

**C-UDO-83**  
**AN ORDINANCE AMENDING MULTIPLE SECTIONS  
OF CHAPTERS A, B, AND D OF THE *UNIFIED  
DEVELOPMENT ORDINANCES***

Be it ordained by the Village Council of the Village of Clemmons, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1. Chapter A, Article II,**

Article II - Definitions

**ADMINISTRATIVE DECISION:** Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in the *Unified Development Ordinances*. These are sometimes referred to as administrative determinations.

**ADMINISTRATIVE HEARING:** A proceeding to gather facts needed to make an administrative decision.

**BUILDING.** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any person, process, equipment, or goods. Any structure used or intended for supporting or sheltering any use or occupancy.

**CITY-COUNTY PLANNING BOARD.** See Planning Board.

**DECISION-MAKING BOARD.** The Board of Adjustment, Elected Body, and Historic Resources Commission assigned to make quasi-judicial decisions under *Unified Development Ordinances*.

**DEPARTMENT, DENR.** The North Carolina Department of ~~Environmental~~ (DENR).  
**(EROSION CONTROL)**

**DEPARTMENT, DEQ.** The North Carolina Department of Environmental Quality (DEQ).  
**(EROSION CONTROL)**

**DEVELOPER.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**DEVELOPMENT.** Any of the following:

- (A) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(B) The excavation, grading, filling, clearing or alteration of land.

(C) The subdivision of land as defined in G.S. 160D-802

(D) The initiation or substantial change in the use of land or the intensity of use of land

**DEVELOPMENT APPROVAL.** An administrative or quasi-judicial approval made pursuant to the *Unified Development Ordinances* that is written and that is required prior to commencing development or undertaking specific activity, project or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, variances and certificate of appropriateness. The term also includes all other regulatory approvals, permits issued, development agreements entered into, and building permits issued. The term shall not include site-specific vesting plan per Section B.1-5.2(B)(1), multiphase development per Section B.1-5.2(E)(4), and development agreements per Section B.1-5.2(E)(5). See B-1.5.2 Vested Rights.

**DEVELOPMENT REGULATION.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to Chapter 160D of general statute, or a local act or charter that regulates land use or development.

**DIRECTOR OF PLANNING.** The Director of the ~~City County Planning Board of Forsyth County~~ Village of Clemmons Planning and Community Development Department or said Director's designee.

**DOWN-ZONING.** A zoning ordinance that affects an area of land in one of the following ways:

(1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(2) By reducing the permitted uses of the land that are specified in the *Unified Development Ordinances* to fewer uses than were allowed under its previous usage."

**DWELLING.** A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

**DWELLING UNIT.** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating cooking and sanitation. ~~One or more rooms used as a place of residence for one family, in which there is no area completely closed off for separate living quarters, and there is common access, kitchen and bathroom facilities, and a single electrical meter.~~

**EASEMENT.** A grant of one or more of the property rights for a specific purpose by the ~~property~~ landowner to, or for the use by, the public or another person.

**EVIDENTIARY HEARING.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by North Carolina General Statute and the *Unified Development Ordinances*.

**FAMILIAL RELATIONSHIP.** A close familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**LANDOWNER OR OWNER.** The holder of the title in fee simple. Absent evidence to the contrary, the Village of Clemmons may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

**LEGISLATIVE DECISION.** The adoption, amendment, or repeal of a regulation under a local act that regulates land use or development. The term also includes the decision to approve, amend, or rescind a development agreement consistent with provisions in the *Unified Development Ordinances*.

**LEGISLATIVE HEARING.** A hearing to solicit public comment on a proposed legislative decision.

**LOT, CUL-DE-SAC.** Generally, a triangular or irregular shaped lot having all of its frontage on the end of a street either in circular cul-de-sac or other type of permanent turnaround with the lot line(s) most parallel to the front line being at least three (3) times the lot's frontage.

**LOT, FLAG.** An irregularly shaped lot which has an appendage or extension providing access to a street which does not meet the lot width requirements of the district. Such appendage or extension shall be referred to as the pole.

**MANUFACTURED HOME, CLASS A.** A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (~~all manufactured homes built after June 14, 1976~~), which is of multi-sectional or *double-wide* design, and meets the following appearance criteria:

- (A) Has a minimum width of sixteen (16) feet;
- (B) Has exterior siding, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: (1) vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint; (2) cedar or other wood siding; (3) wood grain, weather resistant press board siding; (4) stucco siding; or (5) brick or stone siding;

- (C) Has a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each twelve (12) feet of horizontal run;
- (D) Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction; and,
- (E) Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter.

**MANUFACTURED HOME, CLASS C.** A manufactured home constructed to meet or exceed North Carolina Mobile Home Standard A119.1 or which has received a limited certificate of compliance from the North Carolina Department of Insurance. ~~These are normally manufactured homes constructed after August 31, 1971.~~

**MANUFACTURED HOME, CLASS D.** Any manufactured home which does not meet the definitional criteria of a Class A, B, or C manufactured home. ~~These are normally manufactured homes constructed prior to September 1, 1971.~~

**MODULAR HOME.** A dwelling unit consisting of one or more components constructed in compliance with the North Carolina Uniform Residential Building Code and bearing a seal or label issued by the Department of Insurance pursuant to G.S. 143-139.1 for One or Two-Family Dwelling Units and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MOTOR VEHICLE, INOPERATIVE.** A motor vehicle which meets at least one of the following criteria:

- (A) Vehicle is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether said vehicle possesses a currently valid inspection certificate. Exempt from the requirement to display a current inspection certificate are vehicles which are thirty-five (35) years or older per state law;
- (B) Vehicle lacks a current inspection certificate, or displays an expired certificate;
- (C) Vehicle is partially dismantled or wrecked;
- (D) Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or,
- (E) Vehicle has expired license plate or is unlicensed.

**PLANNING BOARD.** The appointed body whose purpose is to make recommendations to the Elected Body regarding land use matters and other duties. See Chapter B Article IX.

**PROPERTY OWNER.** See Landowner

**PROTEST PETITION.** ~~A petition, authorized by State law, submitted to the Elected Body by property owners in opposition to a proposed zoning amendment. A protest petition meeting the requirements of the *Zoning Ordinance* requires a favorable vote of three fourths (¾) of all members of the Elected Body for approval of the zoning amendment.~~

**QUASI-JUDICIAL DECISION:** A decision involving the findings of fact regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

**REDEVELOPMENT.** Shall be defined as the following:

- (A) Demolition of an existing building and rebuilding on the site.
- (B) ~~Expansion of the gross square footage of a building's or site's physical development including overhangs or areas under roof, by fifty percent (50%) or greater for structures less than ten thousand (10,000) square feet. Reconstruction of a building that is twenty-five percent (25%) or greater of the original building footprint. Cumulative additions that are twenty-five percent (25%) or greater of the original building footprint.~~
- (C) ~~Expansion of the gross square footage of a building's or site's physical development including overhangs or areas under roof, by thirty percent (30%) or greater for structures greater than ten thousand (10,000) square feet, from the date of this ordinance inception. Cumulative addition or changes when ten (10) or more parking spaces are added to the site with no building.~~
- (D) Cumulative addition of façade changes of ten percent (10%) or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g., adding or eliminating doors, windows, closings, openings, or increased wall area).

**RESIDENTIAL BUILDING, SINGLE FAMILY.** A residential building which contains one dwelling unit and which occupies its own zoning lot. This term includes modular housing units and duplex, triplex, etc., units which occupies its own zoning lot.

**SITE PLAN.** A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

**SITE-SPECIFIC VESTING PLAN.** A site-specific vesting plan consists of a plan submitted to the local jurisdiction in which the applicant requests vesting pursuant to 160D Article 1, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. See Section B.1-5.2 of the *Zoning Ordinance*.

**SLEEPING UNIT:** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces are also part of a *dwelling unit* are not sleeping units.

**SPECIAL USE PERMIT.** A permit issued to authorize development or land use in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. ~~by the Board of Adjustment or the Elected Body~~ See Table B.2.6 in the *Zoning Ordinance* for a use specified in Table 2.6 in the *Zoning Ordinance*.

**SUBDIVISION.** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development (whether immediate or future), including all divisions of land involving the dedication of a new street or a change in existing streets. Included in this general definition are subdivisions exempt by State law or court judgments, industrial or commercial subdivisions, minor subdivisions, and major subdivisions, as defined below:

(A) Subdivision Exempted by State Law or Court Judgment. A subdivision in which all lots must comply with the dimensional requirements or the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:

- (1) *The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulation does not increase the total number of lots;*
- (2) *Land is divided into parcels greater than ten (10) acres and no street right-of-way dedication is involved;*
- (3) *The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors acquires by purchase strips of land for the widening or opening of streets (these subdivisions are not required to comply with the dimensional requirements of the Zoning Ordinance);*
- (4) *The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots equal to or exceed the standards of the local government, as shown in its subdivision regulations. A tract in single ownership whose entire area is no greater than two (2) acres is divided into not more than three (3) lots, where no public or private street right-of-way dedication is involved; or,*
- (5) *The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes. Lots are created by or pursuant to an order or judgment of a court of competent jurisdiction.*

- (B) Subdivision, Industrial or Commercial. A subdivision primarily for the purpose of industrial or commercial building development.
- (C) Subdivision, Major. A subdivision out of a tract in single or multiple ownership for the purpose of gift, sale, or building development where new public streets will be constructed.
- (D) Subdivision, Minor. A subdivision out of a tract in single ownership in which the lots comply with the lot size and area requirements of the *Zoning Ordinance*, and which:
  - (1) Is a division, the entire area of which is greater than two (2) acres, into not more than three (3) lots, where no street right-of-way dedication is involved;
  - (2) Is created by a private access easement in compliance with the Zoning Ordinance and consists of no more than three (3) lots per tract; or,
  - (3) Creates lots all of which front on an existing public street, provided that the subdivision would not impair ingress and egress to or from the rear or side of the subject tract or any adjacent property.

**SUBDIVISION REGULATION.** A subdivision regulation authorized by North Carolina General Statute.

**SUPERINTENDENT OF INSPECTIONS or DIRECTOR OF INSPECTIONS.** See Zoning Officer.

~~**TRANSPORTATION PLAN.** A map adopted by each municipality, Forsyth County, the Transportation Advisory Committee and the North Carolina Department of Transportation, contained in *Legacy* as subsequently amended and showing the location of existing, and recommended proposed freeways/expressways, boulevards, major thoroughfares and minor thoroughfares. The *Transportation Plan* map is on file in the office of the Planning Board.~~

**TRANSPORTATION PLAN.** A Highway Map of the Comprehensive Transportation Plan adopted by the Village of Clemmons, the Transportation Advisory Committee of the Winston-Salem Urban Area Metropolitan Planning Organization, and the North Carolina Department of Transportation showing the location of existing, needs improvement and recommended freeways/expressways, boulevards, major thoroughfares and minor thoroughfares. The *Transportation Plan* map is on file in the office of the Zoning Officer.

**UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT or TEXT AMENDMENT.** The adoption, amendment, or repeal of a development regulation in the Unified Development Ordinances.

~~**VESTED RIGHT.** A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan. See Section B.1-5.2.~~

**VESTED RIGHT.** A right pursuant to G.S. 160D Article 1 to undertake and complete the development and use of property under the terms and conditions of an approved development. See Section B.1-5.2 of the *Zoning Ordinance*.

**ZONING MAP AMENDMENT or REZONING.** An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a special use zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

**ZONING REGULATION.** A zoning regulation authorized by North Carolina General Statutes and the *Zoning Ordinance*.

## **Section 2. Chapter B, Article I, Section 1-2 Purpose is hereby amended as follows:**

### **1-2 - PURPOSE**

The purpose of *this Ordinance* is to promote the health, safety, and general welfare of the residents within the zoning jurisdiction of the adopting jurisdiction through the stated regulations of *this Ordinance*. An additional purpose of *this Ordinance* is to implement the goals, objectives, and policies of *Legacy, A Legacy for Forsyth County, North Carolina*, and the *Clemmons Community Compass* ~~*Clemmons Area Development Guide*~~ as amended, including any specifically related land use plans, development guides, and the *Transportation Plan*.

## **Section 3. Chapter B, Article I, Section 1-4.1 State Law is hereby amended as follows:**

### **1-4.1 STATE LAW**

*This Ordinance* is adopted pursuant to North Carolina G.S. 160A Article 8 (Delegation and Exercise of the General Police Power) and 160D (Local Planning and Development Regulation) ~~G.S. Ch. 160A (Cities and Towns)~~. *This Ordinance* is further adopted pursuant to the following Session Laws applicable to Forsyth County, and these laws are followed to the extent that they are not inconsistent with the cited General Statutes: Chapter 677, 1947 Session Laws, as amended, and other applicable laws.



**Section 4. Chapter B, Article I, Section 1-5.2 Vested Rights is hereby amended as follows:**

**1-5.2 VESTED RIGHTS**

Development rights perfected prior to the effective date of *this Ordinance* shall be subject to the *Zoning Ordinance* under which the rights were perfected, unless and until such vested rights are withdrawn or expire in accordance with the law.

(A) Purpose...The purpose of this section is to implement the provisions of North Carolina General Statute 160D related to establishment of vested rights.

(B) Site-Specific Vesting Plan

(1) The development approvals listed below are determined by the Village of Clemmons to qualify as site-specific vesting plans

(a) Approval of a use requiring a special use permit by the Board of Adjustment or Elected Body in accordance with section B.6-2.8.

(b) Approval of a one-phase special use zoning district petition or a site plan amendment to a one-phase special use zoning district petition by the Elected Body in accordance with section B.6-2.6

(c) Approval of a final development plan by the Elected Body in accordance with section B.6-2.6 pursuant to a two-phase special use zoning district petition.

(C) Process for submittal, approval, and amendment of a site-specific vesting plan

(1) Plans shall be submitted and processed in accordance with the procedures established by *this Ordinance* and shall be considered by the designated approving authority for the specific type of zoning or land use permit or approval for which application is made. A vested right is established once approval is granted by the approving authority following notice and public hearing.

(2) The notice of public hearing required for vested rights shall follow the same advertisement procedure as is required by either a legislative hearing or evidentiary hearing contingent upon the petition that is requested.

(3) A vested right shall be deemed established upon the valid approval or approval with conditions by the approving authority in compliance with all provisions of the *Unified Development Ordinances*, as applicable, of a site-specific vesting plan, following notice and hearing per article VI of *this Ordinance*.

(4) The approving authority may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, welfare,

and conditions authorized in Article II, Article VI, and Article IX and upon making such findings as are required for approval by *this Ordinance*.

- (5) A site-specific vesting plan shall be deemed approved upon the effective date of approval by the approving authority or ordinance relating thereto, and only to the extent of that approval.
- (6) An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the approving authority as follows: any major amendments must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized in *this Ordinance*.
- (7) A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

#### (D) Limits of Site-Specific Vesting Plans

- (1) The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by the local jurisdiction, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested right in accordance with this section.
- (2) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval by the approving authority or of *this Ordinance*.
- (3) New and amended development regulations that would be applicable to certain property but for the establishment of vested right shall become effective upon the expiration or termination of the vested rights period provided for *this Ordinance*.
- (4) A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained.

#### (E) Duration...The establishment of vested rights under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established approvals are as follows:

- (1) Building Permits – Six (6) Months. – Pursuant to G.S. 160D-1109, a building permit expires six (6) months after issuance unless work under the permit has commenced.

Building permits also expire if work is discontinued for a period of twelve (12) months after work has commenced.

(2) Other Local Development Approvals – One (1) Year. – Pursuant to G.S. 160D-403(c), unless otherwise specified by statute or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.

(3) Site-Specific Vesting Plans – Two (2) to Five (5) Years.

(a) Duration...A vested right for a site-specific vesting plan shall remain vested for a period of two years. Upon following the same procedures as required for the original approval, the approval authority may extend the vesting of a site-specific vesting plan up to three years (with a total length of vesting not to exceed five years) upon finding that:

(i) The permit has not yet expired;

(ii) Conditions have not changed so substantially as to warrant a new application; and

(iii) The extension is warranted in light of all other relevant circumstances – including, but not limited to the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.

(b) Relation to building permits...A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D-1109 and G.S. 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this subsection exists.

(4) Multiphase Developments – Seven (7) Years. – A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing twenty-five (25) acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

(5) Development Agreements – Case by Case. – A vested right of reasonable duration may be specified in a development agreement approved under Article 10 of Chapter 160D of North Carolina General Statutes.

(F) Substantially Commencing Development

(1) A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the Zoning Officer based on any of the following:

(a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;

(b) The development has installed substantial on-site infrastructure; or

(c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

(2) Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to N.C.G.S. 160D-108.

(G) Termination...A vested right, once established as provided for in this section, precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

(1) No Building Permit...Termination of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued.

(2) Written Consent...Written consent of the affected landowner.

(3) Threat to Public Health or Safety...Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.

(4) Misrepresentation...Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the site-specific vesting plan or the phased development plan.

(5) State or Federal Law...Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan

or the phased development plan, in which case the Board of Adjustment may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

- (6) Compensation...To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

#### (H) Amendments

- (1) Minor modifications, consistent with Article VI Administrative Provisions may be approved by the Planning Director or Zoning Officer.
- (2) Any other amendments consistent with Article VI Administrative Provisions may be approved by the approving authority.
- (3) Prior to the issuance of a building permit for the subject site, the approving authority and Planning Director or Zoning Officer, must approve with or without conditions, any amendments to the site-specific vesting plan.

#### (I) Limitations...Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to Section 160D-108 and 160D-108.1 of the North Carolina General Statutes.

~~(A) Rights Perfected Prior to this Ordinance—Development rights perfected prior to the effective date of this Ordinance shall be subject to the *Zoning Ordinance* under which the rights were perfected, unless and until such vested rights are withdrawn or expire in accordance with law.~~

#### ~~(B) General Statutes 160A-385.1~~

- ~~(1) Purpose.—The purpose of this section is to implement the provisions of G.S. 160D-108 and 160D-108.1A-385.1 pursuant to which a statutory vested right is established upon the approval of a site-specific vesting development plan.~~
- ~~(2) Definitions.—As used in this section, the following terms shall have the meaning indicated:~~
- ~~(a) Site Specific Development Plan.—A plan of land development submitted to the local jurisdiction for purposes of obtaining one of the following zoning or land use permits or approvals in accordance with Section B.6.~~
- ~~(i) Approval of a use requiring a special use permit by the Board of Adjustment in accordance with Section B.6-1.4(A).~~
- ~~(ii) Approval of a use requiring a special use permit by the Elected Body in accordance with Section B.6-1.5(A).~~

- (iii) ~~Approval of a one-phase special use district zoning petition or a site plan amendment to a one-phase special use district zoning petition by the Elected Body in accordance with Section B.6 2.2(C).  
Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that does not describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.~~
- (b) ~~Vested Right. A right pursuant to G.S. 160A 385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.~~
- (3) ~~Establishment of Vested Right.~~
  - (a) ~~A vested right shall be deemed established upon the valid approval or approval with conditions by the Elected Body in compliance with all provisions of this Ordinance or Subdivision Ordinance, as applicable, of a site-specific development plan, following notice and public hearing.~~
  - (b) ~~The Elected Body may approve a site-specific development plan upon such terms and conditions as authorized in Sections B.6 1 and B.6 2, and upon making such findings as are required for approval by this Ordinance.~~
  - (c) ~~Notwithstanding Sections B.1 5.2(B)(1) and (2), approval of a site-specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.~~
  - (d) ~~A site-specific development plan shall be deemed approved upon the effective date of approval by the approving authority or ordinance relating thereto, and only to the extent of that approval.~~
  - (e) ~~The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the local jurisdiction, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this section.~~
  - (f) ~~A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.~~
- (4) ~~Approval Procedures and Vested Rights for Site Specific Development Plans.~~
  - (a) ~~Plans shall be submitted and processed in accordance with the procedures established by this Ordinance and shall be considered by the designated approving authority for the specific type of zoning or land use permit or approval for which application is made. A vested right is established once approval is granted by the approving authority following notice and public hearing.~~
  - (b) ~~The notice of public hearing required for vested rights shall follow the same advertisement procedure as is required by the approving authority for the specific type of zoning or land use permit or approval for which application is made.~~

- ~~(e) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval by the approving authority or of this Ordinance.~~
- ~~(5) Duration.~~
  - ~~(a) A right which has been vested as provided for in this section shall remain vested for a period of two (2) years.~~
  - ~~(b) Reserved.~~
  - ~~(c) This vesting shall not be extended by any amendments or modifications to a site-specific development plan unless expressly provided by the approving authority at the time the amendment or modification is approved. Following approval or approval with conditions of a site-specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.~~
  - ~~(d) Upon issuance of a building permit, the expiration provisions of G.S. 160A-418 and the revocation provision of G.S. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding.~~
- ~~(6) Termination. A right that has been vested as provided in this section shall terminate upon any of the following:~~
  - ~~(a) No Building Permit. Termination of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued;~~
  - ~~(b) Written Consent. Written consent of the affected landowner;~~
  - ~~(c) Threat to Public Health or Safety. Findings by the Elected Body, by ordinance after notice and a public hearing, that natural or constructed hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;~~
  - ~~(d) Compensation. Compensation to the affected landowner for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the local jurisdiction, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;~~
  - ~~(e) Misrepresentation. Findings by the Elected Body, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Elected Body of the site-specific development plan; or,~~
  - ~~(f) State or Federal Law. Enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific development plan, in which case the Elected Body may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance, after notice and a hearing.~~
- ~~(7) Limitations. Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.~~

**Section 5. Chapter B, Article II, Section 1-5.5 Redevelopment is hereby amended as follows:**

### **1-5.5 REDEVELOPMENT**

~~These standards shall apply to all redevelopment activities as set forth in this section. Redevelopment is defined as one or more of the following:~~

~~(A) Demolition of an existing building and rebuilding on the site.~~

~~(B) Expansion of the gross square footage of a building's or site's physical development, including overhangs or areas under roof, by fifty percent (50%) or greater for structures less than ten thousand (10,000) square feet.~~

~~(C) Expansion of the gross square footage of a building's or site's physical development, including overhangs or areas under roof, by thirty percent (30%) or greater for structures greater than ten thousand (10,000) square feet.~~

~~From April 12, 2010, that all redevelopment sites shall be required to comply with the following portions of the Unified Development Ordinance:~~

~~(A) Chapter B, Section 2-1.3.1, General Design Requirements for Commercial Zoning Districts.~~

~~(B) Chapter B, Article II, Section 2-1.5.1, General Design Requirements for Institutional and Mixed-Use Zoning Districts.~~

~~(C) Chapter B, Article III, Section(s) 3-3.5(H) and (E) Parking, Stacking and Loading Areas, Alternatives and Incentives (H) Parking Reduction for Required Landscaping in Motor Vehicle Surface Areas and Letter (E) Location of Parking Areas (4) Parking Placement.~~

~~(D) Chapter B, Article III, Section 3-4 Landscaping Standards.~~

(A) These standards shall apply to all redevelopment activities as set forth in this section. Redevelopment is defined as one or more of the following:

(1) Demolition of an existing building and rebuilding on the site.

(2) Reconstruction of a building that is twenty-five percent (25%) or greater of the original building footprint. Cumulative additions that are twenty-five percent (25%) or greater of the original building footprint.

(3) Cumulative addition or changes when ten (10) or more parking spaces are added to the site with no building.



- (4) Cumulative addition of façade changes of ten percent (10%) or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g., adding or eliminating doors, windows, closings, openings, or increased wall area).
- (B) From April 12, 2010, that all redevelopment sites per Section B.1-5.5(A)(1) and B.1-5.5(A)(2) shall be required to comply with the following portions of the Unified Development Ordinance:
- (1) Article II of *this Ordinance*.
- (2) Article III of *this Ordinance*.
- (3) If the parcel is in a Historic (H) District, Historic Overlay (HO) or is designated as a Local Historic Landmark (LHL) Article IV of *this Ordinance* shall apply.
- (4) Chapter C of the *Unified Development Ordinances*.
- (C) From April 12, 2010, that all redevelopment sites per Section B.1-5.5(A)(3) shall be required to comply with the following portions of the Unified Development Ordinance:
- (1) Chapter B, Article III, Section 3-4 Landscape and Tree Preservation Standards
- (D) From April 12, 2010, that all redevelopment sites per Section B.1-5.5(A)(4) shall be required to comply with the following portions of the Unified Development Ordinance:
- (1) Chapter B, Article III, Section 3-4.3(B) Streetyards in Landscape and Tree Preservation Standards.

**Section 6. Chapter B, Article II, Section 2-1.1(C) and Section 2-1.1(F) Zoning Districts Established is hereby amended as follows:**

**2-1.1 ZONING DISTRICTS ESTABLISHED**

~~(C) Special Use Districts...The special use districts are established as companion districts to the general use districts, except for the MRB-S and MX-S District. References in *this Ordinance* to a general use district shall be construed to also include the corresponding special use district. Each special use district is intended to accomplish the purposes of the corresponding general use district through the development of identified uses at a specific location in accordance with a site plan acceptable to the Elected Body. All regulations which apply to a general use district also apply to the corresponding special use district. Additional reasonable site plan conditions which may be required by the Elected Body and agreed to by the petitioner as part of the rezoning process also apply.~~

(C) Special Use District

- (1) Purpose...The Village of Clemmons Charter authorizes the creation of special use zoning districts proposed by the landowners and customized to the context of a

particular development project or land use on a particular site. Each special use zoning district includes reasonable conditions as the Elected Body determines to be desirable in promoting public health, safety, and general welfare.

(2) Base Standards for Special Use Districts...For each general use district, *this Ordinance* establishes corresponding special use districts that have the same requirements as the general use district, except for MRB-S. Each special use district is intended to accomplish the purposes of the corresponding general use district through the development of identified uses at a specific location in accordance with a site plan acceptable to the Elected Body.

### (3) Conditions and Requirements

(a) The approval for each special use district shall specify all conditions of development and use of land that differ from the requirements of the corresponding general use district. Specific conditions may be proposed by the petitioner, by staff, Planning Board, or by the Elected Body, but only those conditions approved by the Elected Body and consented to by the petitioner in writing may be incorporated into the zoning regulations. Such conditions may be stricter than the corresponding general use district. The conditions contained in a special use district permit issued by the Elected Body are reasonable conditions as the Elected Body determines to be desirable in promoting public health, safety, and general welfare. The conditions contained in a special use permit may include:

(i) Location of proposed use on the property;

(ii) The number of dwelling units;

(iii) The location and extent of support facilities such as parking lots, driveways, and access streets;

(iv) Location and extent of buffer areas and other special purpose areas;

(v) The timing of development; and

(vi) Such other matters as the petitioner may propose and the Elected Body may find appropriate.

(b) The conditions of a special use zoning district may also relax applicable dimensional standards, as long as the uses permitted by the corresponding general use district are not expanded, and the density of overall development is not increased beyond the density allowed in the corresponding general use district. Reductions of dimensional standards are designed to help a proposed project work on a site with physical constraints and to promote infill and redevelopment.

(c) Dimensional Standards...Dimensional standard modifications are adjustments to the dimensional standards of *this Ordinance*. Dimensional standards may only be modified by request from the petitioner that specifies reasons for the request with supporting evidence. Dimensional standard modifications are limited to:

(i) Sections in *this Ordinance* where Alternative Compliance is allowed;

(ii) Reduction, modification, or elimination of Bufferyard requirements in Section B.3-5 upon information provided by petitioner that (1) they have complied with Bufferyard requirements in Section B.3-5 to the maximum extent practicable and (2) adjoining parcels are similar in use and intensity (e.g., government office zoned RS-15 abutting an office zoned LO).

(iii) Reductions or modification of minimum setbacks and maximum height requirements in Section B.2-1.1 through B.2-1.5 and B.3-1.1 upon information provided by the petitioner that (1) they have complied with setback and height requirements in applicable sections of *this Ordinance* to the maximum extent practicable; (2) showing the impact of future roadway improvements to onsite structure(s); (3) adjoining parcels are similar in use and intensity; (4) that reductions or modifications would not reduce sun exposure or cast shadows on adjacent parcels.

(4) Eligible Uses...Uses allowed by right in the general use district are eligible to be considered in the corresponding special use district, as modified by any conditions of approval.

(5) Relationship to Overlay District Standards...Regulations applicable in an overlay zoning district shall apply to a special use district. If the standards governing a special use district expressly conflict with those governing an overlay district, the more restrictive standards shall apply.

(6) Special Use Zoning District and Written Consent...A special use zoning district shall not go into effect until those conditions approved and consented to by both the Elected Body and petitioner are in writing and signed by the petitioner and landowner.

(F) Growth Management Plan...The *Growth Management Plan* of *Legacy* seeks to guide future development patterns in the community to provide services in a cost effective and efficient manner; allow for urban, suburban, and rural life styles; and preserve environmental and cultural resources. The *Growth Management Plan* divides the county into five Growth Management Areas as follows:

- (1) City/Town Centers (GMA 1);
- (2) Urban Neighborhoods (GMA 2);
- (3) Suburban Neighborhoods (GMA 3);
- (4) Future Growth (GMA 4); and
- (5) Rural Area (GMA 5).

Goals are identified in *Legacy* for each of these areas. Zoning districts established by *this Ordinance* have been designed, in part, to achieve the goals of the Growth Management Areas, the objectives of the *Clemmons Community Compass*. ~~*Area Development Guide*. Copies of *Legacy* are available in the office of the Planning Board.~~

**Section 7. of Chapter B, Article II, Section 2-1.2, Section 2-1.2(A)(2), Section 2-1.2(B)(2), Section 2-1.2(C)(2), Section 2-1.2(D)(2), Section 2-1.2(E)(2), Section 2-1.2(F)(2), Section 2-1.2(G)(2), Section 2-1.2(H)(2), Section 2-1.2(I)(2), Section 2-1.2(J)(2), Section 2-1.2(K)(2), Section 2-1.2(L)(2), Section 2-1.2(M)(2), Section 2-1.2(N)(2), Section 2-1.2(O)(2), Section 2-1.2(P)(2) is hereby amended as follows:**

## **2-1.2 RESIDENTIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

Each residential district is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, protected from incompatible and disruptive activities which more properly belong in nonresidential districts. The districts are also intended to assist the community in meeting the growth management goals of *Legacy*. When a residential rezoning proposal is considered, the *Growth Management Plan* and the residential land use goals and locational criteria contained in *Legacy* and *Clemmons Community Compass* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district. Other goals of these residential districts are explained in the remainder of this section.

