVISIONS IN GRANTING CONDITIONAL USE

- 114.1 Compliance with Other Codes. Granting a conditional use does not exempt applicant from complying with all of the requirements of other ordinances.
- 114.2 Revocation. In any case where the conditions of a conditional use have not been met or are not being met, the enforcement officer shall give the grantee notice of intention to revoke approval. Said notice shall be at least ten (10) days prior to action by the responsible body considering conditional uses.
- 114.3 Expiration. In any case where a conditional use has not been exercised within the time limit set by the responsible body, or within one (1) year if no specific time limit has been set, then without further action, the approval shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are constructed in a substantial stage of development, or completed (sewerage, drainage, etc.). When construction is not part of the use, "exercised" shall mean that the use in operation is in compliance with the conditions which are set forth in the approval.

115. WINERY

Zoning District –R-20

Site Standards:

1. Facility must be operated in association with an existing vineyard (bona fide farm) located on the same property, or multiple adjoining properties in the same ownership.
2. Facility must be located in such a manner that visual impact to adjoining properties used or zoned for residential or agricultural purposes is minimal.
3. All structures, buildings storage areas, etc. (except fences or walls associated with the winery ;must be set back a minimum of seventy-five (75) feet from all property lines or street right-of-way. The Board of Adjustment may require greater setbacks on a case-by-case basis for large-scale wineries.
4. Gift shops, wine tasting/sampling, and other related activities are permitted within or in conjunction with the Winery itself.

Lighting: Outdoor lights shall be so designed as to minimize light from directly hitting adjacent property or any public right-of-way.

Screening and Fencing: All parking and storage areas, as well as the winery itself, shall be screened from adjoining properties used or zoned for residential or agricultural purposes. If existing topography and natural vegetation does not provide an existing visual barrier, selective screening may be required. Section 78 Landscaping, Buffers and Screening.

Additional Requirement:

1. Associated small-scale processing or catering facilities (i.e. cheese making, restaurant) that are incidental to the winery, but may enhance the overall property in relation to tourism, may be permitted on a case-by-case basis. Associated uses are subject to the above requirements as well.

ARTICLE XII

GROUP DEVELOPMENTS

Section 120. PROCEDURE

Two (2) or more buildings to be constructed on a plot of ground not subdivided into the customary blocks and which will not be subdivided are group developments. When allowed, either as a permitted use or a conditional use, a site plan as specified in Section 121 shall accompany the request. Additionally, all group development shall comply with the appropriate development standards specified in Sections 122 through 125. When a group development is a permitted use it shall be reviewed by the Zoning Enforcement Officer for compliance. When a group development is a conditional use it shall comply with all requirements specified in Article XI.

Section 121. DEVELOPMENT PLAN

A development plan shall be submitted with the application. The site plan shall show the following information:

- a. Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays and angle parking;
- b. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- c. Location and dimensions of vehicular entrances, exits, and drives;
- d. General drainage systems;
- e. Location and materials of walls and fences;
- f. Ground cover, topography, slopes, banks and ditches;
- g. The location and general exterior dimensions of main and accessory buildings;
- h. Architectural plans for proposed buildings;
- i. The location, dimensions, and arrangements of areas to be devoted to planting, lawns, trees and other plants;
- j. The plans for proposed sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service.
- k. An analysis of anticipated traffic volume;
- l. Sediment control plan;
- m. Evidence that the North Carolina Department of Transportation has been made aware of the proposed development and that the developer will coordinate for the development with this agency;
- n. Plans for refuse disposal equipment and method of refuse disposal such as compactors, or dumpsters;
- o. Delineation of areas to constructed in phases and sequential order.

Section 122. SHOPPING CENTERS

122.1 Site Area. No shopping center site shall contain less than two (2) acres.

- 122.2 Perimeter Yards. No building shall be less than thirty-five (35) feet from any street line or twenty-five (25) feet from any side or rear lot lines. Where a site is bordered by three or more street, only the primary arterial road may be required to meet the 35-foot perimeter yard requirement. The planning Board in their review process, will make the final determination based on street width, traffic counts and topography. Amended 4/10/06
- 122.3 Buffering. A buffer approved by the Planning Board shall be provided on all exterior property lines which abut residential property.
- 122.4 Solid Waste Disposal. A plan for solid waste storage, collection and disposal shall be submitted to the town clerk and approval obtained prior to issuance of a conditional use permit.
- 122.5 Utilities. Shopping centers should be located where public water, sanitary sewer, and storm drainage utilities are available.
- 122.6 Lot Coverage. The total ground area covered by the principal buildings and all accessory buildings including any roofed area shall not exceed thirty (30) percent of the total site.