(A) YR Yadkin River Conservation District.

(2) General Dimensional Requirements - YR.

Zoning District	Minimum Zoning Lot		Minimum Setbacks <sup>1</sup>					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>2</sup>				
	Area (sf)	Width (ft) <sup>3</sup>	Front (ft) <sup>4</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
YR	130,680	300	45	50	20	50	30	—	40

1. Nonconforming lots in the YR District meeting the provisions of Section B.5-3.2(C) must meet the minimum setback requirements of the RS-20 zoning district.
2. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.

3. Cul-de-sac lots shall be exempt from lot width requirements.
4. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(B) AG Agricultural District.

(2) General Dimensional Requirements - AG.

Zoning District	Minimum Zoning Lot		Minimum Setbacks <sup>1</sup>					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>2</sup>				
	Area (sf)	Width (ft) <sup>3</sup>	Front (ft) <sup>4</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
AG	40,000	150	45	50	20	50	30	—	40

1. Nonconforming lots in the AG District meeting the provisions of Section B.5-3.2(C) must meet the minimum setback requirements of the RS-20 zoning district.
2. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
3. Cul-de-sac lots shall be exempt from lot width requirements.
4. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(C) RS-40 Residential Single Family District.

(2) General Dimensional Requirements - RS-40.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		

RS-40	40,000	100	35	40	10	25	20	—	40
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1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(D) RS-30 Residential Single Family District.

(2) General Dimensional Requirements - RS-30.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-30	30,000	100	35	35	7	20	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(E) RS-20 Residential Single Family District.

(2) General Dimensional Requirements - RS-20.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover	Maximum Height (ft)
					Side <sup>1</sup>				
	Area	Width	Front	Rear	One	Combined	Street		

	(sf)	(ft) <sup>2</sup>	(ft) <sup>3</sup>	(ft)	Side (ft)	(ft)	(ft)	(%)	
RS-20	20,000	95	30	30	7	20	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(F) RS-15 Residential Single Family District.

(2) General Dimensional Requirements - RS-15.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-15	15,000	85	25	25	7	20	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(G) RS-12 Residential Single Family District.

(2) General Dimensional Requirements - RS-12.

Zoning	Minimum	Minimum Setbacks	Maximum	Maximum
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District	Zoning Lot				Side <sup>1</sup>			Impervious Surface Cover (%)	Height (ft)
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-12	12,000	75	20	25	7	20	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(H) RS-9 Residential Single Family District.

(2) General Dimensional Requirements - RS-9.

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-9	9,000	65	20	25	7	20	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(I) RS-7 Residential Single Family District.

(2) General Dimensional Requirements - RS-7.



Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RS-7	7,000	50	15	20	5	15	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(J) RSQ Residential Single Family Quadraplex District.

(2) General Dimensional Requirements - RSQ.

RSQ Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>24</sup>	Front (ft) <sup>35</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
Single Family	5,000	40	15	15	5	15	20	—	40
Duplex	7,000	50	15	15	7	15	20	—	40
Twin Homes	— <sup>2</sup>	— <sup>2</sup>	0 <sup>2</sup>	0 <sup>2</sup>	0 <sup>2</sup>	0 <sup>2</sup>	0 <sup>2</sup>	—	40
Triplex	9,000	60	15	15	10	20	20	—	40

Quadrplex	11,000	60	15	15	10	20	20	—	40
3- or 4- Unit Town- house	— <sup>3</sup>	— <sup>3</sup>	0 <sup>3</sup>	0 <sup>3</sup>	0 <sup>3</sup>	0 <sup>3</sup>	0 <sup>3</sup>	—	40
Other	11,000	60	15	15	10	20	15	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Lot area, lot width and building setbacks for Twin Homes shall be the same as for Duplex in this same chart however the land under units may be sold with no setbacks.
3. Lot area, lot width and building setbacks for 3- and 4-Unit Town houses shall be the same as for Quadrplex in this same chart however the land under units may be sold with no setbacks.
4. Cul-de-sac lots shall be exempt from lot width requirements.
5. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(K) RM-5 Residential Multifamily District.

(2) General Dimensional Requirements - RM-5.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>2</sup>				
	Area (sf)	Width (ft) <sup>5</sup>	Front (ft) <sup>6</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
Single Family	5,000	40	15	15	5	15	15	—	40
Duplex	7,000	50	15	15	7	15	15	—	40
Twin Homes	—	—	0 <sup>1</sup>	0 <sup>1</sup>	0 <sup>3</sup>	0 <sup>3</sup>	0 <sup>1</sup>	—	40

Triplex Multi-family	9,000	60	15	15	10	20	15	—	40
Quadrplex Multi-family	11,000	60	15	15	10	20	15	—	40
3- or 4-Unit Town-house	—	—	0 <sup>1</sup>	0 <sup>1</sup>	0 <sup>4</sup>	0 <sup>4</sup>	0 <sup>1</sup>	—	40
Other	11,000	60	15	15	10	20	15	—	40

1. Buildings must be setback minimum of 15' off front and side street right-of-way.
2. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
3. Buildings must be spaced a minimum of fifteen (15) feet from side to side, fifteen (15) feet from side to rear and thirty (30) feet from rear to rear however the land under units may be sold with no setbacks.
4. Buildings must be spaced a of minimum twenty (20) feet from side to side, twenty (20) feet from side to rear and forty (40) feet from rear to rear however the land under units may be sold with no setbacks.
5. Cul-de-sac lots shall be exempt from lot width requirements.
6. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(L) RM-8 Residential Multifamily District.

(2) General Dimensional Requirements - RM-8.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		

RM-8	8,000	70	25	25	7	20	20	70	40
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1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(M) RM-12 Residential Multifamily District.

(2) General Dimensional Requirements - RM-12.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-12	7,000	70	25	25	15	30	20	75	45

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(N) RM-18 Residential Multifamily District.

(2) General Dimensional Requirements - RM-18.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover	Maximum Height (ft)
					Side <sup>1</sup>				
	Area	Width	Front	Rear	One	Combined	Street		

	(sf)	(ft) <sup>2</sup>	(ft) <sup>3</sup>	(ft)	Side (ft)	(ft)	(ft)	(%)	
RM-18	5,000	70	25	25	15	30	20	80	60

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(O) RM-U Residential Multifamily District.

(2) General Dimensional Requirements - RM-U.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
RM-U	5,000	70	10	10	10	10	10	85	—

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

(P) MH Manufactured Housing Development District.

- (2) General Dimensional Requirements - MH...The general dimensional requirements for a single home on an individual lot in the MH District are given below. The dimensional requirements for manufactured housing developments are contained in the use conditions for manufactured housing developments, Section B.2-5.47.

Zoning District/ Use	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>1</sup>				
	Area (sf)	Width (ft) <sup>2</sup>	Front (ft) <sup>3</sup>	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
MH	10,000	70	30	20	10	25	20	—	40

1. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
2. Cul-de-sac lots shall be exempt from lot width requirements.
3. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

**Section 8. Chapter B, Article II, Section 2-1.3 Commercial Zoning District – Purpose Statements and Regulations is hereby amended as follows:**

**2-1.3 COMMERCIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

The purposes of establishing these commercial districts are to provide areas which accommodate the establishment and operation of business and office uses and to assist the community in meeting the growth management goals of *Legacy*. When a commercial rezoning proposal is considered, the *Growth Management Plan* and the commercial, office, and industrial land use goals and recommendations contained in *Legacy*, and the *Clemmons Community Compass Area Development Guide* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

**Section 9. Chapter B, Article II, Section 2-1.3(F)(3)(i) PB Pedestrian Business District is hereby amended as follows:**

(F) PB Pedestrian Business District

(3) Supplementary District Standards.

- (i) Alternative Compliance (PB-S Districts) ...Alternative site plans which deviate from the strict application of the supplementary district standards in Section B.2-1.3(F)(3), but which adhere to the PB purpose statement, may be approved through the Special Use District zoning process in ~~Section B.6-2.2, Article VI of this Ordinance.~~

**Section 10. Chapter B, Article II, Section 2-1.4 Industrial Zoning District – Purpose Statements and Regulations is hereby amended as follows:**

**2-1.4 INDUSTRIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

These industrial districts are established to accommodate enterprises engaged in the manufacturing, processing, or assembling of goods, merchandise, or equipment. The standards established for these districts are designed to promote industrial development and to protect nearby residential areas from undesirable aspects of industrial development. Whenever possible, these districts should be separated from residential districts by natural or structural boundaries, such as streams, topographic features, vegetation, major streets, or similar features. When an industrial rezoning proposal is considered, the *Growth Management Plan* and the industrial land use goals and recommendations in *Legacy* and the *Clemmons Community Compass Area Development Guide* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

**Section 11. Chapter B, Article II, Section 2-1.4(D) CI Central Industrial District is hereby amended as follows:**

**(D) CI Central Industrial District**

- (1) Purpose. The CI District is intended to accommodate assembly, fabrication, and manufacturing activities within GMAs 1 and 2. The central areas of the City of Winston-Salem and Town of Kernersville contain a variety of industrial land uses. These uses provide a substantial non-office employment base, as well as meeting certain needs in the community for industrial type goods. The CI District is intended to encourage and permit the continuation of a significant non-office employment base in the central area of these two (2) communities and to enable the development of new industrial uses compatible with the goals of *Legacy* and *Clemmons Community Compass* for these areas.

**Section 12. Chapter B, Article II, Section 2-1.5 Institutional and Mixed-Use Zoning District – Purpose Statements and Regulations is hereby amended as follows:**

## **2-1.5 INSTITUTIONAL AND MIXED-USE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

The purpose of establishing these districts is to accommodate institutional and major mixed-use developments in compliance with the *Growth Management Plan of Legacy* and the *Clemmons Community Compass Area Development Guide*. The intent is to provide a pedestrian friendly environment, aesthetically pleasing structures, and appropriate urban tree canopy through general design standards.

### **Section 13. Chapter B, Article II, Section 2-1.6 Overlay and Special Purpose Zoning Districts – Purpose Statements and Regulations is hereby amended as follows:**

## **2-1.6 OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS**

The purpose of establishing these districts is to assist the community in meeting the recommendations of *Legacy* and to meet requirements of State and federal law. When a rezoning proposal for one of these districts is considered, historic preservation, watershed protection, and other applicable goals and recommendations contained in *Legacy* and the *Clemmons Community Compass Area Development Guide* shall be used as guides, in conjunction with other factors, in determining the appropriateness of the proposed district.

### **Section 14. Chapter B, Article II, Section 2-1.6(B)(1)(e) and Section 2-1.6(B)(4) TO Thoroughfare Overlay District is hereby amended as follows:**

(B) TO Thoroughfare Overlay District.

(1) Purpose. The TO District is intended to:

(e) Implement the goals, policies, and objectives of *Legacy* and *Clemmons Community Compass*.

(4) Variance....Applications for variances from the setback and landscaping requirements of the TO District may be approved by the Board of Adjustment in accordance with the procedures in ~~Section B.6-1.4(B)~~ Article VI of this Ordinance. Approval of a variance shall include the determination that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance because of one or more of the following conditions:

### **Section 15. Chapter B, Article II, Section 2-1.6(E) Lewisville Clemmons Road (South Overlay District) is hereby amended as follows:**



(A1) Vision...The Lewisville-Clemmons Road Corridor Overlay District is to facilitate implementation of the general intent of the Lewisville-Clemmons Road Strategic Area (south) to promote the redevelopment of the area into a mixed-use commercial.

(B2) Intent...Lewisville-Clemmons Road is expected to continue carrying significant traffic volumes making development along the corridor highly visible to the traveling public. Therefore, the main objectives of this proposed district are to:

- 1.(a) Develop visible interconnected alternate traveling routes to provide the motoring public choices in trip destination.
- 2.(b) Strategically close some driveways along the corridor for safety measures and develop cross access opportunities where appropriate.
- 3.(c) Establish high standards for buildings and landscaping improvements with a cohesive street tree plan and consistent standards for building design.
- 4.(d) Establish a safe pedestrian network for residents and visitors to access numerous sites by foot.
- 5.(e) Promote businesses along the corridor by the development of a wayfinding signage program and other applications.

(C3) Application and Exemptions.

- 1.(a) These standards apply to sites (including principal and accessory buildings) that are within the Lewisville-Clemmons Road Corridor Overlay district unless otherwise specified herein, and apply to all permitted uses allowed within the district.
- 2.(b) Farm uses are exempt from these requirements provided they meet the base zoning district requirements.
- 3.(c) Existing single-family units are exempt from these requirements provided they meet the base zoning district requirements.
- 4.(d) Expansions to buildings that exist on the date the Ordinance from which this section is derived is adopted are exempt from the requirements of this section.
- 5.(e) New development, building expansions and demolition .... rebuilds that are twenty-five percent (25%) or greater or cumulative additions twenty-five percent (25%) or greater of the original building footprint shall conform to all requirements of this section. All other requirements noted in this section shall apply to the twenty-five (25%) or great building expansion requirements unless specified below.
- 6.(f) The streetyard requirements as identified in Section B.3-4.3(B):
  - 1.(i) Additions to existing sites that are equal to or greater than five percent (5%) of the sites' existing building square footage or the addition of one-thousand (1,000) square feet or more of building; or,

~~b.~~(ii) When ten (10) or more parking spaces are added to a site with no building; or,

~~e.~~(iii) Façade changes to ten (10) percent or more of any building wall facing a vehicular way intended for public travel regardless of ownership (e.g., adding or eliminating doors, windows, closings, openings or increased wall area).

~~7.~~(g) Right-of-way shall be required to be recorded as shown in "Exhibit A" with a zoning change of use permit as shown in Exhibit A.

~~8.~~(h) Any new roadway connectors as shown in "Exhibit A" shall be required with new development and or by the Village of Clemmons, NC.

~~9.~~(i) Driveway Closures...Reserved.

~~10.~~(j) Newly created sidewalks as shown in "Exhibit A" shall be required under the same requirements of Section E above.

~~(D4)~~ Permitted Uses...The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. The following permitted uses are allowed for this proposed geographic area by use category:

~~1.~~(a) Residential Uses...Single Family, Townhomes, Multi-Family, Congregate Care Facility, Family Group Care Facilities, A, B, and C, Life Care Community

~~2.~~(b) Retail and Wholesale Trade...ABC Store, Arts and Crafts Studio, Building Materials Supply, Convenience Store, Food

~~3.~~(c) Business and Personal Services...Banking and Financial Services, Bed and Breakfast, Building Contractors General, Car Wash, Funeral Home, Health Services Misc., Hotel

~~4.~~(d) Recreational Services...Recreation Services, Indoor And Outdoor, Public Recreation Services, Swimming Pool, Private, Theater, Indoor

~~5.~~(e) Institutional and Public Uses...Academic Medical Center, Adult Day Care, Adult Day Care Center, Child Care Facilities, Religious Institutions, Club or Lodge, College

~~(E5)~~ Standards.

~~1.~~(a) Pedestrian Accommodations.

~~a.~~(i) All new development shall provide pedestrian walkways between the building and entrance...exits and parking areas, and within parking areas to designated

walking areas especially where there is a need to connect dispersed buildings with parking areas.

~~b. All pedestrian amenities in "Exhibit A" shall meet Section 1 (e) requirements for construction.~~

(ii) All pedestrian amenities in "Exhibit A" shall meet Section B.2-1.6(E)(5)(a) requirements for construction.

e.(iii) All new development shall provide canopy shade trees, landscape features and seating or other pedestrian amenities near colonnades, storefronts, and pedestrian routes

## 2.(b) Cross Access and Right-of-Ways.

a.(i) Cross access easements between properties are encouraged, however the Village of Clemmons will proactively rank cross access priorities and negotiate with properties outlined in "Exhibit A" to make cross access requirements.

b.(ii) Public rights-of-way are required to be dedicated as noted in "Applications and Exemptions" (G). The Village of Clemmons shall make necessary improvements to the public right-of-way from a priority list as property owners voluntarily dedicate outside of the development review process. The priority list shall be kept in the Village of Clemmons Planning Office.

(c) Landscaping...As noted in "Exhibit A" landscaping as defined in Section B.3-4(B) is required to form cohesion to the existing corridor and to delineate connectivity routes.

## 3.(d) Driveway modifications...Reserved.

## 4. Landscaping.

a. ~~As noted in "Exhibit A" landscaping as defined in Section B.3-4(B) is required to form cohesion to the existing corridor and to delineate connectivity routes.~~

~~5. Zoning Setbacks...Zoning Setback for the defined geographic area shall have the flexibility to be modified up to a zero setback for redevelopment sites in order to encourage infill development. Redevelopment proposals that request setback reductions shall be reviewed by the Village of Clemmons Planning Board for consistency with the overall intent of the plan. The setback reductions shall be reviewed on a case by case basis based on location and shall consider location, future roadway improvements and surrounding land use.~~

(e) Zoning Setbacks...Reserved

~~(F) Overlay Flexibility Standards:~~

~~(1) If a developer and .... or property owner cannot meet the requirements set forth in this overlay section a creative design option shall be submitted to the Village of Clemmons Planning Department for review. The Village of Clemmons Planning Board shall review the plan for the consistency of the overall intent of the overlay district set forth in vision and intent section of this amendment.~~

(6) Reserved

**Section 16. Chapter B, Article II, Section 2-2.1(D)(1) Amendments to *Official Zoning Maps* and Section 2-2.2 Zoning District Boundaries is hereby amended as follows:**

**2-2.1 OFFICIAL ZONING MAPS**

**(D) Amendments to *Official Zoning Maps***

- (1) Procedures. The *Official Zoning Maps* may be amended under the procedures set forth in Article VI of this Ordinance. ~~same procedures which apply to amendments to the text of this Ordinance, as set forth in Section B.6-2.~~

**2-2.2 ZONING DISTRICT BOUNDARIES**

(D) Split Jurisdiction... If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each Elected Body and recorded with the register of deeds in the county where the property is located within fourteen (14) days of the adoption of the last required resolution.

**Section 17. Chapter B, Article II, Section 2-4.5 Table B.2.6 Permitted Uses is hereby amended as follows:**

Table B.2.6 PERMITTED USES

Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS
<b>RESIDENTIAL USES</b>																																				
Residential Building, Single Family	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			Z	Z											Z		Z	
Duplex										Z	Z	Z	Z	Z	Z		Z	Z																	Z	
Townhouse										P	P	P	P	P	P		P	P				P				P	P	Z							Z	62
Twin Home										Z	Z	Z	Z	Z	Z		Z	Z																	Z	
Multifamily										P	P	P	P	P	P		P	P				P				P	P	Z							Z	62
Manufactured Home, Class A		A	A	A	A					A						Z																				44
Class B																Z																				45
Class C																Z																				45
Class D																																				46
Manufactured Housing Development																P																				47
Boarding or Rooming House													Z	Z	Z							Z			Z	Z	Z	Z								8
Combined Use																	Z	Z			Z	Z	Z			Z	Z	Z				Z			Z	22
Congregate Care Facility												P	P	P	P							P				P	P	Z							Z	23
Family Group	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z		Z										Z						Z	Z	26
Home A																																				
B												P	P	P	P			Z				P				P	P	Z					P	Z	P	26
C													P	P	P							P				P	P	Z					P	Z	P	27

Table B.2.6 PERMITTED USES																																					
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS	
Fraternity or Sorority												P	P	P	P					Z		Z				Z	Z							Z	Z	29	
Life Care Community												P	P	P	P							P				P	P		Z					Z	Z	Z	42
Planned Residential Development	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P																			P		P	58
AGRICULTURAL USES																																					
Agricultural Production, Crops	A	A	A	A	A	A																															
Livestock		A																																			
Animal Farm Operation		Z																														Z				6	
Fish Hatchery		Z																											Z	Z	Z						
RETAIL AND WHOLESALE TRADE																																					
ABC Store (liquor)																						Z	Z	Z	Z	Z	Z	Z				Z			Z		
Arts and Crafts Studio																				Z	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z				Z		
Building Materials Supply																								Z	Z	Z	Z	Z	Z		Z	Z				Z	
Bulk Storage of Petroleum Products																															Z						
Convenience Store																					Z <sup>1</sup>	Z	Z	Z	Z	Z	Z	Z				Z				Z	

Table B.2.6 PERMITTED  
USES

Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS
Food or Drug Store																					Z	Z	Z	Z	Z	Z	Z	Z				Z			Z	
Fuel Dealer																									Z	Z			Z			Z				
Furniture and Home Furnishings Store																						Z	Z	Z	Z	Z	Z	Z				Z			Z	
General Merchandise Store																					Z	Z	Z	Z	Z	Z	Z	Z				Z			Z	
Hardware Store																					Z <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z				Z			Z	
Implement Sales and Service																									Z	Z		Z			Z	Z			Z	
Motor Vehicle Dismantling and Wrecking Yard																															P					51
Motorcycle Dealer																						Z	Z	Z	Z	Z	Z	Z				Z				
Nursery, Lawn and Garden Supply Store, Retail																						Z	Z	Z	Z	Z	Z	Z				Z			Z	
Outdoor Display Retail																							Z <sub>2</sub>		Z	Z		Z				Z				55
Restaurant (without drive-through service)																			Z		Z	Z	Z	Z	Z	Z	Z				Z	Z			Z	

Table B.2.6 PERMITTED USES																																						
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS		
Restaurant (with drive-through service)																								Z	Z	Z	Z	Z			Z	Z				Z		
Retail Developments Larger Than 125,000 sf																												Z										
Retail Store, Specialty or Miscellaneous																					Z <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z					Z				Z	
Shopping Center																							Z	Z	Z	Z	Z	Z	Z					Z			Z	66
Storage Trailer																																Z						
Wholesale Trade A																										Z	Z	Z	Z	Z	Z	Z	Z				Z	
Wholesale Trade B																													Z			Z	Z				Z	
BUSINESS AND PERSONAL SERVICES																																						
Adult Establishment																										Z											4	
Banking and Financial Services																	A	Z	Z	Z	A <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z				Z		
Bed and Breakfast			A	A	A	A	A	A	A	A	A	Z	Z	Z	Z		A	Z			A	Z	Z		Z	Z	Z	Z				Z	Z	Z	Z		7	



Table B.2.6 PERMITTED  
USES

Table B.2.6 PERMITTED USES																																						
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS		
Building Contractors, General																						Z			Z	Z	Z	Z	Z		Z	Z						
Heavy																													Z		Z	Z						
Car Wash																							Z	Z	Z	Z	Z	Z				Z					10	
Funeral Home																		Z		Z		Z	Z		Z	Z	Z	Z					Z		Z			
Health Services, Miscellaneous																				Z		Z			Z	Z	Z	Z			Z	Z	Z					
Hotel or Motel																			Z			Z			Z	Z	Z	Z								Z		
Kennel																									Z	Z		Z	Z		Z		Z					37
Medical or Dental Laboratory																			Z			Z			Z	Z	Z	Z	Z	Z	Z	Z	Z				Z	
Medical and Surgical Offices																	Z	Z	Z	Z	Z <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			Z	Z	49
Motor Vehicle, Rental and Leasing																			Z			Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z					
Repair and Maintenance																					Z <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z					Z	52
Body or Paint Shop																									Z	Z		Z	Z		Z	Z					Z	52
Storage Yard																									Z	Z	Z		Z		Z	Z						53
Non-Store Retailer																	Z	Z	Z	Z		Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z				Z	

Table B.2.6 PERMITTED USES																																						
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS		
Offices, Miscellaneous																		Z	Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z					Z		
Professional Office																	Z	Z	Z	Z	Z <sub>1</sub>	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z				Z		
Service, Business A																			Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z				Z		
Services, Business B																						Z			Z	Z	Z	Z	Z			Z	Z			Z	65.1	
Services, Personal																				Z	Z	Z	Z	Z	Z	Z	Z	Z								Z		
Signs, Off- Premises																									Z				Z			Z	Z					67
Storage Services, Retail																			Z			Z			Z	Z	Z		Z	Z	Z	Z				Z		
Testing and Research Lab																			<u>P</u>			<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>			<u>Z</u>	
Veterinary Services																					<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>			<u>Z</u>	72	
Warehousing																						Z			Z	Z			Z	Z	Z	Z						
RECREATIONAL USES																																						
Fishing, Fee Charged	A	A	A	A	A	A																														Z	28	
Golf Course	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									Z						Z		Z		Z	30		
Golf Driving Range																									Z			Z			Z					Z	31	
Recreation Services, Indoor																						Z	Z	Z	Z	Z	Z	Z			Z		Z			Z	61	





Table B.2.6 PERMITTED USES																																						
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS		
Group Care Facility B																						P				P	P	Z								Z	32	
Habilitation Facility A		A	A	A	A	A	A	A	A	A	A	A	P	P	P													Z								Z	33	
Habilitation Facility B													P	P	P													Z									Z	34
Habilitation Facility C													A	A	A							P			P	P	P	Z						P		Z	34	
Hospital or Health Center																			Z	Z		Z			Z	Z	Z	Z	Z	Z			Z		Z	Z		
Institutional Vocational Training Facility																			Z	Z		Z			Z	Z	Z	Z						Z				
Landfill, Construction & Demolition		P	P	P	A																				P	P	P		P		P	P						38
Landfill, Land Clearing/ Inert Debris		P	P	P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	P	P	A	P	P	P	P	P		P		P	P	A	A			39	
Landfill, Sanitary			E	E																											E						40	
Library, Public		P	P	P	P	P	P	P	P	P		Z	Z	Z	Z		Z	Z		Z	Z	Z	Z	Z	Z	Z	Z	Z					Z		Z		41	
Limited Campus Uses						P	P	P	P	P	P	P	P	P			P	Z			P		Z					Z								Z	43	
Museum or Art Gallery																		Z		Z		Z	Z	Z	Z	Z	Z	Z					Z	Z	Z	Z		

Table B.2.6 PERMITTED USES																																					
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS	
Neighborhood Organization																	Z	Z		Z	Z	Z	Z		Z	Z	Z	Z					Z		Z		
Nursing Care Institution		A	A	A	A							Z	Z	Z	Z					Z		Z				Z	Z	Z	Z					Z	Z	Z	54
Police or Fire Station		Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z	Z			Z	59
Post Office																			Z	Z		Z			Z	Z	Z	Z	Z	Z	Z	Z			Z		
Postal Processing Facility																						Z					Z		Z	Z	Z	Z					
Recycling Center																																Z	Z				
School, Private		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						P	P		<u>P</u>	P	P		Z					P	Z	Z	64
School Public		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						P	P		P	P	P		Z					P	Z	Z	65
School, Vocational or Professional																			Z	Z		Z	Z	Z	Z	Z	Z	Z	Z				Z	<sup>P</sup>	Z	Z	
Stadium, Coliseum, or Exhibition Building																						Z			Z	Z	Z					Z				Z	
MANUFACTURING AND MINING																																					
Manufacturing A																			Z							Z			Z	Z	Z	Z				Z	
Manufacturing B																										Z			Z	Z	Z	Z					

Table B.2.6 PERMITTED USES																																					
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S *	LI	CPI	GI	CI	IP	C	MX	CONDS	
Manufacturing C																															Z	Z					
Asphalt and Concrete Plant																															Z						
Borrow Site	A	A	A	A	A																A	A	A	A	A	A	A		A	A	A	A					9
Hazardous Waste Management Facility																																E					35
Meat Packing Plant																																P	P				48
Mining, Quarry, Or Extractive Industry																																E					50
Recycling Plant																													Z			Z	Z				
Storage and Salvage Yard																									Z						Z	Z					67.1
TRANSPORTATION AND UTILITIES																																					
Access Easement, Private Off-Site	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E		E	E	E	E	E	E	E	E	1
Airport, Private																			P											P	P				P	5	
Airport, Public																																A					
Broadcast Studio																			Z	Z		Z	Z	Z	Z	Z	Z	Z	Z		Z	Z			Z		
Heliport																			P											P	P	P					36

Table B.2.6 PERMITTED USES																																					
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	CB	MRB-S <sup>4</sup>	LI	CPI	GI	CI	IP	C	MX	CONDS	
Helistop																			A	A		A		A	A	A	A		A	A	A	A	A		Z	36	
Park and Shuttle Lot		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Z	Z	Z	A	Z	Z	Z	Z	Z	Z	Z		Z		Z	Z	Z		Z	56
Parking, Commercial																			Z			Z	Z	Z	Z	Z	Z		Z		Z	Z			Z		
Parking, Off-Site, for Multifamily or Institutional Uses			E	E	E	E	E	E	E	E	E	E	E	E	E																						57
Terminal, Bus or Taxi																						Z			Z	Z	Z	Z	Z			Z	Z			Z	
Terminal, Freight																															Z	Z					
Transmission Tower		A	A	A	A						A	A	A	A	A	A		P	P	P		P	P	P	P	P	P	Z	P	P	P	P		A	A	Z	70
Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Z	Z	Z	P	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z		Z	71	

Z = Permit from Zoning Officer	A = Board of Adjustment Special Use Permit	<sup>1</sup> See Section B.2-1.3(E)(3)
P = Planning Board Review	E = Elected Body Special Use Permit	<sup>2</sup> See Section B.2-1.3(G)(3)
The number in the <b>CONDS</b> column references the subsection of Section B.2-5 (i.e., 23 refers to Section B.2-5.23)		<sup>3</sup> See Section B.2-5.67
		<sup>4</sup> Per Section B.2-1.3(L), Major Retail & Business District (MRB-S)
This Table should be used in conjunction with Sections B.2-4.1 through B.2-4.6.		



**Section 18. Chapter B, Article II, Section 2-5.37(A) Kennels, Indoor is hereby amended as follows:**

**2-5.37 KENNELS, INDOOR**

- (A) Location and Setbacks...Indoor kennel services may be permitted in attached buildings or in freestanding buildings; however, any portion of the building or any freestanding building containing such use must be set back at least twenty (20) feet from any side lot line and forty (40) feet from any rear lot line. Any portion of a building containing such a use abutting a residential district shall be set back not less than one-hundred (100) feet from any residential boundary. These setbacks may be reduced through an approved special use rezoning process as noted in Article VI of this Ordinance ~~B.6 2.2 of the Clemmons Unified Development Ordinance~~ with the petitioner providing the equivalent of an additional Type III fifteen (15) foot bufferyard.