Section 123. MULTI-FAMILY DEVELOPMENTS

- 123.1 Open Space. A minimum of fifteen (15) percent of the gross acreage shall be reserved as open space.
- 123.2 Recreation Space. Family oriented multi-family projects shall have: one (1) tot lot consisting of a minimum of 50' x 50' defined area containing pre-school child-oriented play items for each fifty (50) units or less.
- 123.4 Parking. Automobile parking spaces and drives shall not be located closer than twenty (20) feet to the front or ten (10) feet to the side or rear of any building.
- 123.5 Building Relationships. (1) Building walls that have both window and door openings shall be located no closer than fifty (50) feet to another building. (2) Building walls that have only window opening or only door openings shall be located no closer than twenty-five (25) feet to another building.
- 123.6 Court Yard. Any group of buildings forming a court yard shall have at least twenty-five (25) percent of the perimeter of such a court yard open for access by emergency vehicles.
- 123.7 Landscaping. Adequate landscaping (as determined by the Planning Board) may be included to buffer the development from its neighbors.
- 123.8 Perimeter Requirement. No building shall be erected, reconstructed, altered or moved neared the exterior project property lines twenty-five (25) feet or the applicable district yard requirements whichever is greater. Yard space for one (1) building shall not overlap yard space for another building.
- 123.9 Solid Waste Disposal. A plan for solid waste storage collection and disposal shall be approved by the town clerk.

Section 124. PLANNED UNIT DEVELOPMENT (PUD)

- 124.1 Definition. When a tract of land is under unified control and contains at least five (5) acres with an allowable deviation of ten percent (10%), the developer may be allowed to deviate from the strict application of use, setback, height and minimum lot size requirements of zoning districts in order to permit a creative approach to the development of residential land. In exchange for the flexibility, the developer must have a site plan approved by the planning Board and comply with the other requirements of a conditional use. This approach is a voluntary alternative, it is not mandatory for the development of any parcel of land.
- 124.2 Location. Planned Unit Developments are conditional uses in any residential zone.
- 124.3 Permitted Uses. All the permitted and conditional uses in the zoning district where the PUD is located are allowed. In addition, two-family and multi-family residential uses may be permitted. Commercial and office space will be permitted if they are primarily for the convenience and service of the residents of the development and represent no more than ten (10) percent of the total development.
- 124.4 Dimensional Requirements. Yard, setback, lot size, type of dwelling unit, frontage requirements are waived, provided that the spirit and intent of this subsection are met in the total development plan. The Planning Board may determine that certain setbacks be required within all or a portion of the perimeter of the site.
- 124.5 Density. Density (dwelling units per acre) may be increased, if normally required by district, over the character of the development and/or amenities incorporated in the development warrant such increases, provided that in no case shall the density increase cause the density of the Planned Unit Development to be more than six units per acre. If the Planning Board finds that any of the following conditions would be created by an increase in density, it may either deny any application for increase in density, or limit the increase by an amount sufficient to avoid the creation of any of the following conditions:
- a. inconvenient or unsafe access to the development; traffic congestion in streets adjoining the development;
 - b. an excessive burden imposed on parks, recreational area, schools and other public facilities which serve or are proposed to serve the development.
- 124.6 Conveyance and Maintenance of Common Open Space. All common open space, shown on the final development plan and recorded in the office of the Clerk of the Town Board of Commissioners must be conveyed in accordance with one of the following methods:
- a. by dedication to the Town of Elkin and maintained as common open space;
 - b. by leasing or conveying title (including beneficial ownership) to a corporation, association or other legal entity.
- The developer must file in the County Register of Deed's Office legal documents which prove a method for restricting the use of common open space for the designated purposes.
- 124.7 Circulation Facilities. The arrangement of public and common ways for pedestrians and vehicular circulation in relation to other existing or planned streets in the area, together with provisions for street improvements, shall be in compliance with standards set forth in the municipal subdivisions regulations. The Planning Board may deviate from these standards if the proposed changes or alterations are consistent with the spirit and intent of this section.
- 124.8 Utilities. Whenever reasonably possible, all planned residential developments shall provide for underground installation of utilities (except transmission lines and enclosures containing electrical apparatus may be above ground). All installation of utilities and maintenance of utilities shall be in accordance with the requirements and regulations of the governing body. Public or quasi public water and sanitary sewer service shall be required, unless the developer can show good cause that