**Section 19. Chapter B, Article II, Section 2-5.45(C) Manufactured Home, Class B or Class C is hereby amended as follows:**

**2-5.45 MANUFACTURED HOME, CLASS B OR CLASS C**

- (C) Previously Approved Class B or C Manufactured Home...Any Class B or C manufactured home permitted through the Board of Adjustment prior to the effective date of *this Ordinance*, but which is no longer permitted under Table B.2.6 may request a renewal of the permit from the Board of Adjustment according to Article VI of this Ordinance. ~~Section B.6 1.4(A).~~

**Section 20. Chapter B, Article II, Section 2-5.58(H)(9)(e) Planned Residential Development is hereby amended as follows:**

**2-5.58 PLANNED RESIDENTIAL DEVELOPMENT**

- (e) Types of Open Space...The total area and percentage of each type of open space within the PRD must be shown on the site plan approved by the Planning Board. PRDs must be developed according to this approved plan, and any changes or deviations must be approved in accordance with Article VI of this Ordinance. ~~Section B.6 1.3.~~

**Section 21. Chapter B, Article II, Section 2-5.62(B)(3)(d) Residential Building, Multifamily; Residential Building, Townhouse; or Residential Building, Twin Home is hereby amended as follows:**

**2-5.62 RESIDENTIAL BUILDING, MULTIFAMILY; RESIDENTIAL BUILDING, TOWNHOUSE; OR RESIDENTIAL BUILDING, TWIN HOME**

(B) Standards... With the exception of multifamily or townhouse development located in the RSQ District, all multifamily or townhouse residential buildings shall comply with the following:

- (3) Other Development Standards... All multifamily or townhouse developments shall meet the following standards:
  - (d) Adopted Plans... The project is in accordance with all development criteria established by the Elected Bodies' adopted plans and policies, such as *Legacy*, *Clemmons Community Compass*, and applicable development guides.

**Section 22. Chapter B, Article II, Section 2-5.65(B)(6) School, Public and Private is hereby amended as follows:**

**2-5.65 SCHOOL, PUBLIC AND PRIVATE**

- (6) Skirting... Skirting compatible with mobile units shall be provided under mobile classrooms approved under Section B.6-2.2(B)(1) ~~Section B.6-1.2(A)(1)(a)(i)~~, and which are visible from an adjacent public street and located within two hundred (200) feet of the public street.

**Section 23. Chapter B, Article II, Section 2-6.4(C)(1) Uses Which May Only Be Accessory to Principal Uses is hereby amended as follows:**

**2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES**

(C) Dwelling, Accessory (Detached)

- (1) Occupancy Requirements. A special use permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Article VI of this Ordinance ~~Section B.6-1~~. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons:

**Section 24. Chapter B, Article II, Section 2-7.2 Temporary Uses Permitted is hereby amended as follows:**

**2-7.2 TEMPORARY USES PERMITTED**

(N) Temporary Health Care Structures

- (1) The following definitions apply in this section:

- (a) Activities of daily living – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring toileting, and eating.

- (b) Caregiver – An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.
- (c) First- or second-degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
- (d) Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (e) Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).
- (2) Temporary family health care structures occupied by a caregiver or an individual who is named legal guardian of the mentally or physically impaired person on property owned or occupied by a mentally or physically impaired person or a temporary health care structure occupied by a mentally or physical impaired person on property owned or occupied by the caregiver are permitted as a temporary use.
- (3) Only one (1) temporary family health care structure shall be allowed on a lot or parcel of land zoned for single-family detached dwellings.
- (4) Any temporary family health care structure installed pursuant to this section shall be removed within sixty (60) days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within sixty (60) days of its removal, as applicable.
- (5) Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

**Section 25. Chapter B, Article III, Section 3-1.1 General Requirements is hereby amended as follows:**

### **3-1.1 GENERAL REQUIREMENTS**

- (B) Nonconforming Situations and Variances...There shall be no variations from the dimensional requirements of this section except in nonconforming situations Section B.5 or

where the Board of Adjustment may waive the dimensional requirements, Article VI of this Ordinance. ~~Section B.6-1.4(B)~~.

- (C) Dimensional Requirements...The dimensional requirements which specify minimum lot area, minimum lot width, minimum setbacks, maximum impervious surface cover, maximum height, and minimum contiguous area, where applicable, are set forth in Table B.3.1, Table B.3.2, Table B.3.3, and Table B.3.4. Dimensional and other requirements of zoning districts are set forth in Section B.2-1.

Table B.3.1  
Residential Districts General Dimensional Requirements <sup>1,2,3</sup>

Zoning District	Minimum Zoning Lot		Minimum Setbacks <sup>4</sup>					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side <sup>9</sup>				
	Area (sf)	Width (ft) <sup>10</sup>	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
YR <sup>7</sup>	130,680	300	45	50	20	50	30	—	40
AG <sup>7</sup>	40,000	150	45	50	20	50	30	—	40
RS-40	40,000	100	35	40	10	25	20	—	40
RS-30	30,000	100	35	35	7	20	20	—	40
RS-20	20,000	95	30	30	7	20	20	—	40
RS-15	15,000	85	25	25	7	20	20	—	40
RS-12	12,000	75	20	25	7	20	20	—	40
RS-9	9,000	65	20	25	7	20	20	—	40
RS-7	7,000	50	15	20	5	15	20	—	40
RSQ <sup>5</sup>	—/11,000	—/60	0/15	0/15	0/10	0/20	0/15	—	40
RM-5 <sup>6</sup>	—/11,000	—/60	0/15	0/15	0/10	0/20	0/15	—	40

RM-8 <sup>8</sup>	8,000	70	25	25	7	20	20	70	40
RM-12	7,000	70	25	25	15	30	20	75	45
RM-18	5,000	70	25	25	15	30	20	80	60
RM-U	5,000	70	10	10	10	10	10	85	—
MH	10,000	70	30	20	10	25	20	—	40

1. These dimensional requirements are subject to additional provisions in Section B.3-1.2; Section B.2-5; Section B.2-1.6(C); Section B.3-4; Section B.3-5; and Section B.3-8.
2. Larger lot width, depth, or area may be required by the Public Health Department for the installation of septic systems.
3. Additional dimensional requirements for residential uses in other districts are listed in Tables B.3.3 and B.3.4.
4. No setback is required for twin homes; all other uses must be set back a minimum of five (5) feet.
5. Ranges of requirements for RSQ are listed; dimensional requirements are based on use in the district. Please refer to Section B.2-1.2(J)(2).
6. Ranges of requirements for RM-5 are listed; dimensional requirements are based on use in the district. Please refer to Section B.2-1.2(K)(2).
7. Nonconforming lots in the YR and AG Districts meeting the provisions of Section B.5-3.2(C) must meet the minimum setback requirements of the RS-20 zoning district.
8. Three story structures in RM-8 must be setback a minimum of fifty (50) feet from adjacent properties zoned for single family residential development.
9. Where the main entrance to a single family residence is located on a side yard, the setback for the portion of the wall on which the door is located shall be equal to the front yard setback.
10. Cul-de-sac lots shall be exempt from lot width requirements. Cul-de-sac lots may measure the front setback from a chord or straight line between front lot corners provided it does not decrease the front yard setback from the right-of-way of the cul-de-sac or turnaround more than ten (10) feet from the requirements of the zoning district in which the lot is located.

Table B.3.2  
Nonresidential Districts General Dimensional Requirements <sup>1,2</sup>

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks <sup>8</sup>				Maximum Impervious Surface Cover (%)	Maximum Height <sup>3</sup> (ft)
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side Interior Side (ft)	Street (ft)		
NO	6,000	65	—	20	25	7	20	60	40
LO	10,000	100	—	20	20	5	20	75	40
CPO	—	250 <sup>4</sup>	10	60	40	40	40	80	60/unlimited
GO	10,000	75	—	20	—	—	20	80 <sup>5</sup>	60/unlimited
NB	6,000	65	—	10	25	7	20	60	40
PB	—	—	—	—	—	—	—	—	60
LB	10,000	100	—	20	5	0.5/12 6	20	75	40
NSB	—	250 <sup>4</sup>	4	40	40	40	20	75	40
HB	20,000	100	—	40	20	0.5/12 6	20	85	60
GB	10,000	75	—	20	—	—	20	—	60/unlimited
CB	—	—	—	—	—	—	—	—	—
MRB-S <sup>9</sup>	—	—	10	40 <sup>11</sup>	20	0.5/12 6	20	85	60
LI	10,000	100	—	20	20	0.5/12 6	20	90	70/unlimited
CPI	—	150 <sup>4</sup>	30	40	20	20	20	70	70
GI	43,560	150	5	40	20	0.5/12 6	20	—	70/unlimited
CI	—	—	—	—	—	—	—	—	—
IP	10,000	65	—	25	10	5	20	60	60
C	20,000	100	20	20	20	20	20	70 <sup>7</sup>	40/75 or 60/unlimited <sup>3</sup>
<del>MU-SMX</del>	5,000	30	30	10	—	—	10	—	60/unlimited <sup>3</sup>

Table B.3.4  
Other Dimensional Requirements

Zoning District	Minimum Zoning Lot		Minimum Setbacks					Maximum Impervious Surface Cover (%)	Maximum Height (ft)
					Side				
	Area (sf)	Width (ft)	Front (ft)	Rear (ft)	One Side (ft)	Combined (ft)	Street (ft)		
Single Family Residences in NO, NB, PB and <del>MX</del> <del>MU-S</del> Districts									
NO, NB	6,000	50	20	10	5	15	20	70	40
PB	—	—	—	—	—	—	—	—	—
<del>MU-S</del> <u>MX</u>	5,000	40	15	15	0	15	20	—	40
Duplexes in <u>MX-SMU-S</u> and NO Districts									
<del>MU-S</del> <u>MX</u>	7,500	40	15	15	0	15	20	—	40
NO	—	—	20	20	10	25	20	—	—
Twin Homes in <del>MU-S</del> <u>MX</u> and NO Districts									
<del>MU-S</del> <u>MX</u>	5,000	40	15	15	0	15	20	—	40
NO	—	—	20	20	0	25	20	—	—
Multifamily Developments in GB, CB, PB, <del>MU-S</del> <u>MX</u> , NO, and LO Districts									
GB	20,000	100	20	—	—	—	20	85	60
CB	—	—	—	—	—	—	—	—	—
PB	—	—	—	—	—	—	—	—	—
<del>MU-S</del> <u>MX</u>	30,000	70	25	25	15	30	20	80	60
NO, LO	—	—	20	20	10	25	20	—	—

**Section 26. Chapter B, Article III, Section 3-1.2 Supplementary Dimensional Requirements is hereby amended as follows:**

### **3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS**

(D) Setbacks for Taller Structures in GO, CPO, GB, GI and ~~MU-SMX~~ Districts

(K) Building Spacing Requirements for Multifamily, Townhouse, or Twin Home Residential Buildings...If a zoning lot is developed for multifamily, townhouse or twin home residential buildings, the following method shall be used to determine the minimum spacing of buildings. The spacing of buildings shall be shown on a site plan prepared according to the provisions of Section B.7.

- (4) Alternative Compliance...A developer may propose spacing for buildings that varies from the strict application of the provisions of the section in order to accommodate the unique character of the site or to utilize innovative design. Application for alternative compliance shall include a site plan following the requirements of Section B.7 and any additional architectural plans, elevations, or perspective drawings to illustrate the proposed building design and/or placement alternative. Alternative compliance shall be approved by the Planning Board only upon a finding that the building architecture and site plan fulfills the following criteria as well or better than would strict conformance with the requirements of *this Ordinance*:

- (e) The project is in accordance with all development criteria established by the Elected Bodies' adopted plans and policies including *Legacy and Clemmons Community Compass*, area plans, and development guides.

- (N) ~~Width of Private Access Easements and Private Streets...An access easement, or private street, connecting a public street or highway to principal uses which depend upon such easement for access, shall be not less than twenty five (25) feet in width and shall be recorded in the office of the Register of Deeds. Any use abutting such easement shall be located on a zoning lot and shall comply with all dimensional requirements of the applicable district. No zoning permit shall be issued for a principal use not abutting upon a public street or a private street which complies with this provision. This width requirement does not apply to any driveway located on a zoning lot or to any alley.~~

- (N) Width of Private Access Easements and Private Streets...An access easement, or private street, connecting a public street or highway to principal uses which depend upon such easement for access, shall be not less than twenty-five (25) feet in width and shall be recorded in the office of the Register of Deeds. In lieu of the twenty-five (25) foot access easement for two-way access, nonresidential developments that are approved through a special use zoning process or Planning Board review process may elect to provide separate one-way ingress and egress access easements each not less than twenty (20) feet in width. Any use abutting such easement shall be located on a zoning lot and shall comply with all dimensional requirements of the applicable district. No zoning permit shall be issued for a principal use not abutting upon a public street or a private street which complies with this provision. This width requirement does not apply to any driveway located on a zoning lot or to any alley.

**Section 27. Chapter B, Article III, Section 3-2.1 Sign Regulations is hereby amended as follows:**

### **3-2.1 SIGN REGULATIONS**

- (3) Sign Measurement.

- (a) Area Calculation. Sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, measuring the copy area. The outside dimensions of the sign, exclusive of structural support shall not increase the overall dimensions by more than seventy-five percent (75%).



- (b) Sign Area and Height. Sign heights are measured to top of copy and shall be measured using the surrounding average grade or road height, whichever is greater. The total copy areas of ground signs are not to exceed eighteen (18) square feet for five (5) feet high signs; thirty-six (36) square feet for ten (10) feet high signs; fifty-four (54) square feet for fifteen (15) feet high signs. Total face of the sign area shall not increase the overall dimensions by more than seventy-five percent (75%) of the total copy area. Copy area and total face area calculations are based on zoning district height allowances for each zoning classifications, not actual sign height.

Zoning District	Maximum Sign Height
NSB	15 feet
HB, GB, CB, MRB-S, GI greater than 25,000 square feet total building footprint	15 feet
LI, CPI, CI, GI (less than 25,000 square feet)	10 feet
GB, HB, LB, PB, MRB-S, LO, GO, CPO, CB, greater than 4,000 square feet total building footprint	10 feet
RM-5, RM-8, RM-12, RM-18, RM-U, MH, IP, C	5 feet
GB, HB, LB, PB, MRB-S, LO, GO, CPO, CB, less than 4,000 square feet total building footprint	5 feet
YR, AG, RS-40, RS-30, RS-20, RS-15, RS-12, RS-9, RS-7, RSQ, NO, NB, <del>MU-SMX</del> , I-40 Thoroughfare Overlay District	UDO standards apply

**Section 28. Chapter B, Article III, Section 3-3.5(M)(1) Alternatives and Incentives is hereby amended as follows:**

### **3-3.5 ALTERNATIVES AND INCENTIVES**

(M) On-street Parking Supplements for Pedestrian Oriented Developments...The pedestrian nature of a site can be enhanced by permitting on-street parking connected to exterior and interior sidewalks.

- (1) On-street parking satisfying the off-street parking requirements of Table B.3.8 may be permitted for sites in the PB and LB Special Use District Zoning Districts, ~~MU-SMX~~ zoning district, or Planned Residential Developments, if the following requirements are met:

**Section 29. Chapter B, Article III, Section 3-4.2.1 Tree Preservation and Planting Standards is hereby amended as follows:**

### 3-4.2.1 TREE PRESERVATION AND PLANTING STANDARDS

- (A) Tree preservation and planting standards of this section are applicable for all development except as cited in Section 3-4.1(C) and as noted below:

The following are exempt from the tree preservation and planting requirements of *this Ordinance*:

- (i) Development sites located in areas zoned CB, CI, sites zoned PB in Growth Management Area (GMA) 1, and all sites in GMA 5;
  - (ii) Individual residential lots platted prior to the adoption of *this Ordinance*;
  - (iii) Minor subdivisions;
  - (iv) Redevelopment of sites zoned PB, GB, ~~MXMU-S~~, and C which demonstrate a pedestrian-oriented urban form in accordance with Section B.2-1.3(1). Redevelopment of sites zoned PB, GB, ~~MXMU-S~~, and C shall be exempt from the requirements of Section B.3-4.2.1. Instead, such development shall include one large variety street tree, as allowed by overhead utilities or road ownership, per fifty (50) feet of street frontage. These trees shall be spaced forty (40) to sixty (60) feet apart and shall be located within the street right-of-way;
- (B) Tree Save Area Flexibility Standards...Flexibility can be granted to the required tree save area standards under the following circumstances as approved by the Village of Clemmons Planning Board, Village Planning Staff, Director of Inspections and/or the Village Public Works Director/designee or combination of the two, with the understanding that developer shall be required to reforest and/or replant the difference in percentages per Table B-3.12:
- 1. Land Dedication. Land dedicated to the Village of Clemmons may be used towards the tree preservation requirements.
  - 2. Reforestation Credits...Reforestation efforts on the property requirements can be used to satisfy up to twenty percent (20%) of the required tree save area with the approval of the Village Public Works Director or designee and up to fifty percent (50%) of the required TSA with the approval of the Village Planning Board. The reforestation option must reforest the remainder of the square footage as required at the rate of one mixed variety seedling per one hundred (100) square feet.
  - 3. Site layout as determined by the Village Planning Department and/or the Director of Inspections or designee, including whether there are reasonable site layout options available that would further minimize the need to waive or reduce the tree preservation requirements. Conformance of the proposed development with the Community Compass recommendations of community character, quality of life, responsible growth and sustainability as it relates to urban form in specific strategic corridors, ~~and~~ Legacy and Clemmons Community Compass recommendations of balancing open space preservation with encouraging urban form of development.

**Section 30. Chapter B, Article III, Section 3-4.9 Variance is hereby amended as follows:**

### 3-4.9 VARIANCE

Applications for variances from the requirements of the landscaping and screening standards may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case. Said application for a variance will be governed by the procedures set forth in Article VI of this Ordinance. ~~Section B.6-1.4(B).~~

**Section 31. Chapter B, Article III, Section 3-5.1(B)(3) General Requirements is hereby amended as follows:**

**3-5.1 GENERAL REQUIREMENTS**

- (B) Applicability...Every use, change of use, or expansion of a structure or land hereafter established shall meet the bufferyard requirements of this section, except for the following:
- (1) Single family, duplex, or twin home uses;
  - (2) Development or redevelopment in the CB or CI Districts;
  - (3) Between component parts of a planned residential development or ~~MU-S~~SMX District;  
or,
  - (4) Where no bufferyard requirement is shown in Table B.3.13.

**Section 32. Chapter B, Article III, Section 3-5.2(A)(1)(d) Determination of Bufferyard is hereby amended as follows:**

**3-5.2 DETERMINATION OF BUFFERYARD**

- (d) High Intensity Commercial (HIC) Zoning Types. High intensity commercial zoning types include the CPO, GO, NSB, HB, GB, CB, and ~~MXMU-S~~ Districts.

**Section 33. Chapter B, Article III, Section 3-5.2(C) Alternative Compliance for NO, NB, MRB-S, and MU-S is hereby amended as follows:**

- (C) Alternative Compliance for NO, NB, MRB-S and ~~MXMU-S~~ Districts...In the NO, NB, MRB-S and ~~MXMU-S~~ Districts, a developer may propose a bufferyard plan that varies from the strict application of the provisions of this section in order to accommodate unique characteristics of the site, utilize innovative design, or provide an appropriate degree of buffering for separate phases and types of development. Application for alternative compliance shall include a site plan following the requirements specified in Section B.7, and shall be approved by the Planning Board only upon a finding that the proposed bufferyard plan fulfills the intent and purposes of this section better than would strict conformance with the requirements of this section.

**Section 34. Chapter B, Article III, Section 3-5.5 Bufferyard Variance is hereby amended as follows:**

**3-5.5 BUFFERYARD VARIANCE**

Application for variances from the requirements of the bufferyard standards may be approved by the Board of Adjustment in accordance with the procedures in Article VI of this Ordinance. Section B.6-1.4(B).

**Section 35. Chapter B, Article III, Section 3-12.1 DESIGN REQUIREMENTS FOR LARGE SCALE RETAIL DEVELOPMENTS (75,000+ SF SINGLE TENANT) is hereby amended as follows:**

**3-12.1 DESIGN REQUIREMENTS FOR LARGE SCALE RETAIL DEVELOPMENTS  
(~~75,000+ SF SINGLE TENANT~~)**

(B) APPLICABILITY...The following retail development is subject to the requirements of this section in addition to complying with all other Code requirements:

- (2) — ~~Any addition to an existing structure(s) listed in Section 3-12.1(B)(1) whose combined square footage results in meeting or exceeding the threshold(s) listed. Twenty-five thousand (25,000) square foot or more addition to an existing seventy-five thousand (75,000) + gross square feet single plate ground floor space serving as a single tenant.~~ Additionally, the requirement of this section shall apply to the structure that includes the addition and to the portion of the site that is developed as a direct result of the increased parking requirements;

(E) ROOFS...Roof design shall incorporate the following design features:

- (1) Roof Pitch...Roof pitches less than 3/12 and flat roofs will require a parapet wall. A pitched roof shall be profiled by eaves a minimum of twelve (12) inches from the building face or with a gutter. Parapet walls or other roof treatments will screen the flat roof and any or all equipment that may be contained thereon from view. Such parapets shall not exceed one-third (1/3) of the height of the supporting wall and shall be constructed with a three-dimensional cornice treatment. Roof forms shall be architecturally compatible with existing, adjacent, or surrounding structures.
- (3) Membrane roofing material is prohibited when visible from public view. Roofing material shall be tile, slate, asphalt, and metal. All roof designs must use at least one of the following design features:
- (a) Three (3) or more roof slope planes; or
- (b) Overhanging eaves or canopy projections, which extend no fewer than two (2) feet past the supporting walls.

(G) PARKING AND CIRCULATION...The parking lot design and pedestrian circulation routes shall provide a safe, convenient and efficient access for vehicles, pedestrians and bicyclists. Pedestrian circulation via internal public sidewalks shall be encouraged. The placement of structures shall enhance and promote pedestrian circulation on the site.

- (4) ~~At minimum, one internal continuous sidewalk of at least eight (8) feet wide (clear) shall be provided from the public street to the entrance(s). Additionally, at least four (4) feet wide walkways shall connect focal points of pedestrian activity, such as transit stops, street crossings or store entry points, and shall feature adjoining landscaped areas (four (4) foot minimum landscape depth) to provide a separated and pedestrian friendly access route for no less than fifty (50) percent of their overall length. Sidewalks at least~~

eight (8) feet in width shall be provided along any façade featuring a customer entrance, and along any façade abutting public parking areas. At all times, such sidewalks shall maintain a clear pedestrian passage equal to the width of the sidewalk. Additionally, such sidewalks shall connect all customer entrances and to other internal sidewalks, and shall be located an average of at least three (3) feet from the façade of the building to provide planting beds for living foundation landscaping, except where features such as covered walkways, arcades or entryways are part of the façade. Such living foundation landscaped areas shall be a minimum average of six (6) feet wide, and shall be a minimum of fifteen (15) feet in overall length.

**Section 36. Chapter B, Article IV Section 4-3 Forsyth County Historic Resources Commission is hereby amended as follows:**

**4-3 Reserved**

**4-3 Forsyth County Historic Resources Commission**

~~The Commission is designated as the historic preservation advisory and quasi-judicial body for Forsyth County. The Commission shall consist of twelve (12) members appointed as follows: five (5) by the Forsyth County Board of Commissioners, which shall include representation from Bethania, Lewisville, Rural Hall, and Walkertown; five (5) by the Winston-Salem City Council; one by the Kernersville Board of Alderman; and one by the Clemmons Village Council.~~

**4-3.1 MEMBERSHIP AND ORGANIZATION**

~~(A) Membership and Qualification .....All members of the Commission shall reside within Forsyth County. All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The Commission shall consist of six (6) at large members and six (6) categorical members. The categorical members shall include at least one each of the following categories:~~

- ~~• Architect licensed in the State of North Carolina;~~
- ~~• Architectural historian or historic preservationist;~~
- ~~• Archaeologist, landscape architect/designer, planner, surveyor, or arborist;~~
- ~~• Historic (H) District property owner;~~
- ~~• Historic Overlay (HO) District property owner; or,~~
- ~~• Local Historic Landmark (LHL) property owner.~~

- (B) ~~Appointment of Categorical Members .....The six (6) categorical members shall be appointed as follows: The Forsyth County Board of Commissioners shall appoint one architect licensed in the State of North Carolina, and one Local Historic Landmark (LHL) property owner; and the Winston-Salem City Council shall appoint one architectural historian or historic preservationist, one archaeologist, landscape architect/designer, planner, surveyor, or arborist, one Historic (H) District property owner, and one Historic Overlay (HO) District property owner, in accordance with regulations required by certified local government status.~~
- (C) ~~Term .....The regular term of office for Commission members shall be four (4) years. A member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one full term has elapsed from the member's termination of service. Members shall continue in office until a successor has been appointed and qualified. Service of less than fifty percent (50%;) of a normal term shall not be deemed a term, and service for more than fifty percent (50%) shall be deemed a term.~~
- (D) ~~Compensation .....Members shall serve without compensation.~~
- (E) ~~Meetings .....The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting. All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.~~
- (F) ~~Rules of Procedure .....The Commission shall adopt and publish Rules of Procedure for the conduct of its business.~~
- (G) ~~Annual Report .....An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.~~
- (H) ~~Meeting Minutes .....The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.~~

#### 4.3.2 — COMMISSION POWERS

- (A) ~~General Responsibilities of the Historic Resources Commission .....The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County.~~
- (B) ~~Specific Authority and Powers .....The Commission shall have all powers of an historic preservation commission as provided in G.S. Ch. 160A, Part 3C of Article 19, including the following duties and responsibilities:~~
- (1) ~~To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;~~

- ~~(2) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts;~~
- ~~(3) To recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;~~
- ~~(4) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with G.S. 160A-400.9;~~
- ~~(5) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;~~
- ~~(6) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.~~
- ~~(7) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;~~
- ~~(8) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;~~
- ~~(9) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of Section B.4;~~
- ~~(10) To organize itself and conduct its business by whatever legal means it deems proper;~~
- ~~(11) To appoint advisory bodies or committees, as appropriate;~~
- ~~(12) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties;~~
- ~~(13) To accept funds granted to the Commission from private or nonprofit organizations or individuals;~~
- ~~(14) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government;~~

- ~~(15) To obtain the services of private consultants in order to perform the Commission's official duties;~~
- ~~(16) To negotiate with property owners for acquisition or protection of historic properties;~~
- ~~(17) To acquire under Commission ownership, manage, and dispose of properties designated as historic landmarks or within designated historic districts, pursuant to G.S. 160A-400.8(3);~~
- ~~(18) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;~~
- ~~(19) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties;~~
- ~~(20) To conduct educational programs on historic resources within Forsyth County;~~
- ~~(21) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;~~
- ~~(22) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;~~
- ~~(23) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;~~
- ~~(24) To cooperate with State and federal governments on matters related to historic preservation;~~
- ~~(25) To cooperate with local governmental boards, commissions, or agencies or other governmental units; and, to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;~~
- ~~(26) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;~~
- ~~(27) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,~~
- ~~(28) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.~~



**Section 37. Chapter B, Article IV Section 4-4.3(B) Designation Procedures is hereby amended as follows:**

#### **4-4.3 DESIGNATION PROCEDURES**

- (B) The Commission shall prepare and adopt principles and design review ~~guidelines~~ standards for altering, restoring, moving, or demolishing properties designated as historic landmarks.

**Section 38. Chapter B, Article IV Section 4-4.4 LHL Regulations is hereby amended as follows:**

#### **4-4.4 LHL REGULATIONS**

- (B) Dimensional Requirements

- (1) Requirements...All buildings and structures designated as an LHL shall comply with the dimensional requirements established in the design review ~~guidelines~~ standards adopted for each separate LHL. Design review ~~guidelines~~ standards are addressed in Section B.6-2.9(F) Standards for Review. ~~B.4-7.5.~~

**Section 39. Chapter B, Article IV Section 4-5.3 Establishment and Amendment Procedure is hereby amended as follows:**

#### **4-5.3 ESTABLISHMENT AND AMENDMENT PROCEDURE**

- (A) Establishment...The Elected Bodies may designate one or more geographic areas as an H or HO District. The following shall be the procedure for establishing H or HO Districts:
- (5) The Commission may appoint a task force to develop design review ~~standards~~ guidelines and boundaries for said general area. The task force shall be composed primarily of individuals representing various interests in said general area.
- (6) After developing design review ~~standards~~ guidelines and boundaries, the task force shall report to the Commission.
- (7) The Commission shall review the design review ~~standards~~ guidelines and boundaries and shall then vote on whether to accept the task force report.
- (10) The Commission shall consider revisions to the proposed design review ~~standards~~ guidelines and boundaries, as necessary, and prepare final proposed design review ~~standards~~ guidelines and boundaries.
- (13) Once all the previous procedural steps have been met, an application for rezoning the said general area to an H or HO District shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be

required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Article VI of this Ordinance. ~~Section B.6-2~~. In addition, the design review standards guidelines for the proposed district shall be made available to the Elected Body for its review and comment.

(B) Amendment...The following shall be required to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts.

(3) Once all the previous procedural steps have been met, an application to amend, supplement, change, modify, or repeal any district boundaries of the H or HO Districts shall be accepted. The County/City/Town/Village shall proceed in the same manner as would otherwise be required for a change in the Zoning Ordinance and the request shall be processed according to the procedures set forth in Article VI of this Ordinance. ~~Section B.6-2~~.

**Section 40. Chapter B, Article IV Section 4-6.1(B) H District Regulations is hereby amended as follows:**

#### **4-6.1 H DISTRICT REGULATIONS**

(B) Nonconforming Uses...Prior to its acting upon an application for a special use permit pursuant to Article VI of this Ordinance ~~Section B.6-2~~ to expand or convert a nonconforming use in the H Districts, the Board of Adjustment shall first receive the recommendation of the Commission with respect to such application.

**Section 41. Chapter B, Article IV Section 4-6.2 HO District Regulations is hereby amended as follows:**

#### **4-6.2 HO DISTRICT REGULATIONS**

(B) Dimensional Requirements

(1) Requirements. All buildings and structures in the HO Districts shall comply with the dimensional requirements established in the design review standards guidelines adopted for each separate HO District. Design review standards guidelines are addressed in Section B.6-2.9(F) Standards for Review. ~~B.4-7.5~~.

**Section 42. Chapter B, Article IV Section 4-7 Certificate of Appropriateness is hereby amended as follows:**

#### **4-7 - Reserved**

#### ~~4-7 CERTIFICATE OF APPROPRIATENESS~~

#### **4.7.1—REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS FOR LOCAL HISTORIC LANDMARKS (LHL)**

From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of *this Ordinance*.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section B.4.7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.

Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4.7.2—REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of *this Ordinance*.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section B.4 7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

#### **4-7.3—CIRCUMSTANCES NOT REQUIRING CERTIFICATES OF APPROPRIATENESS**

No certificate of appropriateness shall be required for:

- (A) The routine maintenance or repair, as defined in the applicable design review guidelines, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
- (B) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
- (C) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

#### **4-7.4—PROCEDURES**

The following procedures shall govern the issuance of a Certificate of Appropriateness:

- (A) Applications—Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.
- (B) Application to Historic Resources Commission—Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.
- (C) Notice and Hearing Within H and HO Districts—Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.

- ~~(D) Viewing Site—As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.~~
- ~~(E) Time for Action—The Commission shall act upon complete applications within one hundred twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.~~
- ~~(F) Form of Decision—All formal actions of the Commission shall be set forth in writing. A decision of the Commission shall be effective upon filing the written decision with the Historic Resource Officer of the Commission. The decision of the Commission shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.~~
- ~~(G) Time Limits—Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness. If a request is made to renew a Certificate of Appropriateness prior to its expiration, Commission staff may renew it for one (1) additional year. If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.~~
- ~~(H) Approval of Minor Works—The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Guidelines for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.~~
- ~~(I) Reapplication after Denial—If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.~~
- ~~(J) Demolition Permits—An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred sixty five (365) calendar days from the date of~~

~~approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.~~

- ~~(K) Applicability to County, City, Town, Village and Utility Companies — The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in a H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.~~
- ~~(L) Appeals — An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness shall be taken to the appropriate Board of Adjustment. Appeals shall be taken by any aggrieved party by the later of thirty (30) calendar days after the decision is effective or after a written copy thereof is delivered in accordance with Paragraph (F) above, and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.~~
- ~~(M) Inspection after Issuance of Certificate — The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.~~

~~(UDO 77, § 2, 2-12-18)~~

#### **~~4-7.4.1 AFTER THE FACT CERTIFICATES OF APPROPRIATENESS~~**

- ~~(A) After the Fact Certificate of Appropriateness Applications — An after the fact Certificate of Appropriateness application includes any major or minor work projects that have been initiated or completed prior to obtaining the required Certificate of Appropriateness.~~
- ~~(B) After the Fact Certificate of Appropriateness Application Fee — To discourage activity without a Certificate of Appropriateness and to assist in offsetting the costs associated with the additional staff work that accompanies an after the fact application, an escalating fee system has been implemented. The escalating fee system is based upon the number of after the fact Certificate of Appropriateness applications sought by or on behalf of a property owner. The after the fact Certificate of Appropriateness application fee, as established by the City Council of the City of Winston-Salem and the County Commissioners of Forsyth County, shall be due upon submission of the application.~~
- ~~(C) Application Consideration — All after the fact Certificate of Appropriateness applications shall be brought before the Commission for consideration.~~
- ~~(D) Approval of After the Fact Certificate of Appropriateness Applications — Unless otherwise designated by the Commission, if an after the fact Certificate of Appropriateness application is approved, the applicant shall have ninety (90) days to complete the approved work.~~
- ~~(E) Denial of After the Fact Certificate of Appropriateness Applications — If an after the fact application for approval of work, completed without a Certificate of Appropriateness, receives a denial from the Commission, the subsequent Certificate of Appropriateness application, if required, shall be considered anew. A subsequent Certificate of Appropriateness application must be submitted to the Commission within thirty (30) days of~~

~~the effective date of the denial of the original after the fact application. Commission staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly.~~

~~(UDO 77, § 2, 2-12-18)~~

#### **~~4-7.5 STANDARDS FOR REVIEW~~**

~~A Certificate of Appropriateness shall be issued or denied in accordance with the following standards:~~

- ~~(A) General Criteria—In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.~~
- ~~(B) General Restriction on Denial—The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Guidelines.~~
- ~~(C) Design Review Guidelines Required—The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and guidelines, hereafter referred to as Design Review Guidelines, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.~~
- ~~(D) Design Review Guidelines Amendment—Prior to the amendment of design review guidelines for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.~~

**Section 43. Chapter B, Article IV Section 4-8 Compliance is hereby amended as follows:**

#### **~~4-8 COMPLIANCE~~**

~~Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with *this Ordinance* may be exercised to enforce this section.~~

#### **4-8 Reserved**

**Section 44. Chapter B, Article V Section 5-1 Purpose is hereby amended as follows:**

## Article V - Nonconforming Situations

**5-1 - PURPOSE**

The purpose of this Chapter is to regulate and limit the continued existence of nonconforming uses, nonconforming lots, and nonconforming structures, buildings and improvements. Nothing in this section shall limit the right of any person, firm, or corporation to complete construction of any project or use of any property, pursuant to a valid building permit or a special use permit approved by the Board of Adjustment ~~Elected Body~~, which permit or site plan was in effect upon the effective date of *this Ordinance*.

**Section 45. Chapter B, Article V Section 5-2.3(B) Expansion of a Nonconforming Use is hereby amended as follows:**

**5-2.3 EXPANSION OF A NONCONFORMING USE**

(B) Special Use Permit...A special use permit from the Board of Adjustment is required for any expansion of a nonconforming use. Application shall be made in accordance with the requirements of Article VI of this Ordinance. ~~Section B.6-1.4.~~

**Section 46. Chapter B, Article V Section 5-2.4(A) Conversion of Certain Nonconforming Uses Permitted is hereby amended as follows:**

**5-2.4 CONVERSION OF CERTAIN NONCONFORMING USES PERMITTED**

(A) Special Use Permit Required...A special use permit from the Board of Adjustment is required for conversion of nonconforming uses. Application shall be made in accordance with the requirements of Article VI of this Ordinance. ~~Section B.6-1.4.~~

**Section 47. Chapter B, Article VI Administration and Amendments is hereby amended as follows:**

~~Article VI Administration and Amendments~~

**~~6-1 - ADMINISTRATION~~**

~~To accomplish the purposes of this Ordinance and to ensure compliance with these regulations, the following administrative responsibilities are assigned:~~

**~~6-1.1 - GENERAL RESPONSIBILITIES~~**

~~The Director of Planning and the Planning Board are responsible for making recommendations to the Elected Body regarding zoning and land use matters as required by this Ordinance. The Zoning Officer shall enforce and administer the regulations of this Ordinance, under the general direction of the manager of the adopting jurisdiction, and shall serve as secretary to the Board of Adjustment. The Board of Adjustment or the Zoning Officer may seek needed legal advice of the attorney for the adopting jurisdiction.~~



**6-1.2 — ZONING OFFICER**

To ensure compliance with the provisions of *this Ordinance*, the Zoning Officer shall:

**(A) Issue Permits — Issue the following documents:****(1) — Zoning Permit.**

(a) ~~When Required.~~ — A zoning permit shall be obtained from the Zoning Officer prior to the following:

(i) ~~Building or Structure.~~ — The construction, reconstruction, erection, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use permitted in Table B.2.6, Section B.2 6, Section B.3-2, or any other use or improvement which requires a permit.

(ii) ~~Change of Use.~~ — Any change of use of any building or land.

(c) ~~Application.~~ — An application for a zoning permit shall be made to the Zoning Officer by the owner or his authorized agent and shall include a statement as to the intended use of the building or land. Any such application shall be accompanied by a plan so dimensioned or annotated as to show the proposed building and existing buildings, if any, in exact relation to lot lines. The water supply and sewage disposal methods of the proposed development shall have prior approval in compliance with Section B.3-10.

(d) ~~Building Permit Serves as Zoning Permit.~~ — A building permit issued in accordance with the State Building Code shall serve also as a zoning permit, and in such cases the cost of the building permit shall be the only fee charged. A minimum fee as specified in Section B.8 shall be charged for any zoning permit issued that does not require a building permit.

(e) ~~Posting.~~ — Any person performing the work covered by a zoning permit shall post said permit on the premises before the work begins and shall keep such permit posted on the premises until the certificate of occupancy for the premises is issued. Any time limitation relating to appeals from the issuance of a building permit shall run from the date the building permit is posted on the premises. The party to whom the building permit is issued shall be furnished a copy of the permit on which such person may certify as to the date of the posting of the permit, and return such certificate to the Zoning Officer. The date certified to the Zoning Officer as the date of posting shall be the date from which any time limitations regarding appeals shall run. If the recipient of the permit does not return the certificate of posting to the Zoning Officer, there shall be a rebuttable presumption that the permit was not posted as required by this section.

(f) ~~Action Within One Year.~~ — No zoning permit shall be valid unless acted upon within one year of issuance or renewed after written application.

(g) ~~Revocability.~~ — Any permit or document issued by the Zoning Officer shall be revocable should any of the conditions under which it is issued not be complied with.

(2) ~~Certificate of Occupancy.~~ — A certificate of occupancy shall be issued by the Zoning Officer upon approval of any building or other structure, or approval of other preparations for site occupancy, if the requirements of *this Ordinance* and other applicable laws or codes are complied with. Occupancy of such building or site prior to the issuance of the certificate of occupancy is a violation subject to the provisions of Section B.9.

- (a) ~~Application.~~—No application for a zoning permit shall be deemed acceptable unless accompanied by an application for a certificate of occupancy. Both applications shall include a statement of the intended use of the building or land.
- (b) ~~Phase of Construction.~~—As each phase of construction, if any, is completed and inspected, the appropriate inspector shall so certify on the application for certificate of occupancy.
- (3) ~~Permits Requiring Site Plan Review by the Planning Board.~~—Whenever the Planning Board approves a use requiring site plan review pursuant to Section B.6 1.3, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Officer.
- (4) ~~Special Use Permits, Variances and Special Use District Zoning.~~—Whenever the authorized board approves an application for a special use permit or a variance pursuant to Sections B.6 1.4 or B.6 1.5, or as a special use district zoning pursuant to Section B.6 2.2, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Officer.
- (5) ~~Temporary Use Permits.~~—Temporary use permits shall be issued or renewed by the Zoning Officer in compliance with Section B.2 7, provided that such permits are issued only upon written agreement by the owner to remove the structures or uses upon expiration of the permit.
  - (a) ~~Application.~~—All applications for temporary use permits shall be made to the Zoning Officer by the owner or his authorized agent;
  - (b) ~~Requirements.~~—Before the issuance of a temporary use permit, the Zoning Officer shall determine that all other pertinent regulations which may apply to such proposed use are complied with.
- (6) ~~Certificate of Appropriateness.~~—Whenever the Historic District Commission issues a certificate of appropriateness as required in the H and HO Districts, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval.
- (B) ~~Maintain Records~~—Make and maintain records of all applications for permits submitted to the Zoning Officer, and records of all permits and plans submitted, which shall be available for inspection at reasonable times by any interested person.
- (C) ~~Inspect and Enforce~~—Conduct inspections of premises and take other lawful action to obtain compliance with the provisions of *this Ordinance* as authorized in Section B.9.

### **6-1.3—PLANNING BOARD**

- (A) ~~Site Plan Review~~—The Planning Board shall review all requests for permits requiring site plan review, as designated in Table B.2.6 to assure the Use Conditions of Section B.2 5 and other provisions of *this Ordinance* are met.
  - (1) ~~Approval and Conditions.~~—The Planning Board shall approve any requests for permits which meet all the requirements of *this Ordinance*, and deny any such requests which do not meet all the requirements of *this Ordinance*. The Planning Board may, as part of its approval, require the following conditions to reduce impacts associated with the project:

- ~~(a) — Public right of way dedication to meet projected needs for roads shown on the *Transportation Plan*, or for other roads as determined by the Village of Clemmons or North Carolina Department of Transportation.~~
- ~~(b) — Road and/or sidewalk improvements as recommended by the Village of Clemmons or North Carolina Department of Transportation.~~
- ~~(c) — Access control, including the location, number and dimensions of driveways; and combining driveways with and providing connections to adjacent properties, as recommended by Planning Staff or other appropriate agencies.~~
- ~~(d) — Reorientation of parking areas or building access to insure on-site traffic flow and pedestrian safety.~~
- ~~(e) — Dedication of granting of easements for greenways identified on the adopted *Greenway Plan*.~~
- ~~(f) — Screening and locations of dumpsters, loading areas, on-site utilities, or other visually obtrusive features as determined by the Planning Board.~~
- ~~(g) — Space for public transit vehicle maneuvering and/or public transit shelter if determined necessary by the Winston-Salem Transit Authority.~~
- ~~(h) — Stormwater management plans as recommended by the Planning staff and appropriate agencies.~~
- ~~(i) — The Village will engage in activities and practices that will help mitigate the impacts of natural hazards.~~
- ~~(j) — The Village will strive to keep infrastructure extensions out of hazardous areas in order not to actively encourage development to occur in known hazardous areas as noted in the Appendix B of the Forsyth County Hazard Mitigation Plan.~~
- ~~(k) — The Village will increase control over development in the floodplain to prevent increases in flood velocities and levels that endanger both people and property within the County and in downstream communities.~~
- ~~(l) — Location and screening of improvements or activities which may generate substantial noise.~~
- ~~(m) — Compliance with the recommendations of the Village of Clemmons or State of North Carolina or other governmental departments reviewing the projects.~~
- ~~(n) — Compliance with all applicable conditions previously approved for the property in question.~~
- ~~(2) Special Use District Zoning. — No separate site plan review by the Planning Board is required for a use which is permitted as a part of a special use district zoning adopted by the Elected Body and which meets the requirements of *this Ordinance*.~~
- ~~(3) Staff Changes. — The Planning Board may, by resolution, allow the Planning staff to grant staff changes to site plans and conditions after the site plans and conditions have been approved by the Planning Board. Such resolution shall include authority for staff to make changes as consistent with law and the intent of the original site plan or conditions.~~
- ~~(B) Special Use Permits Approved by the Board of Adjustment or the Elected Body — The Planning Board shall review and make recommendations concerning the site plans submitted in conjunction with requests for special use permits issued by the Board of Adjustment or the Elected Body in accordance with Section B.6, unless the applications are otherwise exempted in Section B.6-1.4(A)(2).~~

- (C) ~~Amendments to the Zoning Ordinance and the Official Zoning Maps—The Planning Board shall review all requests for amendments to the Zoning Ordinance and the *Official Zoning Maps* and make recommendations to the Elected Body, in accordance with Section B.6-2.~~
- (D) ~~Application Procedures—Application and fees for all permits requiring review by the Planning Board shall meet the application submittal procedures, requirements, and fee schedule of Sections B.7 and B.8.~~

(C-UDO-63, § 1, 3-19-12)

#### **6-1.4—BOARD OF ADJUSTMENT**

##### **(A) ~~Special Use Permits Authorized by the Board of Adjustment~~**

- (1) ~~Board of Adjustment Review.—The Board of Adjustment shall review all requests for permits as designated in Table B.2.6 and Section B.2-5.~~
- (2) ~~Planning Board Report.—Applications for special use permits may be approved by the Board of Adjustment after such board receives a report from the Planning Board and holds a duly advertised public hearing in each case, except that the Planning Board shall not be required to review and report on applications for:~~
  - (a) ~~Riding Stables per Table B.2.6;~~
  - (b) ~~Kennels, Outdoor per Table B.2.6;~~
  - (c) ~~Shooting Ranges, Outdoor per Table B.2.6;~~
  - (d) ~~Manufactured Homes Class A, Class B and Class C per Table B.2.6;~~
  - (e) ~~Expansion or Conversion of a Nonconforming Use per Sections B.5-2.3(B) and B.5-2.4(A);~~
  - (f) ~~Accessory Uses as follows:~~
    - (i) ~~Dwelling, Accessory (Detached) per Section B.2-6.4(C);~~
    - (ii) ~~Separation, Processing, Storage or Wholesale Sale of Materials in LCID's per Section B.2-5.41(N); or~~
    - (iii) ~~Home Occupations in Rural Areas (GMAs 4 and 5) per Section B.2-6.4(D)(2)(b);~~
  - (g) ~~Accessory Structures as follows:~~
    - (i) ~~Exceeding size limits for accessory structures per Section B.3-1.2(E);~~
  - (h) ~~Parking reductions for churches per Sections B.2-5.21(D) and B.2-5.22(C);~~
  - (i) ~~Veterinary Services per Table B.2.6;~~
  - (j) ~~Reserved.~~
  - (k) ~~Keeping of horses, mules, donkeys, goats, sheep, or cattle(W) per Section B.3-11.4;~~
  - (l) ~~Child Daycare, Large Home.~~  
~~The Planning Board shall submit its report in writing to the Director of Inspections not more than sixty (60) days after receipt of the application in accordance with established review procedures. In reviewing the request, the Planning Board shall review the application to assure compliance with all provisions of *this Ordinance*. The Planning Board report shall make a finding that the application as submitted either complies with the Ordinance, complies with recommended conditions, or does not comply with the Ordinance. If the Planning Board recommends conditions, the Planning Board shall have the authority to recommend conditions as identified in Section B.6-1.3(A)(1) to reduce impacts associated with the project.~~
- (3) ~~Required Findings.—The Board of Adjustment shall issue a special use permit only when the Board of Adjustment makes an affirmative finding as follows:~~

- ~~(a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as 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 application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.~~

Except with regard to the conversion of noneconforming uses in Section B.5-2, no provision of *this Ordinance* shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a special use permit for any use unless authorized in Table B.2.6. In approving an application for the issuance of a special use permit, the Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents. If the Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.

- ~~(4) Permit Expiration. — A special use permit shall become void if the terms of such permit, in the judgment of the Director of Inspections, are not exercised within a period of two (2) years from the date of approval. Special use permits are also subject to the provisions in Section B.1 5.2 Vested Rights.~~
- ~~(5) Extension of Permit. — A letter requesting an extension of time and indicating the reason for such request, submitted prior to the termination date and duly approved by the Board of Adjustment, shall extend the validity of such permit for a period of six (6) months. No other extension of time shall be granted.~~
- ~~(6) Review of Request for Extension. — In considering such extension, the Board of Adjustment may make such changes in the conditions under which the permit was granted as may be indicated by any new information relating to the property or to the use proposed thereon, provided the extension or changes still comply with the affirmative finding set forth above.~~
- ~~(7) Special Use District Zoning. — No separate special use permit is required for a use which is permitted as a part of a special use district zoning adopted by the Elected Body and which meets the requirements of *this Ordinance*.~~

~~(B) — Variances~~

- ~~(1) Authority. — No provision of *this Ordinance* shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:~~
  - ~~(a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;~~
  - ~~(b) Floodplain regulations as specified in Section C.2-2.7;~~
  - ~~(c) Vehicular use landscaping requirements as specified in Section B.3-4;~~

- ~~(d) — Bufferyard requirements as specified in Section B.3-5;~~
- ~~(e) — Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);~~
- ~~(f) — Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;~~
- ~~(g) — Off street parking and loading as specified in Section B.3-3;~~
- ~~(h) — Delay of building permits within designated Transportation Plan corridors as specified in Section B.3-7.1;~~
- ~~(i) — Residential infill setback requirements as specified in Section B.3-8; (W) and~~
- ~~(j) — Conservation Standards for the NCO District as specified in Section B.2-1.6(A).~~
- ~~(2) Limitations. — The Board of Adjustment shall not grant a variance to permit a use not permitted in the applicable zoning district, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a special use district zoning.~~
- ~~(3) Public Hearing. — Applications for variances may be approved by the Board of Adjustment after such Board of Adjustment holds a duly advertised public hearing in each case.~~
- ~~(4) Hardship. — When unnecessary hardships would result from carrying out the strict application of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:~~
  - ~~(i) — The unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of a variance, no reasonable use can be made of the property;~~
  - ~~(ii) — The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;~~
  - ~~(iii) — The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and~~
  - ~~(iv) — The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.~~
- ~~(5) Review of Applications. — Any such variance shall observe the spirit and purpose of *this Ordinance* and shall be granted only with reference to conditions and circumstances peculiar to the property involved. If the Board of Adjustment denies the application for a variance, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.~~
- ~~(6) Conditions. — Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~
- ~~(7) Voting on Variance Requests. — The concurring vote of four fifths ( 4/5 ) of the board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.~~

~~(C) — Appeals and Interpretations~~

~~(1) General. — The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Director of Inspections or his/her designee. The Board of Adjustment shall also hear and pass upon all other matters upon which it is required to act under *this Ordinance*. The appeal request is subject to the following:~~

- ~~(a) Only written decisions or determinations shall be appealed. — A decision includes any final and binding order, requirement or determination. The Director of Inspections, or his or her designee shall give written notice to the owner of the property that is subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail or by first class mail.~~
- ~~(b) — The owner or other party receiving the written notice shall have thirty (30) days from receipt of the written notice, decision or determination to file an appeal. Any other person or party with standing to appeal shall have thirty (30) days from receipt of any source of actual or constructive notice of the decision or determination to file an appeal. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date the landowner or applicant posts a sign on the property using six (6) inch letters with the words "ZONING DECISION" or "SUBDIVISION DECISION" along with information identifying the means to contact an official for information about the decision in a prominent location on the property for at least ten (10) days. Posting of such signs is not the only form of constructive notice. Verification of the posting shall be provided by the owner or applicant to the official who made the decision.~~
- ~~(c) — The Director of Inspections or his/her designee shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Director of Inspections or his/her designee shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.~~
- ~~(d) — An appeal of a notice of violation or other enforcement action stays enforcement of the action appealed from unless the official who made the decision certified to the Board of Adjustment after notice of appeal has been filed that because facts stated in the affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed. Otherwise, the Board of Adjustment shall hear and decide the appeal within a reasonable time.~~

- ~~(e) The official who made the decision shall be present at the hearing as a witness. The appellant may not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing.~~
- ~~(f) Procedure to be used in processing appeals and interpretations of decisions of the Director of Inspection or his/her designee authorized by the Board of Adjustment.~~
  - ~~(i) Applications for appeals of decisions, determinations or interpretations of the Director of Inspections or his/her designee to be considered in any month by the Board of Adjustment shall be made by the property owner or the owner's authorized agent or any other party with standing to the City/County Clerk not less than twenty (20) days prior to the established meeting date of that month. Each petition shall be accompanied by:~~
    - ~~• A fee as authorized in Section B.8.~~
    - ~~• The written decision of the Director of Inspections or his/her designee that is the subject of the requested appeal or interpretation.~~
- ~~(2) Board of Adjustment Authority. Upon appeal, the Board of Adjustment shall have the following powers:~~
  - ~~(a) To hear and decide appeals based on alleged error in any order, requirement or decision made by the Director of Inspections or his/her designee in the enforcement of this Ordinance.~~
  - ~~(b) To hear and decide requests for special exceptions or for the interpretation of the Official Zoning Maps or for decisions upon other special questions upon which the Board of Adjustment is authorized to pass.~~
  - ~~(c) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.~~
  - ~~(d) When hearing an appeal pursuant to G.S. 160A-409(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160A-393(k).~~
- ~~(3) Voting on Appeals/Interpretations. A majority of the members shall be required to overturn a decision of the Director of Inspections or his/her designee. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.~~
- ~~(D) Procedure to be Used in Processing Special Use Permit and Variance Requests Authorized by the Board of Adjustment.~~
  - ~~(1) Applications: Applications for special use permits or variances to be considered in any month by the Board of Adjustment shall be made by the property owner or the owner's authorized agent to the Director of Inspections not less than twenty (20) days prior to the established meeting date of that month. Each petition shall be accompanied by:~~
    - ~~(i) A fee as authorized in Section B.8.~~
    - ~~(ii) (F) Fifteen (15) copies of a scaled site plan (plot plan) of the property which may be prepared by either professional or non-professional persons showing the location~~



~~of any existing and proposed structure(s) and any relevant notations on the site plan concerning the request. Staff shall determine if a site plan is required with an appeal or interpretation application.~~

~~(W) Fifteen (15) copies of a scaled site plan (plot plan) of the property showing the location of any existing and proposed structure(s) and any relevant notations on the site plan concerning the request. Staff shall determine if a site plan is required with an appeal or interpretation application.~~

~~(iii) Any other written materials the applicant would like to submit to the Board for consideration of the application.~~

~~(2) Posted Notice of Hearing. The applicant shall post on the property a notice of public hearing at least ten (10) days prior to the date of the hearing before the Board of Adjustment.~~

~~Such notice shall be of sufficient size to contain, and shall contain, heavy black lettering not less than three (3) inches high on a white background and shall be posted in a conspicuous place on the premises. Where such posting is not clearly visible from the nearest public right of way, a second directional sign which is clearly visible from the nearest public right of way shall be posted. A sign shall be provided by the Director of Inspections consistent with these requirements. Such sign structure shall be removed by the applicant within thirty (30) days after said public hearing.~~

~~(3) Mailed Notice of Hearing. Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the public hearing; to the owner of the property that is subject to the public hearing, if different from the applicant; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other person entitled to receive notice as otherwise provided in the Unified Development Ordinances. The County Tax listing shall be utilized to determine the owners entitled to receive mailed notice. The notice must be deposited in the mail at least ten (10), but not more than twenty five (25) days, prior to the date of the hearing.~~

~~(4) Voting on Special Use Permits and Variance Requests. The concurring vote of four-fifths ( 4/5 ) of the board shall be necessary to grant a variance. A majority of the members shall be required to issue a Special Use Permit. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.~~

~~(F) Quasi-Judicial Decisions The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or secretary of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. The decision of the board shall be delivered by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.~~

- (G) ~~Approved Site Plans—Any site (plot) plans approved as a part of an application shall become a part of that application and shall not be changed. A modified site plan may be submitted and the changes may be approved by the Director of Inspections if in his opinion the changes are minor in nature and are consistent with the intent of the original site plan or conditions. Changes to site plans that are not considered minor by the Director of Inspections shall be approved by the Zoning Board of Adjustment.~~
- (H) ~~Subpoena Power—The Board of Adjustment through the chair, or in the chair's absence, anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, a person with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he/she determines to be relevant, reasonable in nature and scope, and not oppressive. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to the subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed.~~
- (I) ~~Voting on All Other Matters—All other matters coming before the Board of Adjustment, such as the approval of minutes or decision regarding rehearing requests, etc. shall be decided based on majority vote. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.~~

(Ord. No. C-UDO-70, § 1, 2-10-14; C-UDO-76, § 3, 9-11-17)

#### **~~6-1.5—SPECIAL USE PERMITS AUTHORIZED BY THE ELECTED BODY~~**

- (A) ~~Elected Body Review—The Elected Body shall review all requests for permits as designated in Table B.2.6.~~
- (B) ~~Public Hearing—Applications for special use permits requiring approval by the Elected Body may be approved after the Elected Body receives a report and recommendation from the Planning Board and holds a duly advertised public hearing in each case.~~
- (C) ~~Permit Issuance—No zoning or building permit shall be issued until a special use permit for the requested use has been approved by the Elected Body acting on the recommendation of the Planning Board.~~
- (D) ~~Planning Board Findings—Findings of the Planning Board accompanying a favorable recommendation shall include:~~
- ~~(1) The development is in conformity with *Legacy*;~~
  - ~~(2) Water and sewer service are available in adequate capacity;~~
  - ~~(3) Where buildings greater than thirty five (35) feet in height are proposed within the Village of Clemmons limits, there is adequate access for aerial fire fighting equipment;~~
  - ~~(4) Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard;~~
  - ~~(5) General layout and design of the development meet all requirements of *this Ordinance*;~~
  - ~~(6) Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety~~

~~equipment and personnel (fire, police, etc.) and service vehicles and personnel (sanitation, postal delivery, etc.);~~

- ~~(7) The Village will engage in activities and practices that will help mitigate the impacts of natural hazards.~~
- ~~(8) The Village will strive to keep infrastructure extensions out of hazardous areas in order not to actively encourage development to occur in known hazardous areas as noted in the Appendix B of the Forsyth County Hazard Mitigation Plan.~~
- ~~(9) The Village will increase control over development in the floodplain to prevent increases in flood velocities and levels that endanger both people and property within the County and in downstream communities.~~
- ~~(10) The Planning Board may recommend to the Elected Body conditions as identified in Section B.6.1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project.~~
- ~~(E) Elected Body Decision The Elected Body shall consider the matter and the recommendations of the Planning Board and may:~~
  - ~~(1) Approve. Approve the application and direct issuance of the special use permit therefor;~~
  - ~~(2) Approve with Conditions. Approve the application with the conditions as recommended by the Planning Board or additional conditions as specified in Section B.6.1.3(A)(1) to assure that the site will be developed in a manner conducive to the public health, safety and welfare, and direct issuance of the special use permit; or,~~
  - ~~(3) Deny. Deny the application.~~
- ~~(F) Required Findings The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:~~
  - ~~(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;~~
  - ~~(2) That the use meets all required conditions and specifications;~~
  - ~~(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,~~
  - ~~(4) That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy.~~

~~No provision of *this Ordinance* shall be interpreted as conferring upon the Elected Body the authority to approve an application for a special use permit for any use unless authorized in Table B.2.6. In approving an application for the issuance of a special use permit, the Elected Body may impose additional conditions as identified in Section B.6.1.3(A)(1). If the Elected Body denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.~~
- ~~(G) Extension of Permit In considering any request for extension of the permit, the Planning Board may recommend and the Elected Body may, in the public interest, make such changes in the conditions under which the permit was granted as may be indicated by any new information relating to the property or to the use proposed.~~

(H) ~~Special Use District Zoning—No separate special use permit is required for a use which is permitted as a part of a special use district zoning adopted by the Elected Body and which meets the requirements of *this Ordinance*.~~

(I) ~~Application Procedure for a Special Use Permit~~

(1) ~~Applications and Fees.—Applications and fees for such special use permits shall be submitted to the Office of the Planning Board in accordance with the Planning Board review schedule and fees.~~

(2) ~~Notice.—The Planning Board shall post on the property a notice of public meeting at least ten (10) days prior to the date of the meeting of the Planning Board. A sign is required on the property at a conspicuous location(s). Location(s) which are not conspicuous or require additional notification to the public, will be required to have directional sign(s) posted. Each sign(s) or each directional sign(s) will have a charge as determined by the Director of Planning. The signs are, and shall remain, the property of the governmental agency which provided them, and shall be prepared, posted and reclaimed by it.~~