these requirements should be waived, without being inconsistent with the spirit and intent of this section.

- 124.9 PUD Review. It is the intent of this regulation that review under applicable codes and ordinance be carried out as an integral part of the review of a Planned Unit Development. The plans required under this subsection must be submitted in a form which satisfies requirements of the codes and ordinances for the preliminary and final plat approvals.

Section 125. MOBILE HOME PARKS

- 125.1 Lot Area. The lot area for a mobile home park shall be at least two (2) acres. All areas to be included in a mobile home park shall be clearly shown on the plans required by Subsection 125.9.
- 125.2 Parking Space. Each mobile home in a mobile home park shall occupy a designated space having at least five thousand (5,000) square feet with a width of at least fifty (50) feet, exclusive of common driveways.
- 125.3 Driveway. Each mobile home space shall abut a driveway within the park. Said driveways shall be graded and surfaced with not less than four (4) inches of crushed stone or other suitable material on a well compacted sub-base to a continuous width of twenty-five (25) feet, exclusive of required parking spaces.
- 125.4 Parking Spaces. Two (2) off-driveway parking spaces with not less than four (4) inches of crushed stone or other suitable material on a well compacted sub-base shall be provided for each mobile home space. Required parking spaces may be included with the five thousand (5,000) square feet required for each mobile home space.
- 125.5 Recreation Space. At least two hundred (200) square feet of recreation space for each mobile home space shall be reserved within each mobile home park as common recreation space for the residents of the park. Such areas shall, along with driveways and walkways, be adequately lighted for safety.
- 125.6 Separation. No mobile homes or other structures within a mobile home park shall be closer to each other than twenty (20) feet, except that storage or other auxiliary structures for the exclusive use of the mobile home may be closer to that mobile home than twenty (20) feet.
- 125.7 Exterior Boundary. No mobile home shall be located closer than thirty (30) feet to the exterior boundary of the park or a bounding street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than forty (40) feet to the exterior boundary or the right-of-way of a bounding street.
- 125.8 Utilities. Proposed water supply and waste disposal facilities for the mobile home park shall be approved in writing by the County Health Officer or his representative.
- 125.9 Plans. Plans clearly indicating the developer's intention to comply with the provisions of this section shall be approved before any construction activities begin. Such plans must show the area

to be used for the proposed mobile home park; the ownership and use of neighboring properties; all proposed entrances, exits, driveways, walkways, and off-street parking spaces; the location of mobile home spaces, recreation areas and service buildings; the location of sanitary conveniences including toilets, laundries, and refuse receptacles; the proposed plan of water supply, sewage disposal and electric lighting.

125.10 Expansion. Any expansion of mobile home parks in existence on the effective date of this ordinance shall comply with the provisions of this section.

ARTICLE XIII

ADMINISTRATION AND ENFORCEMENT

Section 130. ZONING ENFORCEMENT OFFICER

The Town Board of Commissioners shall appoint an administrative officer to enforce this ordinance.

If the Zoning Enforcement Officer finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and order the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures or additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take other lawful action to insure compliance with or to prevent violation of this ordinance.

If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

Section 131. ZONING PERMIT REQUIRED

No building, sign or other structures shall be erected, moved, added to, or structurally altered until a zoning permit shall have been issued by the Zoning Enforcement Officer. No zoning permit shall be issued except in conformity with the provisions of this ordinance except after written order from the Board of Commissioners or Board of Adjustment.