(3) ~~Advertisement.—The Elected Body shall duly advertise a public hearing.~~

~~(C-UDO-63, § 2, 3-19-12)~~

## **6-2—Ordinance Amendments: Zoning Text and Official Zoning Maps**

### **6-2.1—GENERAL USE DISTRICTS**

(A) ~~General Procedures—Proposals to amend, supplement, change, modify, or repeal any of the regulations or the district boundaries established by *this Ordinance*, or hereafter established, may be initiated by the Elected Body, by the Planning Board, or by petition of any interested person.~~

(1) ~~Petition Submitted.—A petition by an interested person to amend or change the regulations or district boundaries shall be submitted to the Elected Body through and reviewed by the Planning Board which shall consider its merit and make a recommendation to the Elected Body.~~

(2) ~~Public Hearing.—In no case shall final action by the Elected Body be taken amending, changing, supplementing, modifying, or repealing the regulations established by *this Ordinance*, or changing the district boundaries hereby established until a public hearing has been held by the Elected Body at which parties in interest and citizens shall have an opportunity to be heard.~~

(3) ~~Notice.—A notice of each public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper of general circulation in the adopting jurisdiction, the first publication of said notice being not less than ten (10) days prior to the date fixed for the hearing.~~

(B) ~~No Referral to Use—If the petitioner elects to petition for rezoning to any general use district, the petitioner may not refer, either in the petition or at any hearing related to the petition, to the use intended for the property if rezoning is granted.~~

(C) ~~Submittal to Planning Board—The petition of any interested person to amend the district boundaries or regulations established by *this Ordinance* shall be submitted to the Elected Body through the office of the Planning Board. Petitions shall be considered by the Planning Board at its next regular monthly meeting, provided the petitions have been filed, complete in form and content, at least twenty four (24) calendar days before the regularly scheduled meeting of the Planning Board; otherwise consideration may be deferred until the following monthly meeting.~~

- (D) ~~Application and Fee~~—Each petition shall be accompanied by a completed application form and a fee as specified by the Planning Board. ~~Proposals to change the zoning of property to more than one new zoning district may be processed as a single application, including the application and fee requirements of this section, if all proposed zoning districts are contiguous and together constitute a unified development proposal. As part of any petition to amend a zoning classification, a current copy of the tax map shall be filed showing all parcels of land included in the petition and all parcels of land abutting those parcels included in the petition (including those properties directly across a street from those parcels included in the petition), with the name and address of each owner of each such parcel as certified by the Office of the Tax Assessor. For amendments to the zoning text, the sections of the Ordinance to be amended and the new or revised language of the Ordinance proposed shall be submitted.~~
- (E) ~~Waiver of Fees~~—The fee for a text amendment submitted by a private individual which, in the opinion of the Director of Planning, is of public benefit, would introduce a beneficial change in the *Zoning Ordinance* with application throughout the jurisdiction, and is not designed primarily to benefit a single property or specific situation, may be waived by the Planning Board upon recommendation of the Director of Planning. Said waiver must be approved prior to formal consideration of the text amendment by the Planning Board.
- (F) ~~Notice to Nonpetitioning Owners~~—Except for petitions providing notification under the provisions of Section B.6-2.1(G)(2), if a petition to amend the zoning is not signed by all of the owners of all land for which rezoning is requested, the following notification procedures shall be followed:
- (1) ~~Written Notification.~~—The petitioner shall notify in writing nonpetitioning owners who have not signed the petition that the petition is being submitted. Written notification shall be by letter, in a form supplied by the Planning Board, and shall specify present and proposed zoning classifications. The letter shall be sent by certified or registered mail to the last known address of nonpetitioning owners.
  - (2) ~~Alternative Notification.~~—As an alternative method of notice, the petitioner may obtain the signatures of nonpetitioning owners on a statement acknowledging that said owners have received notice that a petition will be filed and heard at a public hearing before the Planning Board. In cases where signatures of nonpetitioning owners are obtained, written notification shall not be necessary.
  - (3) ~~Second Notification.~~—If for any reason the initial letter is not delivered, a second letter on the required form shall be sent by certified or registered mail to the nonpetitioning owner's address as shown on the records of the office of the Tax Assessor, if said address is different from the last known address.
  - (4) ~~Undelivered Notices.~~—If for any reason neither such letter notice is delivered, the petitioner shall then file with the Planning Board a signed certificate setting forth that written notification has been sent to all nonpetitioning owners who have not accepted notice by signed statement, and shall attach thereto either the return receipts showing that the letters have been delivered or the letters themselves and the mailing envelopes thereof.
  - (5) ~~List of Owners Not Notified.~~—In the event all letters are not delivered, the petitioner shall attach to the certificate a list containing the names and street or mailing addresses and tax lot and block numbers of the property within the boundaries covered by the petition of all nonpetitioning owners to whose addresses written notice was not

~~delivered. This list of names and addresses shall be included in the notice of public hearing which shall be published in a newspaper as provided for in this Article.~~

- ~~(6) Advertisement. — Such publication of the public hearing, together with the names, addresses and tax lot and block numbers of nonpetitioning owners shall be made within one hundred eighty (180) days of the posting of the first letter to the nonpetitioning owner at such person's last known address. Otherwise, said notification procedure shall start anew. The Planning Board shall not advertise the public hearing until receipt of the petitioner's certificate as provided above.~~

~~(G) Notification to Property Owners and Adjacent Property Owners~~

- ~~(1) Mailed Notices. — In the event of petition to amend the zoning maps, letters shall be sent to all property owners within and adjacent to the property for which the amendment is requested, in accordance with State law.~~
- ~~(2) Newspaper Advertisement. — The first class mail notice required above shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners, and the Planning Board or Elected Body elects to use the expanded published notice provided for in this subsection. In this instance, the Planning Board or Elected Body may elect to either make the mailed notice provided for above or may as an alternative elect to publish once a week for at least four successive calendar weeks in a newspaper having general circulation in the area an advertisement of the public hearing that shows the boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The amendment shall not be less than one half of a newspaper page in size, and shall meet the timing requirements of State law and Section B.6 2.1(I). Such notice shall satisfy the advertising requirements of Section B.6 2.1(I). The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the more recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section.~~

- ~~(H) Fees for Notification — In addition to filing and sign posting fees, a fee of five dollars (\$5.00) for each owner indicated above will be charged to the petitioner to defray the costs of the research, preparation, and mailing of a notice of the pending zoning classification action to each.~~

- ~~(I) Advertising and Posting — Whenever a petition to amend *this Ordinance* is submitted to the Planning Board, the Planning Board shall schedule a public hearing. Notice of the public hearing shall be advertised once in a newspaper of general circulation in the adopting jurisdiction, said notice being not less than ten (10) days prior to the date fixed for the hearing. In all cases of petitions to amend a zoning classification, the property shall be posted with a notice of public hearing by the Planning Board at least fifteen (15) days prior to the date of said public hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s), which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public, will be required to have a directional sign(s) posted. Each sign(s) or each directional sign(s) will have an additional charge to be determined by the Planning Board to the petitioner. The signs are and shall remain the property of the governmental agency which provided them, and shall be prepared, posted, and reclaimed by it.~~

- (J) ~~Withdrawal~~—A zoning petition may not be withdrawn by the applicant after publication, or scheduled publication which cannot be canceled, of notice of public hearing except by permission of the appointed body before which the petition is pending for action or consideration. Once the appointed body has acted to forward a recommendation on the zoning petition to the appropriate Elected Body, the petition may not be withdrawn by the applicant except with permission of the Elected Body. A public hearing is not required to consider a request to withdraw. The filing fees are not refundable, except that the Planning Director may authorize refund of the fees if no notice expenses related to the petition have been incurred.
- (K) ~~Property Description~~—A description of the property for which rezoning is requested shall be included with the petition. Such description shall be by reference to the latest available parcel identifier as maintained in the Forsyth County Tax Assessor's GIS database, and shall include reference to a recorded plat, if available. If a portion of a lot(s) is included in the petition, a written metes or bounds description from a field survey or computed description no older than five (5) years from the date of submittal shall be submitted; said description shall be based on 1983 North American Datum (NAD) and shall define a closed polygon. A copy of the most current deed of the property to be rezoned shall also be submitted.
- (L) ~~Illegal Spot Zone~~—If a petition appears to be a request for an illegal spot zone, the Planning staff shall consult the attorney for the adopting jurisdiction. If the Attorney submits an opinion that the petition is a request for a spot zone, the petitioner shall be so informed and offered the option to withdraw the petition and recover the filing fee, less any advertising cost.
- (M) ~~Planning Board Review~~—The Planning Board shall submit a report and recommendations to the Elected Body in writing within one hundred twenty (120) days after receipt by the Planning Board of a complete petition, including compliance with Section B.6 2.1(F), unless such period is extended by the Elected Body. Failure to submit a report and recommendation shall not be deemed to constitute either approval or disapproval of the petition by the Planning Board. The Planning Board shall, at the same time, mail or deliver to the petitioner, and also to the opponent(s), if any, a copy of the same report and recommendations sent to the Elected Body. In case there is more than one petitioner for or opponent to the proposed change, it shall be sufficient to mail or deliver a copy of the report and notice of any subsequent hearing before the Elected Body to the one petitioner designated by the petitioners to receive same and to any such opponent who requests receipt of such report in writing at the public hearing. Furthermore, in any case where any of the parties are represented by an attorney named in the petition, the mailing or delivery of a copy of the report and notice of any hearing to the attorney shall be the equivalent of mailing or delivering the same to the party or parties represented by the attorney.
- (N) ~~Elected Body Public Hearing~~—A public hearing shall be held by the Elected Body on each proposed amendment to the *Zoning Ordinance*, after publication of notice, as hereinabove provided. Said proposed amendment shall be placed on the agenda of a regularly scheduled public hearing of the Elected Body within sixty (60) days of receipt of the report and recommendations of the Planning Board.
- (O) ~~Submission of Written Statements~~—The Unified Development Ordinance may from time to time be amended, supplemented, changed, modified or repealed. If any resident or property owner in the Village limits submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Village Clerk at least two business days

prior to the proposed vote on such change, the Village Clerk shall deliver such written statement to the Village Council.

~~(P) — Limits on Resubmittal~~

~~(1) Previous Denial. — In the event that a petition to amend the text or the zoning maps is denied by the Elected Body, a period of two (2) years must elapse before another petition for the same kind of change in the regulations or for the same zoning classification of land previously involved may be submitted. Further, a period of one year must elapse before a new petition for any change in zoning classification of land previously involved may be submitted. Such one year or two (2) year period shall be measured from the date of acceptance of the previous petition by the Planning Board for the change in regulations or in the classification of the land. The limitations on the filing of new petitions in this subparagraph shall not preclude the filing by a property owner or the acceptance of a new petition from a property owner within the one year or two (2) year waiting periods following the filing of a petition by a petitioner other than the owner of the property affected, if the owner of such property opposed rezoning at a public hearing before the Planning Board or expressed opposition to the proposed rezoning in writing to the Planning Board prior to such public hearing. Prior to December 31, 1996, with respect to denied petitions which requested a zoning map amendment to a zoning classification under the old zoning ordinance, whether the zoning classification under the *Unified Development Ordinances* is the same classification under the old zoning ordinance shall be determined by reference to the Table of Corresponding Zoning Districts in the Appendix, incorporated herein by reference.~~

~~(2) Elected Body Authority. — Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes to the regulations or district boundaries of the zoning ordinance, or any zoning or rezoning of property. Further, nothing in this chapter shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment. Any such consideration, reconsideration or act by the Elected Body shall comply with the notice requirements for ordinance amendments contained in *this Ordinance*.~~

~~(Q) Consideration — In deliberating each petition for amendment of the *Official Zoning Maps*, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the public hearing. Additional considerations by the Elected Body may include, but shall not be limited to the following:~~

- ~~(1) — Whether the proposal is consistent with the purpose statements of the requested zoning districts;~~
- ~~(2) — Whether the uses permitted under the proposed classification would be compatible with uses permitted on other property in the vicinity;~~
- ~~(3) — Whether changing conditions have substantially affected the area included in the petition; and~~
- ~~(4) — Whether the proposed amendment is in conformance with *Legacy*, and the *Clemmons Area Development Guide*.~~

~~(C-UDO-76, § 4, 9-11-17)~~



**6-2.2 — SPECIAL USE DISTRICTS**

- (A) ~~Requirements~~ — All requirements of general use zoning shall be met. If the petitioner elects to petition for special use district zoning, the petition must specify the actual use(s) intended, one or more of the permitted uses listed in Table B.2.6 for the entire tract or any part or parts thereof, for the property specified in the petition, and the proposed use(s) must be a use(s) permitted in the corresponding general use district. If the petitioner petitions for two (2) or more special use districts, the petitioner shall submit a separate petition for each district. The Elected Body, in considering whether to approve or disapprove each special use district petition, shall do so on the basis of the specific use(s) requested.
- (B) ~~Compliance with General Use Provisions~~ — Any petition to amend district boundaries to create a special use district shall comply with procedures for general use district amendments set out in this Article.
- (C) ~~One and Two Phase Petitions~~ — The petitioner may elect to submit a special use district zoning petition either as a one phase petition or as a two phase petition.
- (1) ~~Site Plan Submittal~~. — Site plan(s) shall be submitted for the one phase or the first phase of a two phase petition pursuant to Section B.7.
- (2) ~~Second Phase Acceptance~~. — The second phase of a two phase petition shall not be accepted until the first phase has been approved by the Elected Body.
- (3) ~~Final Development Plan~~. — The final development plan required for the second phase of a two phase rezoning approval shall be submitted pursuant to Section B.7.
- (D) ~~Planning Board Action~~
- (1) ~~One Phase and First Phase of Two Phase Petition~~. — The Planning Board may take one of the following actions on the one phase or the first phase of a two phase petition:
- (a) ~~Recommend Approval~~. — Recommend approval of the petition as submitted.
- (b) ~~Recommend Approval with Conditions~~. — Recommend approval of the petition with additional reasonable conditions as provided in Section B.6-1.3(A)(1). The Planning Board may also consider the following conditions:
- (i) — ~~Preservation of unique natural or constructed features, including retention of existing vegetation;~~
- (ii) — ~~Consolidation of signage for shopping centers or multiple use projects;~~
- (iii) — ~~Reduction in overall density for residential projects;~~
- (iv) — ~~Reduction or limitation in the uses requested;~~
- (c) ~~Recommend Denial~~. — Recommend denial of the petition, with reasons stated.
- (2) ~~Second Phase of Two Phase Petition~~. — The Planning Board may take one of the following actions on the final development plan submitted for the second phase of a two phase petition:
- (a) ~~Approve~~. — Approve the petition as submitted.
- (b) ~~Approve with Conditions~~. — Approve the petition with additional reasonable conditions as provided in Section B.6-2.2(D)(1)(b).
- (c) ~~Deny~~. — Deny the final development plan, with reasons stated.
- (E) ~~Conditions for a Two Phase Petition~~ — In a two phase petition, documentation shall be provided in the form of a statement on the face of the site plan or attached to the petition as to any condition which, in the opinion of either the applicant or the Planning staff, is not adequately addressed during the first phase review.
- (F) ~~Decision Regarding One Phase Petition~~ — If the Elected Body finds that a one phase petition for special use district zoning should be granted, the Elected Body shall rezone the property

and issue a special use district permit. If the Elected Body finds that the proposed special use district should not be created, the Elected Body shall deny the petition.

- (G) ~~Decision Regarding Two Phase Petition~~—If the petition is a two phase petition, and the Elected Body finds that it would grant the special use district zoning if an acceptable final development plan were submitted, the Elected Body shall approve the petition in concept, subject to the submission of an acceptable final development plan. If the Elected Body finds that the proposed special use district should not be created, the Elected Body shall deny the petition.
- (H) ~~Conditions of Approval~~—In rezoning for a special use district, the Elected Body may impose additional reasonable conditions as provided in Section B.6-2.2(D)(1)(b). If all requirements and conditions are accepted by the petitioner, the Elected Body shall rezone the property and issue a special use district permit, attaching thereto and incorporating therein the conditions mentioned immediately above. Otherwise the petition shall be denied.
- (I) ~~Permit Issuance~~—No zoning permit or other governmental entitlement for the use, development, or division of land zoned to a special use district shall be issued prior to the issuance of a special use district permit by the Elected Body.
- (J) ~~Effect of Special Use District Permit~~—Once a special use district permit has been issued by the Elected Body, it shall be binding upon the property included in such permit, unless subsequently changed or amended by the Elected Body as provided for in *this Ordinance*. All conditions approved by the Elected Body shall be attached to and incorporated in the special use district permit and shall become a part thereof.
- (K) ~~Amendment~~—The Elected Body may change or amend any special use district permit, only after public notice and hearing, upon recommendation of the Planning Board, and subject to the same procedures provided in *this Ordinance* for granting special use district zoning.
- (L) ~~Staff Changes~~—Each Elected Body may, by resolution, allow the Planning staff to grant staff changes to site plans and conditions after the site plans and conditions have been approved by an Elected Body. Such resolution shall include authority for staff to make changes as consistent with law and the intent of the original site plan or conditions.
- (M) ~~Enforcement of Conditions of Special Use District Permit~~—Any violation of a condition of a special use district permit shall be a violation of *this Ordinance* and subject to the enforcement provisions of Section B.9.

### **~~6-2.3 RECORDS~~**

After the adoption of any amendment to the *Zoning Ordinance*, the responsible official of the adopting jurisdiction shall send to the Planning Board and to the office of the Register of Deeds official notification of such adoption. It shall be the duty of the Planning Board and the office of the Register of Deeds to maintain systematic records of such ordinances and to make said records accessible to the public for inspection at reasonable times.

### **~~6-2.4 NOTICE TO NORTH CAROLINA DEPARTMENT OF TRANSPORTATION~~**

Pursuant to State law, written notice of any industrial rezoning within six hundred sixty (660) feet of the right-of-way of freeways/expressways in the Interstate System shall be provided to the North Carolina Department of Transportation.

## **Article VI – Administrative Provisions**

**6-1 GENERAL PROCEDURES...** To accomplish the purposes of *this Ordinance* and to ensure compliance with these regulations, the following procedures contained in this section shall apply to development approvals.

### **6-1.1 PRE-APPLICATION MEETING**

(A) Purpose... The purpose of the pre-application meeting is to provide an opportunity for the petitioner and the Village of Clemmons to discuss the development concept prior to the application submission for a project to:

- (1) Determine the required application(s) and, if necessary, the timing of multiple application submittals to determine if they may be processed concurrently or sequentially;
- (2) Provide the petitioner with application materials and inform the petitioner of submittal requirements;
- (3) Provide the petitioner with an estimated time frame for the review process;
- (4) Discuss general compliance with the requirements of this chapter
- (5) Discuss the need for neighborhood meetings and public notice requirements; and
- (6) Refer the petitioner to other agencies to discuss potential significant issues prior to application submittal.

(B) Applicability

- (1) Pre-application Meeting Recommended... A pre-application meeting is recommended prior to submitting most development applications. The pre-application meeting is designed to help the applicant understand the Village of Clemmons development approval process.
- (2) Pre-application Meeting Required... Petitioners with the following application types are required to attend a pre-application meeting with staff:
  - (a) Zoning Map Amendments
  - (b) Unified Development Ordinance text amendments
  - (c) Special Use Permits
  - (d) Site Plans
  - (e) Variances

(3) Record and Effect

- (a) The Village of Clemmons is not responsible for making or keeping a summary of the general topics discussed at the pre-application conference.
- (b) A pre-application meeting is advisory only and does not constitute or effect approval of any aspect or item of an application.

**6-1.2 NEIGHBORHOOD MEETING**

(A) Purpose...The purposes of a neighborhood meeting are to:

- (1) Inform neighboring landowners of the details of a proposed development;
- (2) Identify how the developer intends to meet the standards contained in this code; and
- (3) Allow the petitioner to receive preliminary public comment on the proposal.

(B) Applicability

- (1) Zoning Map Amendments...Before an application for a zoning map amendment is heard by the Planning Board, the petitioner shall conduct a neighborhood meeting.
- (2) Planning Director...Where not otherwise required, the Planning Director shall request a neighborhood meeting where it appears that the potential uses, size, scale, traffic impacts, or operating impacts of the proposed activity or development may materially affect the residents in the surrounding area.

(C) Notice...If a neighborhood meeting is held by a petitioner, it shall be held at the petitioner's expense and comply with the following procedures:

- (1) Time and Place...The neighborhood meeting shall be held at a place that is convenient and generally accessible to neighbors that reside in proximity to the land subject to the application. The meeting shall be held in the evening or at a time of day when the maximum number of neighbors may attend.

(2) Notification

- (a) The petitioner shall provide notification of the neighborhood meeting a minimum of fourteen (14) days in advance of the meeting, by mail, to all owners and occupants within 500 feet of the land subject to the application. All measurements shall be made by drawing a straight line from the nearest point of the lot line for the subject property to the nearest point of the lot line for the adjoining parcels.

(b) The notification shall state the time and place of the meeting, contain a vicinity map and short description of the project, state the purpose of the meeting, and, if applicable, include a proposed site plan for the proposed project.

(3) Information Provided...The petitioner shall provide the following information to those attending the meeting:

(a) The purpose of the neighborhood meeting;

(b) A description of the proposed development;

(c) The development review procedure(s) the application will follow;

(d) The potential for changes in the development proposal as it proceeds through the review process;

(e) Sources of further information about the development review process; and

(f) Any additional information that would promote understanding of the development proposal.

(4) Conduct of Meetings...At the neighborhood meeting, the petitioner shall explain the development proposal and application, answer any questions, and respond to concerns neighbors have about the application and proposed ways to resolve conflicts.

(5) Staff Attendance...Village of Clemmons staff may not attend a neighborhood meeting in a professional capacity to afford an opportunity for the meeting to focus on the merits of the project and the dialogue between the applicant and the community meeting attendees. Staff attendance is at the discretion of the Planning Director.

(D) Written Summary...

(1) For zoning map amendment hearings and other legislative or administrative decisions, the petitioner shall provide the Planning Director with a written summary of the neighborhood meeting and may submit it with the completed application.

(2) The written summary shall describe the scope of outreach along with issues discussed and shall be provided to Planning Staff at least eight (8) days prior to the date of the Planning Board meeting for which the subject map amendment is scheduled. Additionally, the written summary shall include:

(a) A list of those persons and organizations contacted about the meeting and the manner and date of contact;

(b) The date, time, and location of the meeting;

(c) A roster of those in attendance;

(d) A summary of the issues discussed; and

(e) A description of any changes made as a result of the meeting.

(E) Automatic Continuance...If the petitioner fails to provide the required written summary to Planning staff at least eight (8) days prior to the date of the Planning Board meeting for which the subject rezoning is scheduled, the subject request shall be automatically continued to the next scheduled Planning Board public hearing meeting.

(F) Petitioner Actions...If the petitioner makes substantive change(s) to the application following the neighborhood meeting on topics which were not discussed at the neighborhood meeting, that fact may be noted in the staff report. Substantive change(s) to the application on topics which were not discussed at the neighborhood meeting shall require that the petitioner re-notify neighboring property owners through physical or electronic mail.

### **6-1.3 APPLICATION SUBMISSION, CONTENTS, FEES**

#### **(A) Application Submittal Requirement**

(1) All applications for all permits and approvals, or modifications of permits or approvals, shall be submitted in accordance with applicable deadlines, required forms, and required numbers of copies of each document, established and revised from time to time by the Planning Director or Zoning Officer. Applications for any zoning map amendment shall contain a description of the proposed regulation or zoning district boundary to be applied and two sets of self-addressed, stamped envelopes to all property owners entitled to receive mailed notice.

(2) Applications for zoning map amendment property description...Applications for any zoning map amendment shall contain a description of the property for which the zoning map amendment is requested shall be included with the application. Such description shall be by reference to the latest available parcel identifier as maintained by the Forsyth County Tax Assessor's GIS database, and shall include reference to a recorded plat if available. If a portion of a lot(s) is included in the petition, the property description shall be: (1) a written metes and bounds description from a field survey or computed description no older than five (5) years from the date of submittal; or (2) a sealed survey clearly depicting the property included in the map amendment request. All descriptions shall be based on the United States National Spatial Reference System, shall define a closed polygon, and be performed by a professional land surveyor currently licensed by the North Carolina Board of Examiners for Engineers and Surveyors. The description or survey shall be consistent with submittal requirements. A copy of the most current deed of the property to be amended shall also be submitted.

(3) The application form may also identify any technical studies that the Planning Director deems necessary to enable the approving authority to fully evaluate the application. Examples of technical studies include, but are not limited to traffic studies, engineering

studies, geologic or hydro-geologic studies, flood studies, environmental impact assessments, noise studies, photometric (lighting) studies, or surface water management/drainage studies. Technical studies shall be paid for by the applicant and submitted with the application.

(4) For the purpose of this ordinance, incomplete applications are considered to have not been submitted and shall not be processed.

(B) Fees...Fees shall comply with Article VIII of *this Ordinance*.

(C) Authority to File Application

(1) Unless otherwise authorized in this Ordinance, the person having legal authority to act shall file an application for development review or approval under this Ordinance. The applicant shall be the landowner or the duly authorized agent of the landowner. Agents may only submit applications where the landowner indicates consent in writing, a copy of which consent shall be submitted with the application.

(2) No amendment to the Unified Development Ordinance regulations or a zoning map that down-zones property, as defined in Chapter A, shall be initiated nor shall it be enforceable without the written consent of all landowners whose property is the subject of the down-zoning amendment, unless the downzoning amendment is initiated by the Village of Clemmons.

(3) Proposed amendments to the Unified Development Ordinance or zoning map may be initiated by the Elected Body, Planning Board, or Planning Director.

(D) Where to File Applications...All applications required by this section shall be submitted to the Department of Planning or its successor, unless otherwise specified.

(E) Contact Person Designation

(1) The petitioner shall designate one person on the application as the primary contact who will be responsible for all notification, including meeting dates, deadlines, and requirements. The Village of Clemmons will communicate with the contact person about the application and review procedures. It is the contact person's responsibility to inform the landowners or petitioner of such information.

(2) The petitioner shall notify the Planning Director in writing if there is to be a change in the contact person. The Planning Director and/or designee will continue to communicate with the designated contact person until the notice of change has been received.

(F) Concurrent Applications

- (1) Where a petitioner seeks approval of two different requests for the same parcel simultaneously, the petitioner shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.
- (2) Whenever two (2) or more forms of development approval are being processed simultaneously and this Chapter provides different time frames for review or decision-making for the different forms of approval, all related applications and approvals shall be completed within the longest time frame applicable.
- (G) Application Submittal Schedule...Complete applications for boards and commissions shall be filed in accordance with the Village's filing calendar. A calendar indicating application deadlines shall be developed by the Village of Clemmons each year and shall be maintained and updated by the Village of Clemmons.
- (H) Completeness Determination

  - (1) Completeness Review...The Planning Director shall review all applications for completeness within ten (10) to twenty (20) business days of receipt of an application. A complete application is one that:

    - (a) Contains all material and information required for filing of the application;
    - (b) Is in the form and number of copies required;
    - (c) Is legible and printed to scale specified in Article VII Site Plan Requirements of *this Ordinance* (where appropriate);
    - (d) Is signed by the person(s) authorized to file the application;
    - (e) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in the Unified Development Ordinance;
    - (f) Is accompanied by appropriate fee; and
    - (g) Does not precede a pre-application meeting, where required.
  - (2) Application Complete... When an application is determined to be complete, the petitioner shall be notified and the application shall be reviewed pursuant to the procedures and standards of *this Ordinance*. A determination of completeness only indicates that the information provided with the application is sufficient for processing the application. It does not indicate that the application is technically compliant with this code nor that the application will be approved.



(3) Submitted Application...An application determined to be complete is considered to have been submitted for the purpose of this ordinance, and is eligible for review by the Village.

(4) Application Incomplete

(a) If an application is determined to be incomplete, the petitioner shall be notified of the deficiencies. The notice shall indicate that the application has been determined to be incomplete and that no further action shall be taken by the Village of Clemmons until a complete application has been received.

(b) The petitioner may correct the deficiencies and refile the application for a new completeness review. The petitioner may also request a meeting with the Planning Director to clarify what additional materials, or what level of detail, will be required to obtain a determination of completeness.

(c) An application will be considered withdrawn if a petitioner fails to respond to a notice of identified deficiencies within twenty (20) business days after the notification is mailed or delivered.

(I) Permit Choice

(1) If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit petitioner may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(2) Multiple Permits for Development Project...Where multiple development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within eighteen (18) months of the date following the approval of an initial permit. For

purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

- (J) Pending Jurisdiction...After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

## **6-1.4 PUBLIC NOTICE**

### **(A) General Applicability**

(1) When a development application is subject to a legislative or evidentiary hearing, the Planning Director shall ensure that the hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the approving authority.

(2) All applications for development subject to public notification shall comply with the North Carolina General Statutes and the provisions of *this Ordinance* regarding public notification.

### **(B) Content...Notices, whether by publication or mailed, shall, at a minimum:**

- (1) Identify the address or location of the property, and parcel ID subject to the application;
- (2) Specify the date, time, and place of the hearing;
- (3) Describe the purpose of the application or proposal;
- (4) Notify the public where to view the application or proposal; and
- (5) Include a statement that the public may appear at the hearing or be heard, if any, and submit written comments with respect to the application.

### **(C) Types of Notice**

(1) Published Notice...Before adopting, amending, or repealing any development regulation authorized by North Carolina General Statutes, local act or charter, the Elected Body shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date scheduled for the hearing. In computing such

period, the day of publication is not to be included but the day of the hearing shall be included.

(2) Mailed Notice...When the provisions of *this Ordinance* require that written or mailed notice be provided, the Planning Director shall be responsible for preparing and mailing notice to specific property owners of their opportunity to be heard.

(a) The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the Forsyth County tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under North Carolina General Statutes, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least thirty (30) days prior to the hearing

(b) Failure of a party to receive mailed notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and specifying the time, date, and place of a hearing and the location of the subject property shall be strictly adhered to.

(i) Mailed notice to property owners shall be required only for the initial presentation of the proposed development at a legislative hearing. Additional mailed notice shall not be required where the application is not decided at the initial hearing unless otherwise directed by the Village.

(ii) If the hearing is deferred or continued at the applicant's request, the applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent landowners.

(iii) A copy of the mailed notice shall be maintained by the village for public inspection during normal business hours.

(c) Notice to Military Bases...If the adoption or modification would result in changes to the zoning map or would change or affect the permitted uses of land located five miles or less from the perimeter boundary of a military base, the local government shall provide written notice of the proposed changes by certified mail, return receipt requested, to the commander of the military base not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. If the commander of the military base provides comments or analysis regarding the compatibility of the proposed development regulation or amendment with military

operations at the base, the governing board of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance.

(d) Notice for Large-Scale Zoning Map Amendments... The first-class mail notice required above shall not be required if the zoning map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different landowners, and the Planning Board or Elected Body elects to use the expanded published notice provided for in this subsection. In this instance, the Planning Board or Elected Body may elect to either make the mailed notice provided for above or may as an alternative elect to publish in a newspaper having general circulation in the area an advertisement of the legislative hearing. The amendment shall not be less than one-half of a newspaper page in size, and shall meet the timing requirements of North Carolina General Statute and *this Ordinance*. The advertisement is effective only for landowners who reside in the area of general circulation of the newspaper that publishes 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 by first class mail pursuant to *this Ordinance*.

(3) Posted Notice... When a zoning map amendment is proposed, the Planning Director shall prominently post a notice of the hearing on the site proposed for the change in zoning or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within the proposed zoning map amendment, a posting on each individual parcel is not required but the Planning Director shall post sufficient notices to provide reasonable notice to interested persons. On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, additional posted signs, as may be necessary to reasonably ensure that notice is provided around the property, may be erected.

#### (4) Constructive Notice

(a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice include but are not limited to:

(i) Errors such as landowner name, title, or address in the county tax listing;

(ii) Errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.

(b) Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying

the time, date, and place of a hearing and the location of the subject property shall be strictly adhered to.

- (c) When village records document the publication, mailing, or posting of notices as required by *this Ordinance*, it shall be presumed that notice of a hearing was given as required by this section.

(D) Notice of Evidentiary Hearings...Notice of evidentiary hearings conducted pursuant to *this Ordinance* shall be mailed to the person or entity whose appeal, petition, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Village may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice shall be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the Village shall also post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

## **6-1.5 LEGISLATIVE AND EVIDENTIARY HEARINGS**

### **(A) Legislative Hearings**

- (1) All legislative decisions as defined in Chapter A of the Unified Development Ordinance shall undergo legislative hearings.
- (2) Legislative hearings shall not be conducted until after applicable public notice requirements per Section B.6-1.4 have been satisfied.
- (3) Conflict of Interest for Appointed Boards...A member of an appointed board and shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to the Clemmons *Unified Development Ordinances* where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (4) Conflict of Interest for Elected Body...A member of the Elected Body shall not vote on any legislative decision regarding a development regulation adopted pursuant to the Clemmons *Unified Development Ordinances* where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An Elected Body member shall not vote on any zoning map amendment if the landowner of the property subject to a rezoning petition or the

applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- (5) Resolution of Objection...If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (6) Citizen Comments...If any resident or landowner within the municipal limits of Clemmons submits a written statement regarding a proposed amendment, modification, or repeal to a legislative decision to the clerk to the Elected Body at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the Elected Body.

#### (B) Evidentiary Hearings

- (1) All quasi-judicial decisions as defined in Chapter A of the Unified Development Ordinance and specified in Table B.2.6 shall undergo evidentiary hearings.
- (2) Evidentiary hearings shall not be conducted until after applicable public notice requirements per section B.6-1.4(D) Public Notice have been satisfied.
- (3) Administrative Materials...The Zoning Officer or staff to the decision-making board shall transmit to the decision-making board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the decision-making board a copy is also provided to the appellant or petitioner and to the landowner if that person is not the appellant or petitioner. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.
- (4) Presentation of Evidence...The petitioner, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the decision-making board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the decision-making board. The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.
- (5) Appearance of Official New Issues...The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant

shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the decision-making board shall continue the hearing.

- (6) Oaths...The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.
- (7) Subpoenas...The decision-making board through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Village of Clemmons, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas they determine to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the decision-making board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
- (8) Appeals in Nature of Certiorari...When hearing an appeal pursuant to B.6-2.9 or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).
- (9) Voting...The concurring vote of four-fifths (4/5) of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under B.6-1.5(B)(11) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- (10) Decision...The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the decision-making board's determination of contested facts and their application to the applicable standards, and be approved by the decision-making board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the decision-making board. The decision of the decision-making board shall be delivered within a reasonable time by personal delivery.

electronic mail, or first-class mail to the petitioner, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the Village of Clemmons that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

- (11) Judicial Review...Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed with the clerk of superior court by the later of thirty (30) days after the decision is effective or after a written copy thereof is given in accordance with B.6-1.5(B)(10). When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- (12) Conflict of Interest for Quasi-Judicial Decisions...A member of the decision-making board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close family, business, or other associated relationship with an affected person, or a financial interest in the outcome of the matter, if an objection is raised to a member's participation and the member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.
- (13) Citizen Comments...If any resident or landowner within the municipal limits of Clemmons submits a written statement regarding a quasi-judicial decision to the clerk to the decision-making board at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the decision-making board. The clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

#### (C) Timeframe for Action

- (1) Regularly Scheduled Meeting...If *this Ordinance* requires a hearing, then the hearing shall not occur earlier than the next regularly scheduled meeting of the board, as applicable, following the publication of required notice.
- (2) Approval Timeline... Where a legislative or quasi-judicial decision are required by a decision-making board or Elected Body, the decision shall be made within one hundred and eighty (180) days from the date an application is deemed complete, unless such dates are extended by mutual consent of the petitioner and the decision-making board or Elected Body. Such timeframe shall not begin to run until a determination of a complete application has been made.
- (3) Continuation of Legislative and Evidentiary Hearings



- (a) The Planning Board, Elected Body, or decision-making board may continue the hearing for its consideration of the application for a definite time not to exceed sixty (60) days, unless a longer period is agreed to by the petitioner or at a hearing.
- (b) The continuance may be granted by the Planning Board, Elected Body, or decision-making board on its own initiative or at the request of the petitioner or affected property owners.
- (c) The Planning Board, Elected Body, or decision-making board may also deny a request for continuation.

## **6-1.6 PROCEDURES FOR COMPLETE APPLICATIONS WITH CHANGED STATUS**

### **(A) Withdrawn Application**

- (1) A petitioner may withdraw an application by providing written notice to the Planning Director of the petitioner's intent to withdraw the application. After such withdrawal, no further staff action on the application shall take place.
- (2) To re-initiate review, the petitioner shall re-file the application with a new fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.

### **(B) Postponement**

- (1) The petitioner may request an application be postponed to a future scheduled hearing date.
- (2) The request shall be in writing and the request may be received by the Planning Director prior to date of publication of the notice of hearing.
- (3) If the request is received by the Planning Director after the date of publication of the notice of applicable hearing, the petitioner must request the application be continued to a future scheduled hearing date not to exceed sixty (60) days from the original scheduled hearing date.

### **(C) Application Termination**

- (1) If a permit application is placed on hold at the request of the petitioner for a period of six (6) consecutive months or more, or the petitioner fails to respond to comments or provide additional information reasonably requested by the Village of Clemmons for a period of six (6) consecutive months or more, the application review shall be discontinued and new application and fee shall be required. The development regulations in effect at the time the new application is filed shall be applied.

- (2) Any re-filing of the application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

### **6-1.7 APPEAL**

(A) Procedures...Appeal procedures depend on the type of petition and the appropriate authority. The petitioner should consult with the specific provisions of the *Unified Development Ordinances* for requirements. This section refers only to appeals to be heard by the Board of Adjustment. Nothing in this section prohibits petitioners to appeal pursuant to state law.

(1) Board of Adjustment...Appeals of administrative decisions and the Historic Resources Commission shall be made to the Board of Adjustment as provided in the Unified Development Ordinances.

(2) Court...A decision by the Elected Body or Board of Adjustment may be appealed to a North Carolina court of record as permitted by state statutes.

#### **(B) Effect**

(1) Stay of Proceedings...An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom.

(2) Imminent Peril or Transitory Nature...Where a stay of proceedings would cause imminent peril to life or property or the violation is transitory in nature, the official from whom the appeal is taken or the Zoning Officer may certify in writing to the Board of Adjustment hearing the appeal that the stay would cause such harm. The stay will be lifted pending hearing on the appeal. In such case, the action may be stayed only by a restraining order granted by a court of record if due cause is shown, following notice to the Zoning Officer.

### **6-1.8 POST-REVIEW ACTIONS**

#### **(A) Resubmission of a Denied Petition**

(1) Once a petition for a zoning map amendment has been denied, no resubmission of a petition for the same request may be filed within one (1) year of its previous denial. Map amendments initiated by the Planning Director, Planning Board, and Elected Body shall be excluded from B.6-1.8(A)(1).

(2) Once a petition for a text amendment has been denied, no resubmission of a petition for the same request may be filed within two (2) years of its previous denial. Text amendments initiated by the Planning Director, Planning Board, and Elected Body shall be excluded from B.6-1.8(A)(2).

- (3) Once a petition for an application subject to a quasi-judicial decision has been denied, an application for the same request shall be denied by the decision-making board under res judicata. The decision-making board may hear an application that has been resubmitted if there has been substantial change to the application, substantial change in relevant ordinance standards, or material conditions at the site change.

(B) Amendments

- (1) All changes, modifications, removal, or release of the conditions of an approved plan or plat that do not qualify as minor modifications per Sections B.6-2.2 Zoning Permit, B.6-2.6 Special Use District, and B.6-2.8 Special Use Permit of *this Ordinances* shall be considered major amendment. Additionally, major amendments shall include, but are not be limited to:

(a) Changes in use;

(b) Changes in the density of the overall development;

(c) Any condition of approval;

(d) Location of external access points;

(e) The number or type of recreation facilities;

(f) Further changes to dimensional requirements beyond what was granted by the Elected Body per B.2-1.1(C)(3)(c);

(g) The location of bufferyards;

(h) The number of overall buildings to be changed;

(i) any change resulting in increases of off-site impacts including traffic, stormwater, and similar impacts beyond what as projected for the original development approval; and

(j) similar changes as determined by the Planning Director or Zoning Officer.

- (2) For purposes of review and scheduling, proposed major amendments are treated as new applications subject to the applicable procedures and review criteria set forth in *this Ordinance*.

(C) Modifications of Approvals

- (1) Application...If, at any time, the landowner with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.
- (2) Review and Determination of Modification Status...Applications for modification shall be reviewed to determine whether the proposed modifications constitute a major amendment or minor modification to the existing approval.
- (3) Effect of Modification...If approved, the modification shall then supersede the previous approval, and subsequent development on the property shall be in accord with such approved revised plan.

## **6-2 SPECIFIC PROCEDURES**

### **6-2.1 CERTIFICATE OF OCCUPANCY**

- (A) Authority... A certificate of occupancy shall be issued by the Zoning Officer upon approval of any building or other structure, or approval of other preparations for site occupancy, if the requirements of *this Ordinance* and other applicable laws or codes are complied with. Occupancy of such building or site prior to the issuance of the certificate of occupancy is a violation subject to the provisions of Article IX Authorities and Enforcement.
- (B) Application...No application for a zoning permit shall be deemed acceptable unless accompanied by an application for a certificate of occupancy.
  - (1) Shall be made to the Zoning Officer and shall be submitted in compliance with the requirements of section B.6-1.3 Application Submission, contents, and fees.
  - (2) Both applications shall include a statement of the intended use of the building or land.
- (C) Phase of Construction...As each phase of construction, if any, is completed and inspected, the appropriate inspector shall so certify on the application for certificate of occupancy.

### **6-2.2 ZONING PERMIT**

- (A) Authority...Zoning permits shall be issues by the Zoning Officer to ensure compliance with the provisions of the *Unified Development Ordinances*.
- (B) Applicability...A zoning permit shall be obtained from the Zoning Officer prior to the following:
  - (1) Building or Structure...The construction, reconstruction, erection, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use permitted in Table B.2.6, Section B.2-6, Section B.3-2, or any other use or improvement which requires a permit.

(2) Change of Use...Any change of use of any building or land.

(3) Changes in classification of uses from previous zoning ordinances...Except when the provisions for nonconforming situations in Article V, Nonconformities, of *this Ordinance* apply, whenever a use that was classified under a previous zoning ordinance is increased in intensity or expanded, the Zoning Officer shall classify the entire zoning lot to the most similar current use in Table B.2.6, Permitted Uses.

(C) Application...An application for a zoning permit:

(1) Shall be made to the Zoning Officer and shall be submitted in compliance with the requirements of B.6-1.3 Application Submission, Contents, and Fees.

(2) Shall include a statement as to the intended use of the building or land.

(3) Any such application shall be accompanied by a sketch so dimensioned or annotated so as to show the proposed building and existing buildings, if any, in exact relation to lot lines.

(4) The water supply and sewage disposal methods of the proposed development shall have prior approval in compliance with Section B.3-10 Water Supply and Sewage Disposal.

(D) Building Permit Serves as Zoning Permit...A building permit issued in accordance with the State Building Code shall serve also as a zoning permit, and in such cases the cost of the building permit shall be the only fee charged. A minimum fee as specified in Section B.8 Fees shall be charged for any zoning permit issued that does not require a building permit.

(E) Posting

(1) Any person performing the work covered by a zoning permit shall post said permit on the premises before the work begins and shall keep such permit posted on the premises until the certificate of occupancy for the premises is issued.

(2) Any time limitation relating to appeals from the issuance of a building permit shall run from the date the building permit is posted on the premises.

(3) The party to whom the building permit is issued shall be furnished a copy of the permit on which such person may certify as to the date of the posting of the permit, and return such certificate to the Zoning Officer.

(4) The date certified to the Zoning Officer as the date of posting shall be the date from which any time limitations regarding appeals shall run. If the recipient of the permit does not return the certificate of posting to the Zoning Officer, there shall be a rebuttable presumption that the permit was not posted as required by this section.

(F) Action Within One Year...No zoning permit shall be valid unless the development projected has substantially commenced per Section B.1-5.2(F)(1) within one year of issuance per Section B.1-5.2(E)(2) or renewed after written application.

(G) Revocability...Any permit or document issued by the Zoning Officer shall be revocable should any of the conditions under which it is issued not be complied with.

(H) Alterations to Approval

(1) Major amendments...Any proposed major amendments as defined in Section B.6-1.8(B)(1) involving development approvals and site-specific vesting plans shall adhere to B.6-1.8(B)(2).

(2) Minor Modifications...The Zoning Officer is authorized to review and approve administratively a minor modification to an authorized development approval requiring a zoning permit:

(a) Site Design...Site design minor modifications are limited to adjustments to the design of a site plan. In addition to the general limitations for minor modifications, a site design minor modification must comply with zoning standards and other applicable conditions of the approval; be limited to minor changes such as, without limitation, a minor adjustment to building location including dwelling units that occupy one zoning lot, fences, walls, planting and outside lighting; building elevations of the building wall, building orientation, and internal building offsets; street configuration or internal circulation, signage, or a minor adjustment to utility alignment.

(3) Appeals and Variances...A decision on minor modification may be appealed to the Board of Adjustment as an administrative determination. A petitioner for a minor modification also may apply for a variance from the Board of Adjustment.

### **6-2.3 TEMPORARY USE PERMIT**

(A) Authority...Temporary use permits shall be issued or renewed by the Zoning Officer in compliance with B.2-7 provided that such permits are issued only upon written agreement by the landowner to remove the structures or uses upon expiration of the permit

(B) Application...All applications for temporary use permits shall be made to the Zoning Officer and shall be submitted in compliance with the requirements of B.6-1.3.

(C) Requirements...Before the issuance of a temporary use permit, the Zoning Officer shall determine that all other pertinent regulations which may apply to such proposed use are complied with.

### **6-2.4 SITE PLAN REVIEW**

(A) Purpose...Site plan review is required to ensure adequate provision of public services, the wellbeing of citizens, and preservation of environmental quality.

(B) Authority...The Planning Board shall review all requests for permits requiring site plan review, as designated in Table B.2.6 to assure the Use Conditions of Section B.2.5 and other provisions of this Ordinance are met.

(C) Process...a site plan review application by the Planning Board shall be processed as described in this section

(1) Pre-Application Meeting... Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1 Pre-Application Meeting.

(2) Application Submission and Staff Review... An application for site plan review shall be submitted in compliance with the requirements of section B.6-1.3, Application Submission, Content, and Fees.

(D) Decision Making

(1) Approval and Conditions...The Planning Board shall approve any requests for permits which meet all the requirements of the *Unified Development Ordinances* and deny any such requests which do not meet all the requirements of the *Unified Development Ordinances*. The Planning Board may, as part of its approval, require the following conditions to reduce impacts associated with the project:

(a) Public right-of-way dedication to meet projected needs for roads shown on the Transportation Plan, or for other roads as determined by the Village of Clemmons or North Carolina Department of Transportation.

(b) Road and/or sidewalk improvements as recommended by the Village of Clemmons or North Carolina Department of Transportation.

(c) Access control, including the location, number and dimensions of driveways; and combining driveways with and providing connections to adjacent properties, as recommended by Planning Staff or other appropriate agencies.

(d) Reorientation of parking areas or building access to insure on-site traffic flow and pedestrian safety.

(e) Dedication of granting of easements for greenways identified on the adopted Greenway Plan.

(f) Screening and locations of dumpsters, loading areas, on-site utilities, or other visually obtrusive features as determined by the Planning Board.

(g) Space for public transit vehicle maneuvering and/or public transit shelter if determined necessary by Public Transit Authorities.

(h) Stormwater management plans as recommended by the Planning staff and appropriate agencies.

(i) Location and screening of improvements or activities which may generate substantial noise.

(j) Compliance with the recommendations of the Village of Clemmons or State of North Carolina or other governmental departments reviewing the projects.

(k) Compliance with all applicable conditions previously approved for the property in question.

(2) Special Use District Zoning Map Amendment...No separate site plan review by the Planning Board is required for a use which is permitted as a part of a special use zoning district adopted by the Elected Body and which meets the requirements of the *Unified Development Ordinances*. In addition to consideration of Section B.6-2.4(D)(1), the Planning Board may consider the following additional conditions:

(a) Preservation of unique natural or constructed features, including retention of existing vegetation;

(b) Consolidation of signage for shopping centers or multiple use projects;

(c) Reduction in overall density for residential projects; and

(d) Reduction or limitation in the uses requested.

(E) Staff Changes...Staff may only modify site plans per minor modifications specified in Article VI Administrative Provisions of this Ordinance.

## **6-2.5 ZONING MAP AMENDMENT – GENERAL USE DISTRICT**

(A) Purpose...The purpose of this section is to provide a uniform means for reviewing and deciding general amendments to the Official Zoning Map for the Village of Clemmons.

(B) Authority

(1) The Elected Body may from time to time, on its own motion or petition, after following notification and hearing procedures as provided by law, amend, supplement, change, modify, or repeal the boundaries or regulations herein or subsequently established.



- (2) A petition by an interested person to amend or change the district boundaries shall be submitted to the Elected Body through and reviewed by the Planning Board which shall consider its merit and make a recommendation to the Elected Body.

(C) Process...A zoning map amendment application shall be processed as described in this section.

- (1) Pre-Application Meeting... Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1 Pre-Application Meeting.

- (2) Neighborhood Meeting...Applicants are required to hold a neighborhood meeting pursuant to section B.6-1.2 Neighborhood Meeting.

(3) Application Submission and Staff Review

- (a) An application for zoning map amendment shall be submitted in compliance with the requirements of section B.6-1.3, Application Submission, Content, and Fees.

- (b) No Referral to Use...If the petitioner elects to petition for rezoning to any general use district, the petitioner may not refer, either in the petition or at any hearing related to the petition, to the use intended for the property if the rezoning is granted.

- (c) Petitioner considerations...it is incumbent upon the petitioner to:

- (i) Consider the size of the tract in context;

- (ii) Consider the petitions compatibility with the existing comprehensive plan;

- (iii) Consider the benefits/detriments of the map amendment and the relative magnitude said benefits/detriments would have to all stakeholders; and

- (iv) Consider the relationship between the proposed and current uses of the parcel under consideration for rezoning and conterminous parcels.

- (d) The Planning Director may make a recommendation on the proposed zoning map amendment application.

- (4) Legislative Hearing...In no case shall a legislative decision by the Elected Body be taken changing the district boundaries hereby established until a legislative hearing per B.6-1.5(A) has been held by the Elected Body at which stakeholders shall have an opportunity to be heard.

(D) Decision Making

- (1) Planning Board consideration

- (a) The Planning Board shall consider and make recommendations to the Elected Body at a regularly scheduled meeting.
- (b) The Planning Board shall make its recommendation to the Elected Body in writing and shall recommend that a petition be approved, approved as revised, denied, or request further study.
- (c) The Planning Board shall provide a written recommendation to the Elected Body that addresses plan consistency and other matters as deemed appropriate by the Planning Board per G.S. 160D-604.
- (d) Petitions for amendments that receive a favorable recommendation from the Planning Board, or petitions on which the Planning Board fails to take any action within sixty (60) days after the Planning Board's public meeting, may be scheduled for legislative hearing before the Elected Body.

(2) Action by the Elected Body

- (a) In deliberating each petition for zoning map amendment, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the legislative hearing. Additional considerations by the Elected Body may include, but shall not be limited to:
  - (i) whether the proposal is consistent with the purpose statement of the requested zoning districts;
  - (ii) whether the use permitted under the proposed classification would be compatible with uses permitted on other property in the vicinity;
  - (iii) whether changing conditions have substantially affected the area included in the petition; and
  - (iv) whether the proposed amendment is in conformance with the *Clemmons Community Compass* and with *Legacy*. After conclusion of the legislative hearing, Elected Body shall decide in accordance with its rules of procedure.
- (b) In making its decision, the Elected Body shall approve a written statement of consistency and a statement of reasonableness in accordance with G.S. 160D-605.
- (c) Applications filed as either a general zoning map amendment or special use district map amendment may not be converted to the other form of map amendment application during the review process and shall instead be withdrawn and resubmitted as a new application.
- (d) Elected Body Authority

- (i) The Elected Body may change the existing zoning classification of the area covered by a petition, or any part or parts thereof, to the classification requested or to a lower classification(s) without the necessity of withdrawal or modification of the petition.
- (ii) Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes to the district boundaries of the zoning ordinance, or any zoning or rezoning of property.
- (iii) Nothing in this section shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment.

(E) Post-decision Actions

- (1) Appeals...A cause of action as to the validity of this chapter, or an amendment thereto, shall be brought within 60 days, as provided by G.S. 160D-1405.

- (F) Records...After the adoption of any amendment to the Official Zoning Map, the Planning Director shall send to the Planning Board and to the office of the Register of Deeds official notification of such adoption. It shall be the duty of the Planning Board and the office of the Register of Deeds to maintain systematic records of such ordinances and to make said records accessible to the public for inspection at reasonable times.

- (G) Notice to North Carolina Department of Transportation...The Zoning Officer shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the right-of-way of interstate or primary highway systems per § 136-136 and 136-153 of State law.

**6-2.6 ZONING MAP AMENDMENT – SPECIAL USE DISTRICT**

- (A) Purpose... The purpose of this section is to provide a uniform means for reviewing and deciding amendments to the *Official Zoning Map* for the establishment of a Special Use Zoning (S) District. The review process established in *this Ordinance* provides for the accommodation of such uses by a reclassification of the property into a Special Use Zoning District, subject to reasonable conditions as the Elected Body determines to be desirable in promoting public health, safety, and general welfare.
- (B) Process...A special use district zoning map amendment petition shall be processed as described in this section.
  - (1) Pre-Application Meeting...Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1

(2) Neighborhood Meeting...Applicants are required to hold a neighborhood meeting pursuant to section B.6-1.2.

(3) Application Submission and Staff Review

(a) Generally Applicable Requirements...An application for a special use district zoning map amendment shall be submitted in compliance with the requirements of section B.6-1.3, Application Submission, Content, and Fees.

(b) Site Plan...Property may be rezoned to a special use zoning district only in response to and consistent with a petition submitted by the landowners of all the property to be included in the district.

(i) An application for special use district zoning map amendment shall include a site plan per Article VII Site Plan Requirements of *this Ordinance* and supporting information.

(ii) The application must specify the actual use(s) intended, one or more of the permitted uses listed in Table B.2.6 Permitted Use Table, for the entire tract or any part or parts thereof, for the property specified in the petition, and the proposed use(s) must be a use(s) permitted in the corresponding general use district.

(iii) All requirements of the general use zoning shall be met. The petitioner must formally request changes to dimensional standards per B.2-1.1(C).

(c) One and Two-Phase Petitions...The petitioner may elect to submit a special use zoning district either as a one-phase petition or as a two-phase petition.

(i) An application for one and two-phase petitions special use district zoning map amendment application shall include a site plan per Article VII Site Plan Requirements of *this Ordinance* and supporting information.

(ii) Second Phase Acceptance...The second phase of a two-phase petition shall not be accepted until the first phase has been approved by the Elected Body.

(iii) Final Development Plan...The final development plan required for the second phase of a two-phase rezoning approval shall be submitted pursuant to Article VII Site Plan Requirements of *this Ordinance*.

(d) Petitioner Consideration...Special use Zoning District classification is appropriate for instances where firm plans for development are in place. The petitioner should consider whether it is appropriate to request a special use district or a general use map amendment. Additionally, the petitioner should consider Section B.6-2.5(C)(3)(c).

- (4) Legislative Hearing...In no case shall a legislative decision by the Elected Body be taken changing the district boundaries hereby established until a legislative hearing per B.6-1.5(A) has been held by the Elected Body at which stakeholders shall have an opportunity to be heard.

(C) Decision Making

(1) Approval and Conditions

- (a) Special use zoning district decisions shall include consideration of reasonable conditions per Section B.2-1.1(C).
- (b) If all requirements and conditions are accepted by the petitioner, the Elected Body shall rezone the property and issue a special use zoning district permit, attaching thereto and incorporating therein the conditions mentioned immediately above.

(2) Planning Board Consideration

- (a) The Planning Board shall consider and make recommendations to the Elected Body at a regularly scheduled meeting.
- (b) The Planning Board shall make its recommendation to the Elected Body in writing and shall recommend that a petition be approved, approved with conditions, denied, or request further study.
- (c) The Planning Board shall provide a written recommendation to the Elected Body that addresses plan consistency and other matters as deemed appropriate by the Planning Board per G.S. 160D-604.
- (d) Petitions for amendments that receive a favorable recommendation from the Planning Board, or petitions on which the Planning Board fails to take any action within sixty (60) days after the Planning Board's public meeting, may be scheduled for legislative hearing before the Elected Body.

(3) Action by the Elected Body

- (a) In deliberating each petition for zoning map amendment, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the legislative hearing. Additional considerations by the Elected Body may include, but shall not be limited to:
- (i) whether the proposal is consistent with the purpose statement of the requested zoning districts;
- (ii) whether the use permitted under the proposed classification would be compatible with uses permitted on other property in the vicinity;

- (iii) whether changing conditions have substantially affected the area included in the petition; and
    - (iv) whether the proposed amendment is in conformance with the *Clemmons Community Compass* and with *Legacy*. After conclusion of the legislative hearing, Elected Body shall decide in accordance with its rules of procedure.
  - (b) In making its decision, the Elected Body shall approve a written statement of consistency and a statement of reasonableness in accordance with G.S. 160D-605.
  - (c) Applications filed as either a general zoning map amendment or special use district zoning map amendment may not be converted to the other form of map amendment application during the review process and shall instead be withdrawn and resubmitted as a new application.
  - (d) Elected Body Authority
    - (i) The Elected Body may change the existing zoning classification of the area covered by a petition, or any part or parts thereof, to the classification requested or to a lower classification(s) without the necessity of withdrawal or modification of the petition.
    - (ii) Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes to the district boundaries of the zoning ordinance, or any zoning or rezoning of property.
    - (iii) Nothing in this section shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment.

#### (4) Effect of Approval

- (a) If an application for special use district zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and the zoning map.
- (b) If an application is approved, only those uses, buildings, and structures indicated on the approved application and site plan shall be allowed on the subject property.

- (c) Following the approval of an application for special use district zoning, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel special use district zoning shall be identified by the same designation as the underlying general district followed by the letter "S" (e.g., RM-S).
- (d) No permit shall be issued for any development activity within a special use district except in accordance with the approved application and site plan for the district.
- (e) Any violation of the approved site plan or any rules, regulation, and conditions for the district shall be treated the same as any other violation of *this Ordinance* and shall be subject to the same remedies and penalties per Article IX Authorities and Enforcement of *this Ordinance*.

#### (D) Post-decision Actions

##### (1) Alterations to Approval

- (a) Major amendments...Any proposed major amendments to special use districts as defined in Section B.6-1.8(B)(1) shall follow the same approval process specified in B.6-1.8(B)(2).
- (b) Minor Modifications...The Planning Director or designee is authorized to review and approve administratively a minor modification to an approved special use zoning district, subject to the general limitations per Section B.6-1.8(B).
  - (i) Site Design...Site design minor modifications are limited to adjustments to the design of the site plan included as part of a special use district zoning application. In addition to the general limitations for minor modifications, a site design minor modification must comply with underlying zoning standards and other applicable conditions of the approval; be limited to minor changes such as a minor adjustment to building location including changes to dwelling units that occupy one zoning lot, fences, walls, planting and outside lighting; building elevations not exceeding ten (10) percent of each building wall per building, building orientation, and internal building offsets; street configuration or internal circulation, signage, or a minor adjustment to utility and easement alignment.
  - (ii) Minor modification requests shall not have such an impact as to be a significant departure from the site plan approved by the Elected Body.
  - (iii) Any request for minor modifications shall be pursuant to a written letter, signed by the landowner, detailing the requested change(s) with detailed reasons for the requested change(s). Upon request, the applicant shall provide additional information.

(d) Changes to Individual Parcels within a Special Use Zoning District...For a special use zoning district applicable to multiple parcels, the owners of individual parcels may apply for minor modifications or major amendments so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

(2) Appeals...A cause of action as to the validity of this chapter, or amendment thereto, shall be brought within sixty (60) days as provided in G.S. 160D-1405.

(E) Records...After the adoption of any amendment to the Official Zoning Map, the Planning Director shall send to the Planning Board and to the office of the Register of Deeds official notification of such adoption. It shall be the duty of the Planning Board and the office of the Register of Deeds to maintain systematic records of such ordinances and to make said records accessible to the public for inspection at reasonable times.

(F) Notice to North Carolina Department of Transportation...The Zoning Officer shall give written notice to the Department of Transportation of the establishment or revision of any commercial and industrial zones within 660 feet of the right-of-way of interstate or primary highway systems per § 136-136 and 136-153 of State law.