Section 132. APPLICATION FOR ZONING PERMIT

All applications for a zoning permit shall be accompanied by two (2) sets of plans showing the dimensions and shape of the parcel to be built upon; the exact sizes, uses and locations on the parcel of buildings already existing, if any, and the location and dimension of the proposed building or alterations. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this ordinance. A fee not to exceed twenty-five dollars (\$25.00) will be determined by the Board of Commissioners for the processing of each such application.

Section 133. CERTIFICATE OF OCCUPANCY REQUIRED

A certificate of occupancy issued by the Zoning Enforcement Officer is required in advance of:

133.1 Occupancy or use of a building hereafter erected, altered or moved.

133.2 Change of Use of Any Building of Land. A certificate of occupancy, either for the whole or a part of a building shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance. If the certificate of occupancy is denied, the Zoning Enforcement Officer shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer.

Section 134. REMEDIES AVAILABLE

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance the Zoning Enforcement Officer or any other appropriate town authority, or any person who would be damaged by such violation, in addition or other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

ARTICLE XIV

BOARD OF ADJUSTMENT

Section 140. CREATION OF BOARD OF ADJUSTMENT

There shall be and is hereby created a Board of Adjustment and a Planning Board, whose members shall be the same for each Board, consisting of seven (7) members. Five (5) members shall be citizens and residents of the Town of Elkin and these five (5) members shall be appointed by the Board of Commissioners of the Town of Elkin and two (2) members, who shall be citizens and residents of Surry County but outside the Town of Elkin and within the extraterritorial area within the zoning Jurisdiction of the Town of Elkin, shall be appointed by the Board of Commissioners of Surry County. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board of Adjustment and/or Planning Board.

Section 141. LENGTH OF TERM

- 141.1 The terms of the office of the members of the Board of Adjustment which is also the Planning Board shall be overlapping terms of three (3) years. Initial appointment of the town and extraterritorial area members shall in each case be as follows: three (3) members for a term of three (3) years and two (2) members for a term of (2) years and two members for a term of One (1) year.
- 141.2 Nothing herein contained shall be so interpreted as to forbid any member from being appointed to succeed himself or herself.
- 141.3 All part of the "Zoning Ordinance of the Town of Elkin, North Carolina", now in effect and all amendments thereto now in effect not herein specifically changed by this ordinance shall remain in full force and effect.
- 141.4 All Ordinances of the Town of Elkin now in effect and amendments thereto now in effect dealing with the Planning Board and not herein specifically changed by this Ordinance shall remain in full force and effect.

143.3 Variances. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardships. The board of adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance. §160A-388(d), 160A-381(fl) 2/13/06

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

143.31 A written application for a variance is submitted demonstrating:

a. that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

b. that a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

c. that said circumstances do not result from the actions of the applicant;

d. that granting the variance requested will not confer upon the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;

e. that no non-conforming use of neighboring land, structures, or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.

143.32 A map or plot shall accompany any written application and shall remain as a permanent part of the variance application. The map or plot shall be drawn to scale and show the following information:

a. size of lot;

b. size and location of the building or buildings on the lot;

c. size and location of any proposed building or additions to an existing building on the lot.

d. location, or proposed location, of any outdoor signs on the lot;

e. location and number of parking spaces, and/or proposed parking spaces on the lot.

143.33 Notice of public hearing shall be given as set forth in Subsection 112.3. At the public hearing which is held, any party may appear in person or by agent or by attorney.

143.34 The Board of Adjustment shall make a finding that the requirements of Subsection 143.31 have been met for a variance.

143.35 The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum one that will make possible the reasonable use of the land, building or structure.

143.35 The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

143.37 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when

made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 142 of this ordinance.

143.39 Any variance granted by the Board of Adjustment shall be null and void if construction is not started within 180 days from the date the variance was granted. This expiration date may be extended by the Board of Adjustment without a formal request.

Section 144. DECISION OF THE BOARD OF ADJUSTMENT

In exercising the abovementioned powers, the Board of Adjustment may reverse or affirm, wholly or in part, or may modify any order, requirement decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

Section 145. DUTIES OF THE ZONING ENFORCEMENT OFFICER, BOARD OF ADJUSTMENT, COURTS AND TOWN BOARD OF COMMISSIONERS ON MATTERS OF APPEAL

It is the intention of this ordinance that all questions arising in connection with the enforcement of this ordinance shall be presented first to the Zoning Enforcement Officer and that such questions shall be presented to the Board of Adjustment only on appeal from the Zoning Enforcement Officer and that from the decision of the Board of Adjustment recourse shall be had to courts as provided by law. It is further the intention of this ordinance that the duties of the Town Board of Commissioners in connection with the ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof. The duties of the Town Board of Commissioners in connection with this ordinance shall be only the duty of considering and passing upon any proposed amendments or repeal of this ordinance.

ARTICLE XV

AMENDMENTS AND CHANGES

Section 150. MOTION TO AMEND

The Town Board of Commissioners may, on its own motion or upon recommendation of the Planning Board, or upon petition by any person within the zoning jurisdiction, after public notice and hearing, amend, or repeal the regulations or the maps which are a part of this ordinance. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may proceed in its consideration of the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board. No regulation or maps shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which all parties in interest and citizens shall have an opportunity to be heard. Whenever there is a map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. A notice of such public hearing shall be given once a week for two (2) successive weeks in a newspaper of general circulation in the town, said notice to be published the first time not less than ten (10) days prior to or more than twenty-five (25) days prior to the date fixed for such public hearing. Additionally, the zoning enforcement officer shall post the property with a sign notifying the public of the hearing, at least two successive weeks prior to the meeting.

The first class mail notice required above shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners and the

town elects to use the expanded published notice provided for in this section. In this instance, a town may elect to either make the mailed notice provided for or may as an alternative elect to publish notice of the hearing as required by G.S. 160-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size and comply with the requirements of published notices described above. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which published the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this section. §160A-384

Upon adoption of this ordinance by the Town Board of Commissioners the zoning ordinance adopted January 6, 1969 and any subsequent amendments are hereby repealed. However, all suits at law or in equity and/or all prosecutions resulting from violations of any zoning ordinance presently in effect, which are now pending in any of the Courts of the United States or of this State shall not be abated or abandoned by reason of the adoption of this ordinance but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any violations of the existing ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted, and nothing in this ordinance shall be construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which heretofore have been instituted or prosecuted. And nothing in this ordinance shall be construed as to abandon, abate, or dismiss any litigation now pending, and /or which heretofore have been instituted or prosecuted.

Section 151. PROTEST AGAINST AMENDMENT

In case of the protest against such proposal, a petition must be signed by the owners of either twenty percent (20%) or more of the area included in the proposed change or five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be zoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the 'owners' potentially qualifying areas. The zoning map amendment shall not become effective except by a favorable vote of three-fourths of all members of the Board of Commissioners. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation of the requisite supermajority. A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed amendment. Only those protest petitions that meet the qualifying standards set forth in §160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement. See §160A-386 for regulations regarding petition; form; requirements; and time for filing.

Section 152. PLANNING BOARD ACTION

Every proposed amendment or repeal to this ordinance shall be referred to the Planning Board for its recommendation and report, provided that no proposal shall be considered by the Planning Board within five days from filing of the proposal with the Zoning Enforcement Officer. *The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.* §160A-387 *Members of appointed boards providing advice to the town council shall not vote on recommendations regarding any zoning map or text*

amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

All petitions for a change in the zoning map shall include a legal description of the property involved and the names and addresses of current abutting property owners, and shall be accompanied by a fee of one hundred twenty five dollars (\$125.00) at the time of filing the application and must thereafter pay the advertising cost to process the application, and that applicants for voluntary annexation of property into the city limits of Elkin must pay to the Town of Elkin the sum of one hundred and fifty dollars (\$150.00) at the time of filing the application, pay the advertising costs, and provide the Town with an accurate survey of the property on paper 8 1/2 x 14 inches.

Section 153. BOARD OF COMMISSIONERS ACTION

No member shall be excused from voting except upon matters involving the consideration of the member's own financial interest or official conduct or on matters on which the member is prohibited from voting. In all cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

A council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review. 2/13/06

ARTICLE XVI

LEGAL PROVISIONS

Section 160. INTERPRETATION, PURPOSE AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this ordinance shall govern, provided that nothing in the ordinance shall be construed to amend or repeal any other existing ordinance of the town, except as provided in this zoning ordinance.