## **6-2.7 UNIFIED DEVELOPMENT ORDINANCES TEXT AMENDMENT**

(A) Purpose... The purpose of this section is to provide a uniform means for reviewing and deciding proposals to amend, supplement, change, modify, or repeal development regulations to the *Unified Development Ordinances*.

(B) Process...A text amendment application shall be processed as described in this section.

(1) Pre-Application Meeting... Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1 Pre-application Meeting.

(2) Application Submission and Staff Review

(a) An application for a text amendment shall be submitted in compliance with the requirements of section B.6-1.3 Application Submission, Content, and Fees.

(b) When reviewing and making a recommendation, the Planning Director may consider whether a proposed text amendment:

(i) Corrects an error or meets the challenge of some changing condition, trend, or fact;

(ii) Responds to changes in state law;

(iii) Is consistent with applicable adopted plans and policies;



(iv) Does not conflict with any specific objective of the *Clemmons Community Compass*;

(v) Is generally consistent with the stated purpose and intent of *this Ordinance*;

(vi) Constitutes a benefit to the Village of Clemmons as a whole and is not solely for the benefit of a particular landowner or landowners at a point in time;

(vii) Impacts significantly the natural environment, including air, water, noise, stormwater management, wildlife and vegetation; and

(viii) Impacts significantly existing conforming development patterns, standards, or zoning regulations.

(3) Legislative Hearing...In no case shall a legislative decision by the Elected Body be taken amending, changing, supplementing, modifying, or repealing the development regulations established until a legislative hearing per section B.6-1.5 has been held by the Elected Body at which parties in interest and citizens shall have an opportunity to be heard.

#### (C) Decision Making

##### (1) Planning Board Considerations

(a) The Planning Board shall consider and make recommendations to the Elected Body at a regularly scheduled meeting.

(b) The Planning Board shall make its recommendation to the Elected Body in writing and shall recommend that a petition be approved, approved as revised, denied, or request further study.

(c) The Planning Board shall provide a written recommendation to the Elected Body that addresses plan consistency and other matters as deemed appropriate by the Planning Board per G.S. 160D-604.

(d) Within ninety (90) days of receipt of a complete application for text amendment, the Planning Board shall make its recommendation to the Elected Body. If no recommendation is made within the ninety (90) day time period the Elected Body may act on the application without further involvement of the Planning Board.

##### (2) Action by the Elected Body

(a) Following the recommendation of the Planning Board, or expiration of the Planning Board review period without a recommendation, the Elected Body shall conduct a legislative hearing.

(b) In deliberating each petition for text amendment, the Elected Body may consider such information and assertions as are presented in the petition as well as evidence presented and arguments made at the legislative hearing.

(c) The Elected Body shall approve, approved as revised, deny, or send a proposed amendment back to the Planning Board for additional consideration.

(d) In making its legislative decision, the Elected Body shall approve a written statement of consistency in accordance with G.S. 160D-605.

(e) Elected Body Authority

(i) Nothing in this section shall constitute a limitation upon the authority of the Elected Body or the Planning Board to consider or reconsider, upon their own motion, any changes and amendments to the *Unified Development Ordinances*.

(ii) Nothing in this section shall affect the validity or effectiveness of any recommendation made by the Planning Board prior to the effective date of this amendment, and the Elected Body may lawfully act on such recommendation as if it had been made by the Planning Board subsequent to the effective date of this amendment.

(D) Post-decision Actions

(1) Appeals...A cause of action as to the validity of a development regulation adopted, shall be brought within one (1) year as provided by G.S. 160D-1405. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three (3) years as provided by G.S. 160D-1405.

**6-2.8 SPECIAL USE PERMIT**

(A) Purpose

(1) The purpose of this section is to establish a procedure for consideration of an application for a special use permit.

(2) Special use permits add flexibility to the zoning ordinance. Subject to high standards of planning and design, certain property uses may be allowed in a district where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any adverse effects they might have on surrounding properties.

(B) Authority...Following an evidentiary hearing, special use permits may be issued by the decision-making board, unless exempted per section B.6-2.8(H), for permit as designated in Table B.2.6 and section B.2-5.

(C) Process...A special use permit application shall be processed as described in this section

(1) Pre-Application Meeting... Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1 Pre-Application Meeting.

(2) Application Submission and Staff Review...An application for a text amendment shall be submitted in compliance with the requirements of section B.6-1.3 Application Submission, Content, and Fees.

(3) Site Plan...An application for a special use permit shall include a site plan per Article VII Site Plan Requirements of *this Ordinance* and supporting information.

(4) Evidentiary Hearing...In no case shall a quasi-judicial decision issuing a special use permit by the decision-making board be made until an evidentiary hearing per B.6-1.5 has been held by the decision-making board.

(D) Decision Making

(1) Review Criteria and Conditions of Approval...

(a) Reasonable and appropriate conditions and safeguards may be imposed upon special use permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the Village of Clemmons does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Village of Clemmons, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

(2) Action by the Decision-Making Board

(a) Required Findings...The decision-making board shall issue a special use permit only when the Board makes an affirmative finding as follows:

(i) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;

(ii) That the use meets all required conditions and specifications;

(iii) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(iv) That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Clemmons Community Compass.

(b) Except with regard to the conversion of nonconforming uses in Section B.5-2, no provision of *this Ordinance* shall be interpreted as conferring upon the decision-making board the authority to approve an application for a special use permit for any use unless authorized in Table B.2.6. In approving an application for the issuance of a special use permit, the decision-making board may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents.

(c) Decision-Making Board Procedure for Voting on Special Use Permits

(i) A The concurring vote of a simple majority by the Board shall be necessary to issue a special use permit.

(ii) For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial decision shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

(E) Special Use Permit and Written Consent...A special use permit shall not go into effect until those conditions approved and consented to by both the decision-making board and landowner or permit applicant are in writing and signed by the landowner and permit applicant.

(F) Permit Duration...Special use permits are subject to the site-specific vesting plan provisions in Section B.1-5.2 Vested Rights.

(G) Post-decision Actions

(1) Alterations to approval

(a) Major amendments...Any proposed major amendments to a special use permit as defined in Section B.6-1.8(B)(1) shall follow the same approval process specified in B.6-1.8(B)(2).

(b) Minor Modifications...The Planning Director, Zoning Officer or designee is authorized to review and approve administratively a minor modification to an

approved special use permit, subject to the general limitations per Section B.6-1.8(B). The minor modification authorized herein are intended to provide relief where conditions, established by the special use permit granted, create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which is not known at the time of approval and which subsequently rendered the land difficult or impossible to use due to the condition(s) imposed. Such modifications shall be limited to the following:

(i) Site Design...Site design minor modifications are limited to adjustments to the design of the site plan included as part of a special use permit. In addition to the general limitations for minor modifications, a site design minor modification must comply with underlying zoning standards and other applicable conditions of the approval; be limited to minor changes such as a minor adjustment to building location including dwelling units that occupy one zoning lot, fences, walls, planting and outside lighting; building orientation, and internal building offsets; street configuration or internal circulation, signage, or a minor adjustment to utility and easement alignment.

(ii) Minor modification requests shall not have such an impact as to be a significant departure from the special use permit approved by the decision-making board.

(iii) Any request for minor modifications shall be pursuant to a written letter, signed by the landowner, detailing the requested change(s) with detailed reasons for the requested change(s). Upon request, the applicant shall provide additional information.

(c) Changes to Individual Parcels within a Special Use Permit...For a special use permit applicable to multiple parcels, the owners of individual parcels may apply for minor modifications or major amendments so long as the change would not result in other properties failing to meet the terms of the conditions. Any approved changes shall only be applicable to those properties whose owners petitioned for the change.

(H) Special Use District...No separate special use permit is required for a use which is permitted as a part of a special use zoning district adopted by the Elected Body and which meets the requirements of *this Ordinance*.

## **6-2.9 CERTIFICATE OF APPROPRIATENESS**

(A) Requirements for Certificate of Appropriateness for Local Historic Landmarks (LHL)

(1) From and after the designation of a Local Historic Landmark (LHL), no designated portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished on such designated historic landmark until after the property owner or his/her designated agent has

determined that the project is in compliance with the Design Review Standards either through consultation with Commission staff or review of the Design Review Standards.

- (2) The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of *this Ordinance*.
- (3) If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in Section B.6-2.9(F).
- (4) A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.
- (5) For the purposes of the section, the term "designated portion" shall mean any portion of a designated historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.
- (6) Where the exterior of a building or structure is designated as an historic landmark, the term "exterior features" shall mean the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(B) Requirements for Certificate of Appropriateness in Historic and Historic Overlay Districts

- (1) Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Standards either through consultation with Commission staff or review of the appropriate Design Review Standards.

- (2) The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of *this Ordinance*.
- (3) If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in section B.6-2.9(F).
- (4) A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.
- (5) For the purposes of the section, the term "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

(C) Circumstances not requiring Certificate of Appropriateness

- (1) No certificate of appropriateness shall be required for:
  - (a) The routine maintenance or repair, as defined in the applicable Design Review Standards, of any exterior architectural feature in an H or HO District or on a Local Historic Landmark (LHL) which does not involve a change in design, material, or outer appearance;
  - (b) The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
  - (c) The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

(D) Procedures...The following procedures shall govern the issuance of a Certificate of Appropriateness:

- (1) Applications...Application for a Certificate of Appropriateness shall be submitted to Commission staff on forms provided. The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application. An application for a Certificate of Appropriateness shall not be considered complete until all required information has been submitted. For properties within H and HO Districts, the names and mailing addresses of the property owners filing the application and the names and addresses of the property owners within one hundred (100) feet on all sides of the property which is the subject of the application must also be filed.
- (2) Application to Historic Resources Commission...Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.
- (3) Notice and Hearing Within H and HO Districts...Commission staff will make a reasonable attempt to identify and notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the application. Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners and/or residents likely to be affected by the application an opportunity to be heard.
- (4) Viewing Site...As part of its review procedure, the Commission may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises. However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof. Additionally, the Commission may seek the advice of the North Carolina Division of Archives and History or such other expert advice as the Commission may deem necessary.
- (5) Time for Action...The Commission shall act upon complete applications within one hundred twenty (120) calendar days after the filing, unless an extension of time has been mutually agreed upon between the Commission and the applicant. Otherwise, failure to act upon a complete application shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued.
- (6) Form of Decision...All formal actions of the Commission shall be set forth in writing. A decision of the Commission shall be effective upon filing the written decision with the Historic Resource Officer of the Commission. The decision of the Commission shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.



- (7) Time Limits...Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness. If a request is made to renew a Certificate of Appropriateness prior to its expiration, Commission staff may renew it for one (1) additional year. If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.
- (8) Approval of Minor Works...The Commission may delegate to Commission staff the review and approval of minor works for the Local Historic Landmarks (LHL), and for the Historic (H) and Historic Overlay (HO) Districts after approval of Design Review Standards for the Local Historic Landmarks (LHL) and each Historic (H) and Historic Overlay (HO) District. Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an historic landmark, property, and/or a district as a whole or be incongruous with the special character of an historic landmark, property, or district. Minor works require a Certificate of Appropriateness. A minor works application may be filed at any time and no public notification is required for review of a minor work application. No minor works application may be denied by Commission staff. If Commission staff cannot approve a minor works application, it shall be presented to the Commission for review and formal action.
- (9) Reapplication after Denial...If the Commission determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in the application, or if conditions related to the Local Historic Landmark (LHL) or H or HO District or surrounding uses have changed. A reconsidered application shall be treated as a new application.
- (10) Demolition Permits...An application for a Certificate of Appropriateness authorizing the relocation or demolition of a designated historic landmark or building or structure within an H or HO District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred sixty-five (365) calendar days from the date of approval. The maximum delay may be reduced by the Commission when it finds that delay would impose an extreme hardship on the owner or would permanently deprive the owner of all beneficial use or return from such property from such delay. During the period of delay, the Commission may negotiate with the owner and other parties in an effort to preserve the building or structure. If the Commission finds that the building or structure has no particular significance or value toward maintaining the character of the designated landmark or district, it shall waive all or part of such period and authorize earlier demolition or removal.
- (11) Applicability to County, City, Town, Village and Utility Companies...The County/City/Town/Village and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a Local Historic Landmark (LHL) or in a H or HO District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property.

easements, or streets owned or franchised by the County/City/Town/Village or public utility companies.

(12) Appeals...An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness shall be taken to the appropriate Board of Adjustment. Appeals shall be taken by any aggrieved party by the later of thirty (30) calendar days after the decision is effective or after a written copy thereof is delivered in accordance with section B.6-1.5(B)(10), and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

(13) Inspection after Issuance of Certificate...The Zoning Officer shall from time to time inspect the construction or alteration approved by a Certificate of Appropriateness and report to the Commission any work not in conformance with the Certificate of Appropriateness.

(E) After the Fact – Certificate of Appropriateness

(1) After-the-Fact Certificate of Appropriateness Applications...An after-the-fact Certificate of Appropriateness application includes any major or minor work projects that have been initiated or completed prior to obtaining the required Certificate of Appropriateness.

(2) After-the-Fact Certificate of Appropriateness Application Fee...To discourage activity without a Certificate of Appropriateness and to assist in offsetting the costs associated with the additional staff work that accompanies an after-the-fact application, an escalating fee system has been implemented. The escalating fee system is based upon the number of after-the-fact Certificate of Appropriateness applications sought by or on behalf of a property owner. The after-the fact Certificate of Appropriateness application fee, as established by the City Council of the City of Winston-Salem and the County Commissioners of Forsyth County, shall be due upon submission of the application.

(3) Application Consideration...All after-the-fact Certificate of Appropriateness applications shall be brought before the Commission for consideration.

(4) Approval of After-the-Fact Certificate of Appropriateness Applications...Unless otherwise designated by the Commission, if an after-the-fact Certificate of Appropriateness application is approved, the applicant shall have ninety (90) days to complete the approved work.

(5) Denial of After-the-Fact Certificate of Appropriateness Applications...If an after-the-fact application for approval of work, completed without a Certificate of Appropriateness, receives a denial from the Commission, the subsequent Certificate of Appropriateness application, if required, shall be considered anew. A subsequent Certificate of Appropriateness application must be submitted to the Commission within thirty (30) days of the effective date of the denial of the original after-the-fact application.

Commission staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly.

(F) Standards for Review...A Certificate of Appropriateness shall be issued or denied in accordance with the following standards:

- (1) General Criteria...In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure. The Commission shall not consider interior arrangement in H and HO Districts.
  - (2) General Restriction on Denial...The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, or outdoor advertising signs which would be incompatible with the Design Review Standards.
  - (3) Design Review Standards Required...The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and standards not inconsistent with Part 3C of Article 19 of Chapter 160A of the NCGS. Such principles and standards, hereafter referred to as Design Review Standards, shall be prepared for the Local Historic Landmarks (LHL), and for each H and/or HO District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites. These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.
  - (4) Design Review Standards Amendment...Prior to the amendment of Design Review Standards for the Local Historic Landmarks (LHL) or any H or HO District, any person may comment upon the proposal. Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request. Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper of general circulation in Winston-Salem.
- (G) COMPLIANCE...Compliance with the provisions of this section shall be enforced by the appropriate Zoning Officer. Failure to comply with this section and provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with *this Ordinance* may be exercised to enforce this section

## **6-2.10 VARIANCE**

(A) Authority...

- (1) When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation.
- (2) Limitations... No change in permitted uses may be authorized by variance, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a special use zoning district and special use permit.

(B) Process

- (1) Pre-Application Meeting... Applicants are required to attend a pre-application meeting pursuant to section B.6-1.1.
- (2) Application Submission and Staff Review...An application for a text amendment shall be submitted in compliance with the requirements of section B.6-1.3, Application Submission, Content, and Fees.
- (3) Evidentiary Hearing...In no case shall a quasi-judicial decision issuing a variance by the Board of Adjustment be made until an evidentiary hearing per section B.6-1.5 has been held by the Board of Adjustment.

(C) Decision Making

(1) Action by the Board of Adjustment

- (a) Hardship...When unnecessary hardships would result from carrying out the strict letter of *this Ordinance*, the Board of Adjustment shall vary any of the provisions of *this Ordinance* upon a showing of all of the following:
  - (i) Unnecessary hardship would result from the strict application of the Ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - (ii) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
  - (iii) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

- (iv) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- (b) Review of Applications...Any such variance shall observe the spirit and purpose of this Ordinance and shall be granted only with reference to conditions and circumstances peculiar to the property involved.
- (c) Conditions...Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
- (d) Board of Adjustment Procedure for Voting on Variance Requests
  - (i) The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance.
  - (ii) For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

#### **6-2.11 APPEALS AND INTERPRETATIONS**

##### **(A) Authority**

- (1) The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Zoning Officer or a designee.
- (2) The Board of Adjustment shall also hear and pass all other matters upon which it is required to act under the *Unified Development Ordinances*.

##### **(B) Applicability...The appeal request is subject to the following standards:**

- (1) Only written decisions or determinations shall be appealed.
- (2) A decision includes any final and binding order, requirement, or determination.
- (3) The Zoning Officer, or a designee, shall give written notice to the landowner that is subject of the decision and to the party who sought the decision, if different from the landowner.
- (4) The written notice shall be delivered by personal delivery, electronic mail, or by first class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the property owner.

- (5) The landowner or other party receiving the written notice shall have thirty (30) days from receipt of the written notice, decision, or determination to file an appeal.
- (6) Any other person or party with standing to appeal shall have thirty (30) days from receipt of any source of actual or constructive notice of the decision or determination to file an appeal.
- (7) In the absence of evidence to the contrary, notice given pursuant to this subsection by first-class mail is deemed received on the third (3) business day following deposit of the notice for mailing with the United States Postal Service.

(C) Process...The procedure to be used in processing appeals and interpretations of decisions of the Zoning Officer or a designee authorized by the Board of Adjustment.

(1) Application

(a) Applications for appeals of decisions, determinations or interpretations of the Zoning Officer or a designee to be considered in any month by the Board of Adjustment shall be made by the landowner or the owner's authorized agent or any other party with standing to the Village Clerk not less than thirty (30) days prior to the established meeting date of that month. Each petition shall be accompanied by:

(i) A fee as authorized in Article VIII of *this Ordinance*.

(ii) The written decision of the Zoning Officer or a designee that is the subject of the requested appeal or interpretation.

(2) Posting...It is conclusively presumed that all persons with standing to appeal have constructive notice of the determination from the date a sign providing notice that a determination has been made is prominently posted on the property that is the subject of the determination, provided the sign remains on the property for at least ten (10) days. The sign shall contain the words "Zoning Decision" or "Subdivision Decision" or similar language for other determinations in letters at least six (6) inches high and shall identify the means to contact a local government staff member for information about the determination. Posting of signs is not the only form of constructive notice. Any such posting is the responsibility of the landowner, applicant, or person who sought the determination. Verification of the posting shall be provided to the staff member responsible for the determination. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(3) Transmittal

(a) The Zoning Officer or a designee shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken.

- (b) The Zoning Officer or a designee shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(D) Decision Making

- (1) Evidentiary Hearing...the Board of Adjustment shall follow evidentiary hearing procedures per Section B.6-1.5(B)

(2) Board of Adjustment Procedure for Voting on Appeals/Interpretations

- (a) The concurring vote of a simple majority by the Board of Adjustment shall be necessary to overturn a decision of the Zoning Officer or a designee.
- (b) For the purposes of this subsection, vacant positions on the Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternatives to take the place of such members.

(E) Stay of Proceedings

- (1) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the Zoning Officer or official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court.
- (2) If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such request is filed.
- (3) Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the Ordinance does not stay the further review of an application for permits or permissions to use the property; in these situations, the appellant or local government may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed. Otherwise, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

**Section 48. Chapter B, Article VII Site Plan Requirements Section 7-2.1 Planning Board and Elected Body Review is hereby amended as follows:**

**7-2.1 PLANNING BOARD AND ELECTED BODY REVIEW**

The provisions of this Article apply to site plans required to be submitted for review and recommendation or approval by the Planning Board and/or the Elected Body, as identified in ~~Section B.6.~~ Article VI of this Ordinance and ~~Site~~ site plan and application requirements for other approvals or permits are determined by the Zoning Officer.

**Section 49. Chapter B, Article VII Site Plan Requirements Section 7-2.3(C) and Section 7-2.3(D) Uses and Activities Requiring Site Plans is hereby amended as follows:**

**7-2.3 USES AND ACTIVITIES REQUIRING SITE PLANS**

(C) Request for Special Use District Zoning...Request for special use district zoning pursuant to ~~Section B.6-2.2,~~ section B.6-2.6 including:

- (1) One-phase requests; and,
- (2) Two-phase requests, including the first phase site plan submittal and the second phase final development plan.

(D) Uses in Certain Districts...Any use requested within the YR, NO, NB, NSB, C, ~~MXMU-S,~~ NCO, TO, H, and HO zoning districts;

**Section 50. Chapter B, Article VII Site Plan Requirements Section 7-3.1 Number Required is hereby amended as follows:**

**7-3.1 NUMBER REQUIRED**

The number of copies of the site plan shall be at the discretion of the Planning Director or Zoning Officer. ~~Twenty-five (25) copies of the site plan shall be provided.~~ The copies shall be folded to nine (9) inch by twelve (12) inch page size with the title block showing.

**Section 51. Chapter B, Article VII Site Plan Requirements Section 7-3.2(C) Scale is hereby amended as follows:**

**7-3.2 SCALE**

~~(C) Site plans for very large developments may be submitted at a scale of one inch represents two hundred (200) feet (1" to 200') with approval of Planning staff.~~

(C) Reserved



**Section 52. Chapter B, Article VII Site Plan Requirements Section 7-4 Specific Submittal Requirements is hereby amended as follows:**

**7-4 - SPECIFIC SUBMITTAL REQUIREMENTS**

The additional specific site plan submittal information required for different types of applications shall be determined from Table B.7.1. The additional submittal requirements for each application form shall be as provided in this section.

Table B.7.1  
Submittal Requirements

Type of Application	Submittal Requirements
Table B.2.6, Use Requiring Planning Board Review	Form 1
Table B.2.6, Use Requiring Special Use Permit from Board of Adjustment	Form 1
Table B.2.6, Use Requiring Special Use Permit from Elected Body	Form 1
Special Use District Zoning	
One-Phase	Form 1
Except Manufactured Home on Individual Lot (on $\leq 1\frac{1}{2}$ acre)	Form 3
Two-Phase	
First Phase Site Plan	Form 2
Second Phase Final Development Plan	Form 1
Use in NSB and C Districts	Form 1
Use in <del>MU-SMX</del> Districts	Form 1 or 2
Use in H and HO Districts	Section B.4

**Section 53. Chapter B, Article VII Site Plan Requirements Section 7-4.1 Form 1 Submittal Requirements is hereby amended as follows:**

**7-4.1 FORM 1 SUBMITTAL REQUIREMENTS**

Applications for special use district rezonings other than a single manufactured home on one and one-half (1.5) acres or less; final development plans for the second phase of two-phase special use district rezoning, including uses in ~~MXMU-S~~; special use permits issued by the Elected Body and the Board of Adjustment ~~which require Planning Board review~~; uses requiring site plan review by the Planning Board; and users in the NSB and C Districts shall contain the following information.

**Section 54. Chapter B, Article VII Site Plan Requirements Section 7-4.2 Form 2 Submittal Requirements is hereby amended as follows:**

## 7-4.2 FORM 2 SUBMITTAL REQUIREMENTS

Applications for the first phase of a two-phase special use district rezoning, including uses in the ~~MXMU-S~~ District, shall contain the following information:

**Section 55. Chapter B, Article VII Site Plan Requirements Section 7-5.3 Other is hereby amended as follows:**

### 7-5.3 OTHER

In addition to the requirements of *this Ordinance*, all site plans shall comply with the following standards:

- (A) Consistency with Clemmons Community Compass...The site plan shall be consistent with the purpose, goals, objectives, and policies of the *Clemmons Community Compass*. ~~Consistency with Legacy. The site plan shall be consistent with the purposes, goals, objectives and policies of *Legacy*.~~
- (B) Environmental Ordinance...The site plan shall comply with Chapter C.
- (C) Subdivision...The site plan shall comply with all applicable provisions of Chapter D.
- (D) Other Relevant Standards...The site plan shall comply with the fire and building standards and all other relevant and applicable provisions of *this Ordinance*.

**Section 56. Chapter B, Article VII Site Plan Requirements Section 7-5.5 Staff Changes is hereby amended as follows:**

### 7-5.5 STAFF CHANGES

Planning staff shall have the authority to make minor modifications pursuant to Article VI Administrative Provisions of *this Ordinance*. ~~The Elected Body may, by resolution, allow the Planning staff to grant staff changes to site plans and conditions after the site plans and conditions have been approved by an Elected Body. Such resolution shall include authority for staff to make such changes as consistent with law, the intent of the original site plan or conditions, and which were not the subject of controversy during any public hearing or meeting.~~

**Section 57. Chapter B, Article VIII Fees Section 8-1 General is hereby amended as follows:**

### 8-1 - GENERAL

To defray a portion of the cost of advertising, as required by law, and of technical services necessitated by petitions for changes to the zoning regulations or *Official Zoning Maps*, and requests for special use permits, variances, plan review, certificates of appropriateness or permits, fees shall be charged. Said fees shall be established and modified by the Elected Body.

Lists of said fees applicable to the Planning Board and the Planning Department-Inspections Division shall be maintained on file and available to the public in the respective offices.

(A) No action shall be taken on a petition and no petition shall be considered complete until all required fees are paid in full along with other requirements per Article VI of *this Ordinance*.

(B) No fee shall be required for petitions initiated by the Village of Clemmons.

**Section 58. Chapter B, Article VIII Fees Section 8-2, 8-3, and 8-4 is hereby amended as follows:**

~~8-2—READVERTISING, CONTINUANCES, OR PETITIONS REMANDED TO THE PLANNING BOARD BY THE ELECTED BODY~~

~~When a request for rezoning, zoning text amendment or special use permit authorized by the Elected Body is requested for continuance by the petitioner; or must be continued due to deficient information filed with the petition; or must be continued due to the petition being remanded to the Planning Board by the Elected Body at the applicant's request; and does not require readvertising and a new public hearing held, the fee shall be one-half the original zoning fee. If a case is continued or remanded to allow the applicant to file for a different zone change or permit and must be readvertised and a new public hearing held by the Planning Board, the case will be considered a new petition and be subject to the fees set forth in this section.~~

~~8-3—REFUND OF FEES~~

~~Fees filed in conjunction with applications submitted to the Planning Board for rezoning requests, zoning text amendments or special use permits are not refundable except in accordance with the following. An applicant may request before the Planning Board a partial or full refund of fees if the petition is requested to be withdrawn prior to the deadline for advertising the petition to the newspaper and the request is based upon a hardship. A hardship, to be considered by the Planning Board, must consist of an unforeseen set of circumstances beyond the applicant's control which provide sufficient cause for the applicant to not pursue the rezoning, text amendment or permit. In this case, the decision to grant a refund as well as the amount of any refund is the responsibility of the Planning Board.~~

~~8-4—PENALTIES FOR VIOLATIONS OF THIS ORDINANCE~~

~~Penalties for violations of the provisions of this Ordinance are specified in Section B.9.~~

**8-2 Changes to Complete Applications**

(A) Changes to Complete Applications...In addition to fees set forth by the Elected Body, the following shall apply:

- (1) Withdrawn Application...All fees are forfeited in the event the Village has incurred any expense related to the petition; the fee must be paid again in full if the application is resubmitted.
- (2) Continuance of Application...Payment of fees may be required to cover the cost of additional notice.

- (3) Reapplication, Resubmission...Payment of fees shall be required for a reapplication or resubmission where a previous application has been denied.

### **8-3 - PENALTIES FOR VIOLATIONS OF *THIS ORDINANCE***

Penalties for violations of the provisions of *this Ordinance* are specified in Article IX Authorities and Enforcement.

8-4 Reserved

**Section 59. Chapter B, Article IX Authorities is hereby amended as follows:**

~~Article IX—Enforcement~~

#### ~~9-1—VIOLATIONS AND PENALTIES~~

~~The following enforcement procedures may be undertaken by the Zoning Officer to enforce provisions of *this Ordinance*.~~

##### ~~9-1.1—CRIMINAL PENALTIES~~

~~Any person, firm, or corporation violating any provisions of *this Ordinance* shall be guilty of a Class 3 misdemeanor. Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00), except that no such violation shall be punishable until the expiration of ten (10) days after notice shall have been issued by the Zoning Officer and served upon such violator. Each and every day beyond the initial ten (10) day notice period during which such violation continues shall be deemed a separate offense.~~

##### ~~9-1.2—CIVIL PENALTIES~~

~~(A) Assessment of Civil Penalties In addition to criminal penalties, any person, firm, or corporation violating any provisions of *this Ordinance* shall be subject to a civil penalty of one hundred dollars (\$100.00) to be recovered by the jurisdiction in a civil action in the nature of a debt. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation by the Zoning Officer. Failure to correct the violation within ten (10) days of the date of service of the notice, or the end of the period of any extension, will result in the assessment of a civil penalty or other enforcement action. For good cause determined by the Zoning Officer, the correction period may be extended by him. Each day of continuing violation shall constitute a separate violation.~~

~~(B) Referral to Attorneys—If payment is not received within thirty (30) days after written demand for payment is made, the Zoning Officer may refer the matter to the jurisdiction's Attorney who is authorized to institute a civil action in the name of the jurisdiction in the appropriate division of the General Court of Justice for recovery of the penalty.~~

##### ~~9-1.3—INJUNCTIVE OR OTHER RELIEF~~

~~(A) Referral to Attorney—In addition to other remedies provided by law, whenever the Zoning Officer has reasonable cause to believe that any person is violating or threatening to violate *this Ordinance*, the Zoning Officer may refer the matter to the jurisdiction's Attorney.~~

~~(B) Other Appropriate Action—The jurisdiction's Attorney, on behalf of the jurisdiction, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.~~

**9-2 – SPECIAL USE DISTRICT PERMIT**

~~Any violation of a condition or other provision shown on the face of a site plan adopted as part of a special use district permit issued by the Elected Body shall be a violation of *this Ordinance*. Where the Zoning Officer determines that any term or condition of a special use district permit is not adhered to, he shall notify the petitioner or successor in interest of his findings in writing. The petitioner shall have ten (10) days unless the Zoning Officer determines that a longer period of time is reasonably necessary to correct the violation. In the event that any violation is not corrected or abated within the ten (10) days or the specified period, all development shall cease and all government permits granted pursuant thereto, such as but not necessarily limited to, a building permit, shall be revoked. The Director of Planning shall determine the proper procedure to amend the site plan, including a formal site plan amendment or a staff change pursuant to Section B.6-2.~~

## **Article IX – Authorities and Enforcement**

**9-1 AUTHORITIES****9-1.1 General Responsibilities**

(A) To accomplish the purposes of this Ordinance and to ensure compliance with these regulations, the following administrative responsibilities are assigned:

- (1) The Director of Planning and the Planning Board are responsible for making recommendations to the Elected Body regarding zoning and land use matters as required by this Ordinance. The Director of Planning may serve as secretary to the Planning Board.
- (2) The Zoning Officer shall enforce and administer the regulations of this Ordinance, under the general direction of the Planning Director and shall serve as secretary to the Board of Adjustment.