Section 161. VALIDITY

Should any section or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 162. PENALTIES

“General Penalty Continuing Violations. “Unless otherwise provided herein, each violation of this Code shall constitute a misdemeanor, except as otherwise provided by statute, and violations of such provisions of this Code shall be punished by fine or imprisonment as by law provided. Each day any violation of this Code shall continue shall constitute a separate offense, except as may be specifically provided.

Violations of this Code shall constitute either a misdemeanor or, at the election of the Town, shall subject the offender to a civil penalty upon the issuance of a citation for said violation as hereinafter provided. The civil penalty, if not paid to the Town of Elkin within fifteen days of the issuance of a citation, maybe recovered by the Town in a civil action in the nature of debt. Unless otherwise provided by a specific provision of this Code of Ordinances, said civil penalties shall be in the amount of \$100.00 for each violation and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Code or any other ordinance may be enforced by an appropriate equitable remedy issuing from a competent jurisdiction. In such case the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Code or any other Town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws arid rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this code or such ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic’s and material man’s lien The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and, posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant’s full compliance with the terms of the order of abatement within a time fixed by judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith,

The provision of this Code and any other Town ordinances may be enforced by one, all or combination of the remedies authorized and prescribed by this section.

Any ordinances hereafter adopted by the Board of Commissioners of the Town of Elkin, the violation of which shall incur a penalty shall specify whether the enforcement shall be pursuant to the civil penalty and/or criminal penal provisions of this section.

Upon determination of a violation of any section of the Code of Ordinances. The penalty for which is a civil penalty, the enforcement official of the Town of Elkin shall cause a warning citation to be issued to the violator. Such citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated during which the violation must be abated. The warning citation shall, specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.

An appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation to the Board of Adjustment. Except in any case where the ordinance violated, which is the subject of the warning citation, specifically grants to the Board of Adjustment other powers in considering appeals and such appeal is applied for, the Board of Adjustment in considering appeals of warning citations shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of an ordinance or both.

Where the enforcement official of the Town determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or consent agreement, the enforcement official may amend the warning citation to provide for additional time.

Upon failure of the violator to obey the warning citation a civil citation shall be issued by the appropriate official of the Town of Elkin, and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the Town or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear before the Town Manager, of the Town of Elkin, or his designee, within fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid; otherwise thither citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

Within fifteen days from the date the first civil citation is sewed, the Town Manager shall have the authority, upon written request by the violator, to void the civil citation(s) issued to date and relieve the violator of any civil penalties due. The written request shall state the reasons why the violator believes that the civil citation(s) should be voided. Prior to any civil citations being voided, the violation for which the citation(s) were issued must be fully corrected. The Town Manager shall use extreme discretion in voiding civil citations and such action shall be taken only under extraordinary circumstances. Such circumstances may include, but not be limited to, an error by a, official of the Town, civil citations not reaching the violator due to mail delivery difficulties and extreme weather constraints. After fifteen days from the first civil citation being served, the Town Manager may only exercise said authority when correcting an error, an official of the Town. In those circumstances involving an error by an official of the Town, the Town Manager may exercise said authority without a written request by the violator but must consider the recommendation of the official making the error.

If the violator fails to respond to a citation within fifteen days of its issuance, prescribed therein or receive relief from the Town Manager as described above, the Town of Elkin may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.

The existing provisions of the Elkin Code of Ordinances, a violation of which shall subject the offender to civil penalties and/or criminal penal provisions of law are as follows:

- Fire Prevention and Protection
- Garbage and Refuse
- Housing
- Abandoned, nuisance and Junked Motor Vehicles
- Unlawful Conditions on Private Property
- Subdivisions
- Water and Sewers

This ordinance shall take effect and be in force from and after the fifth day of February, 1979.

Duly adopted by the Board of Commissioners of the Town of Elkin, State of North Carolina, this the eighth day of January, 1979.

ATTEST:

Joe C. Layell, Town Clerk

Henry Dillon, Mayor

R. Lewis Alexander, Town Attorney