(B) The Board of Adjustment or the Zoning Officer may seek needed legal advice of the Village Attorney.

**9-1.2 Planning Board**

(A) Creation and Designation...Pursuant to the authority contained in the General Statutes of the State of North Carolina (G.S. 160D-301), the Elected Body of the Village of Clemmons created and established and hereby continues a Planning Board to be known as the Village Planning Board.

(B) Composition and Terms of Members

- (1) The Village of Clemmons Planning Board shall be comprised of nine (9) members, who are residents of the Village, and who shall hold no other public office with the Village of Clemmons. The members of the Board shall be appointed by the Elected Body.

- (2) The terms of the members first appointed shall be three (3) for three (3) years, three (3) for two (2) years, and three (3) for one year.
- (3) The terms of the successors in the office shall be for three (3) years.
- (4) If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.
- (5) Faithfully attending at least two-thirds (2/3) of all meetings of the Planning Board during any fiscal year is considered a prerequisite for the maintenance of membership, and the Elected Body may remove and replace any member continually delinquent in his or her duty to attend and for other just cause. Members shall be eligible for reappointment for a maximum of two consecutive full three-year terms at which point they will not be eligible for reappointment for at least one year.
- (6) Removal for Cause...The Elected Body may remove and replace any member of the Planning Board for cause upon written concerns.

(C) Organization, Meetings, and Records

- (1) Within thirty (30) days after appointment, the Planning Board shall meet and elect a Chairperson, Vice-chairperson and Secretary and create and fill such other offices as it may deem necessary.
- (2) The term of the Chairperson and other officers shall be one year, with eligibility for reelection. The Board may adopt rules for transaction of its discussions, findings, and recommendations. The Board shall meet at least four (4) times per year and all of its meetings shall be open to the public.
- (3) A quorum shall consist of five (5) members for the purpose of taking any official action.

(D) Conflict of Interest

- (1) All members of the Board including the Chairperson shall have voting power on all matters of business. However, village officials have a duty to protect the integrity of governmental decisions and preclude the appearance of conflict of interest. Therefore, per G.S. 160D-109, Board members shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to *the Unified Development Ordinances* where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- (2) Additionally, Board members shall announce their conflict of interest at the point of the agenda when the Board begins consideration of the item. At that point, the member will state the point of conflict and ask to be excused from voting. An affirmative vote equal to a majority of all the members present shall be required to approve the request. A failure to vote by a member who is physically present in the meeting, or who has withdrawn without being officially excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. Any Board member excused from voting shall also be prohibited from participating in any Board discussion from which he or she is excused.
  - (3) Board members excused from voting and participating in discussion on a matter under consideration shall temporarily remove themselves from the proximity of the Board and may be allowed to address the Board as a member of the audience, if desired. This applies to work sessions and regular meetings.
  - (4) Resolution to Objection...If an objection is raised to a board member's participation or prior to the hearing or vote on a particular matter and that member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.
- (E) Powers and Duties... It shall be the function and duty of the Planning Board to make comprehensive surveys and studies of existing conditions and probable future developments and prepare such plans for physical, social and economic growth, as will best promote the public health, safety, morals, convenience or the general welfare as well as efficiency and economy in the development of the village.
- (1) In general, The Planning Board shall have the power and duty to:
    - (a) At the direction of, or with the approval of the Elected Body, to make studies of the area within its jurisdiction and surrounding areas;
    - (b) Determine objectives to be sought in the development of the study area, and work on community design and appearance with the Community Appearance Commission;
    - (c) Prepare and adopt plans for achieving objectives.
    - (d) To facilitate the ability to gather information pertinent to the drafting, establishment, and maintenance of a community development plan, the Board may conduct such citizen engagement as are necessary.
    - (e) To appoint sub-committees from both within the outside of the Planning Board membership and to authorize expenditures, as it may see fit, subject to limitations of funds provided for the Planning Board by the Elected Body.
    - (f) To develop and recommend policies, ordinances, administrative procedures (including cost analysis), and the means for carrying out these plans.

- (g) To exercise any function in the administration of these plans that the Elected Body may direct.
- (h) To review and make recommendations to the Elected Body upon the extent, location, and design of all public structures and facilities, on the acquisition and disposal of public properties, on the opening, abandonment, widening, extension, narrowing or other changes to streets or other public ways, on the construction, extension, expansion or abandonment of utilities whether publicly- or privately-owned.
- (i) To enter into and carry out contracts with any other municipal, county, or regional council or planning agency under which it agrees to furnish technical assistance to the other local governments or planning agency, for pay or other services rendered, as allowed by the Elected Body. The Planning Board, as allowed by the Elected Body, may enter into and carry out contracts with any other municipal, county, or regional planning agency under which it agrees to pay the other local government or planning agency for technical planning assistance.
- (j) To perform any other duties that the Elected Body may direct.
- (k) In order to promote public interest in and understanding of its recommendations, the Planning Board may publish and distribute copies of its recommendations, and it may use other means of publicity and education to these same ends.
- (l) Members may attend planning conferences or meetings of planning institutes or hearings on pending planning legislation, and the village may pay reasonable expenses within the Planning Board budget as appropriated.
- (2) Site Plan Review...The Planning Board shall review all requests for permits requiring site plan review, as designated in Table B.2.6, special use district zoning, and development agreements to assure the Use Conditions of Section B.2-5 and other provisions of the *Unified Development Ordinances* are met.
  - (a) Approval and Conditions...The Planning Board shall approve any requests for permits which meet all the requirements of the *Unified Development Ordinances* and deny any such requests which do not meet all the requirements of the *Unified Development Ordinances*. The Planning Board may, as part of its approval, require conditions per B.6-2.4(D) to reduce impacts associated with the project.
  - (c) Staff Changes...Staff may only modify site plans per minor modifications specified in Article VI Administrative Provisions of *this Ordinance*.
- (F) Amendments to the *Unified Development Ordinances* and the Official Zoning Maps...The Planning Board shall review all requests for amendments to the *Unified Development*



Ordinances and the Official Zoning Maps and make recommendations to the Elected Body, in accordance with Article VI Administrative Provisions of *this Ordinance*.

- (G) Annual Report of Activities and Analysis of Expenditures...The Planning Board may, annually, submit to the Elected Body a written report of its activities, and an analysis of the expenditures to date for operation during the ensuing year.
- (H) Separate Board Required – Notwithstanding the authority to assign duties of the Planning Board to the Elected Body as provided in *this Ordinance*, the review and comment required shall not be assigned to the Elected Body and must be performed by a separate board per 160D-604(e) of North Carolina General Statutes.

### **9-1.3 Board of Adjustment**

- (A) Creation and Designation...Pursuant to the authority conferred by the North Carolina General Statute (G.S.) 160D Article 3, the Elected Body of the Village of Clemmons created and established and hereby continues a Board of Adjustment to be known as the Clemmons Board of Adjustment. The Clemmons Board of Adjustment shall consist of five (5) members with two (2) alternate members.

#### **(B) Composition and Terms of Members**

- (1) Tenure...The members are to serve for terms of three (3) years, except that the initial Board of Adjustment is to consist of one appointee for a term of one year; two (2) appointees for terms of two (2) years, and two (2) appointees for terms of three (3) years. Thereafter, all appointments are to be for terms of three (3) years. The two (2) alternate members are to serve for terms of three (3) years.
  - (2) Vacancies...Any vacancy on the Board of Adjustment is to be filled by the Elected Body for the remainder of the unexpired term.
  - (3) Removal for Cause...The Elected Body may remove and replace any member of the Board of Adjustment for cause upon written concerns.
  - (4) Alternates...In the absence or temporary disqualification of any regular member at a regular or special meeting of the Board of Adjustment, an alternate member or members may sit on the Board of Adjustment and serve in replacement while attending the regular or special meeting, and shall have and exercise all the powers and duties of a regular member for that meeting.
  - (5) Rules and Procedures...The Board of Adjustment shall adopt rules and procedures as it deems necessary.
- (C) Voting...The concurring vote of a simple majority of the Board of Adjustment shall be necessary for all decisions except for a variance which will require a four-fifths (4/5) vote to decide in favor of the petitioner. For the purposes of this subsection, vacant positions on the

board and members who are disqualified from voting on a quasi-judicial decision shall not be considered members of the board for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(D) Conflict of Interest

- (1) Per G.S. 160D-109 a member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (2) Resolution to Objection...If an objection is raised to a board member's participation or prior to the hearing or vote on a particular matter and that member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.

(E) Powers and Duties

- (1) Special Use Permits authorized by the Board of Adjustment...The Board of Adjustment shall review all requests for permits as designated in Table B.2.6 and Section B.2-5.
- (2) Variances... The Board of Adjustment has authority to grant variances per Section B.6-2.10 Variances.
- (3) Appeals and interpretations...The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Zoning Officer or designee per Section B.6-2.11 Appeals and Interpretations.
  - (a) When hearing an appeal pursuant to Section B.6-2.9 or any other appeal in the nature of certiorari, the hearing shall be based on the record and the scope of review shall be as provided in G.S. 160D-1402.
- (4) Quasi-Judicial Decisions...The Board of Adjustment shall hold evidentiary hearings for variances, special use permits, and appeals and interpretations per Section B.6-1.5(B).

**9-1.4 Forsyth County Historic Resources Commission**

- (A) Creation... Pursuant to the authority conferred by the North Carolina General Statutes (G.S.) 160D Article 3, the Forsyth County Board of Commissioners, the City Council of the City of Winston-Salem, the Board of Aldermen of the Town of Kernersville, the Village Council of Clemmons, and the Town Councils of the Towns of Bethania, Lewisville, Rural Hall, and Walkertown (hereinafter the Elected Bodies) by concurrent ordinances, do hereby create and establish a joint commission to be known as the Forsyth County Historic Resources

Commission (hereinafter the Commission). In establishing the Commission and making appointments to it, the Elected Bodies may seek the advice of State or local historical agencies, societies, or organizations. For purposes of this Article IV of *this Ordinance*, County/City/Town/Village shall refer, to Forsyth County and the City of Winston-Salem, the Town of Kernersville, the Village of Clemmons, and the Town Councils of the Towns of Bethania, Lewisville, Rural Hall, and Walkertown or jointly, as the context requires.

(B) Purpose...The purpose of the Commission is to safeguard the heritage of the County, the City, the Towns, and the Village by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory; and to promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole.

(C) Composition, qualifications, and terms of members...The Commission is designated as the historic preservation advisory and decision-making board for Forsyth County.

(1) Composition...The Commission shall consist of twelve (12) members appointed as follows:

(a) Five (5) by the Forsyth County Board of Commissioners, which shall include representation from Bethania, Lewisville, Rural Hall, and Walkertown;

(b) Five (5) by the Winston-Salem City Council;

(c) One (1) by the Kernersville Board of Alderman; and

(d) One (1) by the Clemmons Village Council.

(2) Qualifications and Organization

(a) All members of the Commission shall reside within Forsyth County.

(b) All members of the Commission shall have a demonstrated interest or competence in, or knowledge of, historic preservation; and a majority of members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields.

(c) The Commission shall consist of six (6) at-large members and six (6) categorical members. The categorical members shall include at least one (1) each of the following categories:

(i) Architect licensed in the State of North Carolina;

(ii) Architectural historian or historic preservationist;

(iii) Archaeologist, landscape architect/designer, planner, surveyor, or arborist;

(iv) Historic (H) District property owner;

(v) Historic Overlay (HO) District property owner; or

(vi) Local Historic Landmark (LHL) property owner

(d) Appointment of Categorical Members...The six (6) categorical members shall be appointed as follow:

(i) The Forsyth County Board of Commissioners shall appoint one (1) architect licensed in the State of North Carolina, and one (1) Local Historic Landmark (LHL) property owner; and

(ii) The Winston-Salem City Council shall appoint one (1) architectural historian or historic preservationist, one (1) archaeologist, landscape architect/designer, planner, surveyor, or arborist, one (1) Historic (H) District property owner, and one (1) Historic Overlay (HO) District property owner, in accordance with regulations required by certified local government status.

### (3) Term

(a) The regular term of office for Commission members shall be four (4) years.

(b) A member may be reappointed for a second consecutive term, but, thereafter, a member shall be ineligible for reappointment until one (1) full term has elapsed from the member's termination of service.

(c) Members shall continue in office until a successor has been appointed and qualified.

(d). Service of less than fifty (50) percent of a normal term shall not be deemed a term, and service for more than fifty (50) percent shall be deemed a term.

### (4) Meetings

(a) The Commission shall establish a meeting time, and shall meet at least monthly, unless there is not sufficient business to warrant a meeting.

(b) All meetings of the Commission shall be open to the public and subject to the North Carolina Open Meetings Law.

(c) Meeting Minutes...The Commission shall keep permanent minutes of its meetings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and other actions. The minutes of the Commission shall be a public record.

(5) Rules of Procedure...The Commission shall adopt and publish Rules of Procedure for the conduct of its business.

(6) Annual Report...An annual report shall be prepared and submitted by December of each year to the Elected Bodies. Such report shall include a comprehensive and detailed review of the activities and actions of the Commission, as well as any budget requests and/or recommendations.

(D) Powers and Duties

(1) General Responsibilities...The Commission shall act to promote, enhance, and preserve the character and heritage of Forsyth County

(2) Specific Authority and Powers...The Commission shall have all powers of an historic preservation commission as provided in G.S. 160D Article 9 Part 4, including the following duties and responsibilities:

(a) To undertake inventories of properties of historical, archaeological, architectural, and/or cultural significance;

(b) To recommend to the Elected Bodies that individual properties be designated as Local Historic Landmarks (LHL) and/or that areas be designated as Historic (H) or Historic Overlay (HO) Districts and to recommend that the Elected Bodies revoke historic landmark and/or district designations, in whole or part, for cause;

(c) To review and act on proposals for exterior alteration, relocation, new construction, or demolition of, or within, designated historic landmarks or districts in accordance with G.S. 160D Article 9 Part 4;

(d) To review and act on proposals for alteration of interior features of designated historic landmarks if such features are specified in the designation ordinance;

(e) To delay the relocation, demolition, or destruction of a designated landmark, or a building, structure, or site located within a designated historic district for not more than three hundred sixty-five (365) calendar days from the date of approval.

(f) To negotiate with property owners who have received a Certificate of Appropriateness to demolish or relocate designated historic landmarks and/or properties within designated historic districts, in an effort to find a means of preserving the properties;

(g) To delay demolition or destruction of buildings, sites, or structures proposed for historic landmark designation or located in areas proposed for historic district designation, for which the Commission has voted to recommend designation, for up to one hundred eighty (180) days, or until the Elected Bodies take final action on the recommendation, whichever occurs first;

- (h) To report violations of the law to the appropriate Inspections Division of the County/City/Town/Village responsible for enforcement, and/or institute action to prevent, restrain, correct, or abate violations of Article IV and Article VI of *this Ordinance*;
- (i) To organize itself and conduct its business by whatever legal means it deems proper and to appoint advisory bodies or committees, as appropriate;
- (j) To receive and spend funds appropriated by the Elected Bodies for operation and performance of the Commission's duties and to accept funds granted to the Commission from private or nonprofit organizations or individuals;
- (k) To contract for services or funds from the State of North Carolina and agencies or departments of the United States government and to obtain the services of private consultants in order to perform the Commission's official duties;
- (l) To Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property pursuant to G.S. 160D-942(A)(3)
- (m) To enter private lands to examine or survey them, at reasonable times and with the consent of the owner or occupant, in order to perform the Commission's official duties;
- (n) To give advice to property owners concerning treatment of the historic and related visual characteristics of their properties and to conduct educational programs on historic resources within Forsyth County;
- (o) To publish information about, or otherwise inform the public and/or owners of designated historic landmarks or property within designated historic districts of any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
- (p) To undertake programs of information, research, or analysis relating to any matters under the Commission's purview;
- (q) To recommend to the Elected Bodies and the State of North Carolina buildings, structures, sites, objects, or districts worthy of national, State, or local recognition;

- (r) To cooperate with State and federal governments on matters related to historic preservation and to cooperate with local governmental boards, commissions, or agencies or other governmental units;
- (s) To offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest;
- (t) To prepare and recommend adoption of a preservation element as part of a comprehensive plan for the County/City/Town/Village;
- (u) To propose to the Elected Bodies changes to this or any related ordinance, and to propose new ordinances or laws relating to designated historic landmarks or districts, or relating to the total program for the development of the historic resources of Forsyth County; and,
- (v) To exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, State law, or by the Elected Bodies.

(E) Conflict of Interest

- (1) Per G.S. 160D-109 a member of the Historic Resources Commission shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (2) Resolution to Objection...If an objection is raised to a board member's participation or prior to the hearing or vote on a particular matter and that member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.

**9-1.5 Community Appearance Commission**

- (A) Creation and Designation...Pursuant to the authority conferred by the North Carolina General Statute (G.S.) 160D Article 3, the Elected Body of the Village of Clemmons creates and establishes the Community Appearance Commission hereinafter referred to as the Commission, composed of nine members appointed by the Village Council. All members shall be residents of the village's planning and zoning jurisdiction at time of appointment. The Village Council shall endeavor to appoint a Commission which represents a broad cross-section of the community.

(B) Membership qualification and Terms of Office

- (1) Where possible, appointments shall be made in such a manner as to maintain on the Commission at all times a majority of members who have had special training or experience in a design field, such as architecture, landscape design or architecture, horticulture, land use planning or a closely related field.
- (2) The terms of office of the members shall be three (3) years, except that the Village Council may stagger the length of the terms of the initial appointees so that all terms do not expire simultaneously.
- (3) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term. Members, including a member who has served a portion of an unexpired term, shall be eligible for reappointment for a full three (3) year term. There shall be no limit to the number of consecutive terms to which the Council may appoint or reappoint a member.
- (4) Members of the Commission shall serve without pay, but may be reimbursed for actual expenses incidental to the performance of their duties within the limits of funds available to the Commission.

(C) Organization

- (1) The Appearance Commission, within thirty (30) days of its appointment, shall meet and elect a Chairperson, Vice-Chairperson, Secretary and Treasurer.
- (2) The Commission shall maintain a record of its members' attendance, its actions, findings, and recommendations, which record shall be open to the public.
- (3) A quorum of five (5) members shall be necessary to take any official action authorized or required by this Ordinance.
- (4) Removal for Cause...The Elected Body may remove and replace a member of the Community Appearance Commission for cause upon written concerns.
- (5) Election to the office of Chairperson, Vice-chairperson, Secretary and Treasurer shall be for a term of one (1) year.
- (6) The Treasurer shall prepare and report to the Commission the proposed budget and record of expenditures at each meeting attended by a quorum.

(D) Powers and Duties of Commission...The Community Appearance Commission shall make careful study of the visual problems and needs of the Village of Clemmons within its planning and development regulation jurisdiction and shall make any plans and carry out any programs that will, in accordance with the G.S. 160D-960 and this Ordinance, enhance and improve the visual quality and aesthetic characteristics of the Village of Clemmons. To this end, the Elected Body has conferred upon the Community Appearance Commission the following powers and duties:



- (1) To initiate, promote, and assist in the implementation of programs of general community beautification in the Village of Clemmons.
- (2) To coordinate the activities of individuals, agencies, and organizations, public and private, whose plans, activities, and programs bear upon the appearance of the Village of Clemmons.
- (3) To provide leadership and guidance in matters of area or community design and appearance to individuals, to public and private organizations, and to agencies.
- (4) To make studies of the visual characteristics and problems of the Village of Clemmons, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire area, any portion or neighborhood thereof, or any project to be undertaken.
- (5) To prepare both general and specific plans for the improved appearance of the Village of Clemmons. These plans may include the entire area or any part thereof and may include private as well as public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the Village of Clemmons or any part thereof within its area of planning and development regulation jurisdiction, including public ways and areas, open spaces, and public and private buildings and projects.
- (6) To request from the proper officials of any public agency or body, including agencies of the State and its political subdivisions, its plans for public buildings, facilities, or projects to be located within the Village of Clemmons planning and development regulation jurisdiction. To review these plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or to the Planning Board or Village Council. All plans shall be reviewed by the commission in a prompt and expeditious manner, and all recommendations of the commission with regard to any public project shall be made in writing. Copies of the recommendations shall be transmitted promptly to the Planning Board or Village Council and to the appropriate agency.
- (7) To formulate and recommend to the appropriate Planning Board or Village Council the adoption or amendment of ordinances, including zoning regulations, subdivision regulations, and other local development regulations, that will, in the opinion of the commission, serve to enhance the appearance of the Village of Clemmons and surrounding areas.
- (8) To seek voluntary adherence to the standards and policies of its plans.
- (9) To enter, in the performance of its official duties and at reasonable times, upon private lands and make examinations or surveys.
- (10) To promote public interest in and an understanding of its recommendations, studies, and plans, and, to that end, prepare, publish, and distribute to the public such studies

and reports that will, in the opinion of the commission, advance the cause of improved appearance.

(11) To conduct public meetings and hearings, giving reasonable notice to the public thereof

(E) Staff services; advisory council...The commission may recommend to the Village Council suitable arrangements for the procurement or provision of staff or technical services for the commission, and the Village Council may appropriate such amount as it deems necessary to carry out the purposes for which it was created. The commission may establish an advisory council or other committees.

(F) Annual Report...The commission shall, no later than April 15 of each year, submit to the Village Council a written report of its activities, a statement of its expenditures to date for the current fiscal year, and its requested budget for the next fiscal year. All accounts and funds of the commission shall be administered substantially in accordance with the requirements of the Municipal Fiscal Control Act or the County Fiscal Control Act

(G) Receipt and Expenditure of Funds...The commission may receive contributions from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, in addition to any sums appropriated for its use by the Village Council. It may accept and disburse these funds for any purpose within the scope of its authority as herein specified. All sums appropriated by the local government to further the work and purposes of the commission are deemed to be for a public purpose

(H) Conflict of Interest...A member of the Community Appearance Commission shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to the Clemmons *Unified Development Ordinances* where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

### **9-1.6 Zoning Officer**

To ensure compliance with the provision of the *Unified Development Ordinances*, the Zoning Officer shall:

(A) Issue Permits...Issue the following documents:

(1) Zoning Permits...See section B.6-2.2 Zoning Permits.

(2) Certificate of Occupancy...See section B.6-2.1 Certificate of Occupancy.

- (3) Permits Requiring Site Plan Review by the Planning Board...Whenever the Planning Board approves a use requiring site plan review pursuant to Article VI of *this Ordinance*, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Officer.
- (4) Special Use Permits, Variances and Special Use District Zoning...Whenever the authorized board approves an application for a special use permit, variance, or as a special use zoning district pursuant to Article VI of *this Ordinance*, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Zoning Officer.
- (5) Temporary Use Permits...See section B.6-2.3 Temporary Use Permits.
- (6) Certificate of Appropriateness...Whenever the Historic District Commission issues a certificate of appropriateness as required in the H and HO Districts, the Zoning Officer shall issue any necessary building permit and certificate of occupancy in accordance with the terms of such approval.
- (B) Maintain Records...Make and maintain records of all applications for permits submitted to the Zoning Officer, and records of all permits and plans submitted, which shall be available for inspection at reasonable times by any interested person.
- (C) Inspect and Enforce...Conduct inspections of premises and take other lawful action to obtain compliance with the provisions of this Ordinance as authorized in Section B.9-2 Enforcement.
- (D) Conflict of Interest
  - (1) Per 160D-109 neither the Zoning Officer or planning staff shall be financially interested or employed by a business that is financially interested in a development subject to regulation under Unified Development Ordinances unless the Zoning Officer or planning staff member is the owner of the land or building involved. Neither the Zoning Officer or other individuals or an employee of a company contracting with the Village of Clemmons to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Village of Clemmons, as determined by the Village of Clemmons.
  - (2) Familial Relationship...For purposes of this section, a “close familial relationship” means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships per G.S. 160D-109(f).

- (3) Resolution to Objection...If an objection is raised to a board member's participation or prior to the hearing or vote on a particular matter and that member does not recuse themselves, the remaining members of the board shall by majority vote rule on the objection.

## **9-2 ENFORCEMENT**

The following enforcement procedures may be undertaken by the Zoning Officer to enforce provision of *this Ordinance*.

### **9-2.1 Enforcement Procedures**

- (A) Notices of Violation...When the Zoning Officer or designee determines work or activity has been undertaken in violation of the *Unified Development Ordinances* or any State law delegated to the Village of Clemmons for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued.

#### (1) Notification Procedures

- (a) The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.
- (b) The notice of violation may be posted on the property.
- (c) The Zoning Officer or designee providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

- (2) Appeals...Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment per Section B.6-2.11 Appeals and Interpretations.

- (B) Stop Work Orders...Whenever any work or activity subject to regulation pursuant to the *Unified Development Ordinances* or any State law delegated to the Village of Clemmons for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Zoning Officer or designee may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

#### (1) Notification Procedures

(a) The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.

(b) The Zoning Officer or designee delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

(2) Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to section B.6-2.11 Appeals and Interpretations. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(C) Historic Properties...In case any building, structure, site, area, or object designated as a historic landmark or located within a historic district designated pursuant to *this Ordinance* is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed, except in compliance with the development regulation or other provisions of *this Ordinance*, the local government, the Historic Resources Commission, or other party aggrieved by such action may institute any appropriate action or proceedings to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal, to restrain, correct, or abate such violation, or to prevent any illegal act or conduct with respect to such building, structure, site, area, or object.

### **9-2.2 Criminal Penalties**

(A) Any person, firm, or corporation violating any provisions of *this Ordinance* shall be guilty of a class 3 misdemeanor excluding section B.9-2.1(B) Work Stop Orders.

(B) Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00) or imprisoned not more than thirty (30) days except that no such violation shall be punishable until the expiration of ten (10) days after notice shall have been issued by the Zoning Officer and served upon such violator.

(C) Each and every day beyond the initial ten (10) day notice period during which such violation continues shall be deemed a separate offense.

### **9-2.3 Civil Penalties**

(A) Assessment of Civil Penalties

(1) In addition to criminal penalties, any person, firm, or corporation violating any provisions of this Ordinance shall be subject to a civil penalty of one hundred dollars (\$100.00) to be recovered by the jurisdiction in a civil action in the nature of a debt.

(2) No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation by the Zoning Officer.

(3) Failure to correct the violation within ten (10) days of the date of service of the notice, or the end of the period of any extension, will result in the assessment of a civil penalty or other enforcement action.

(4) For good cause determined by the Zoning Officer, the correction period may be extended by them.

(5) Each day of continuing violation shall constitute a separate violation.

(B) Referral to Attorneys... If payment is not received within thirty (30) days after written demand for payment is made, the Zoning Officer may refer the matter to the Village's Attorney who is authorized to institute a civil action in the name of the jurisdiction in the appropriate division of the General Court of Justice for recovery of the penalty.

(C) Settlement Authority

(1) The Planning Director or a designee shall have the authority to settle any zoning enforcement civil penalty collection action, provided the following are satisfied:

(a) All zoning violations for the property subject to the civil penalty collection action have first been abated.

(b) The parcel in violation has not been in violation of any development regulations within the past twelve (12) months. Time will be calculated from the date the notice of violation was issued to the landowner.

**9-2.4 Injunctive or Other Relief**

(A) Referral to Attorney...In addition to other remedies provided by law, whenever the Zoning Officer has reasonable cause to believe that any person is violating or threatening to violate *this Ordinance*, the Zoning Officer may refer the matter to the Village's Attorney.

(B) Other Appropriate Action...The Village's Attorney, on behalf of the Village of Clemmons, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

**9-2.5 Special Use District and Special Use Permits**

- (A) Any violation of a condition or other provision shown on the face of a site plan adopted as: Part of a special use permits approved by the Board of Adjustment and special use zoning district approved by the Elected Body shall be a violation of *this Ordinance*.
- (B) Where the Zoning Officer determines that any term or condition of a special use zoning district or special use permit is not adhered to, the Zoning Officer shall notify the petitioner or successor in interest of their findings in writing.
- (C) The petitioner shall have five (5) days unless the Zoning Officer determines that a longer period of time is reasonably necessary to correct the violation.
- (D) In the event that any violation is not corrected or abated within the five (5) days or the specified period, all development shall cease and all government permits granted pursuant thereto, such as but not necessarily limited to, a building permit, shall be revoked.
- (E) The Director of Planning shall determine the proper procedure to amend the site plan, including a formal site plan amendment or a staff change minor modification pursuant to Article VI of *this Ordinance*.
- (F) Revocation of a special use zoning district and special use permit shall follow the same development review and approval process required for the issuance of the initial development approval.

### **9-2.6 Revocation of Approvals**

- (A) In addition to initiation of enforcement actions in Section B.9-2 development approvals, multiphase developments, and development agreements may be revoked by the local government issuing the development approval, multiphase development, and development agreement by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, multiphase development, development agreement including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals, multiphase development, and development agreements shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Village of Clemmons for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval, multiphase development, and development agreement mistakenly issued in violation of an applicable State or local law may also be revoked.

## **Section 60. Chapter B, Article X Appointed Boards is hereby amended as follows:**

Article X—Appointed Boards

10-1—BOARD OF ADJUSTMENT

**10-1.1 — ESTABLISHMENT AND MEMBERSHIP**

- (A) ~~Creation The Clemmons Board of Adjustment, consisting of five (5) members with two (2) alternate members, appointed by the Elected Body (Village Council), has been created and is hereby continued.~~
- (B) ~~Membership~~
- (1) ~~Tenure. — The members are to serve for terms of three (3) years.~~
  - (2) ~~Vacancies. — Any vacancy on the Board of Adjustment is to be filled for the remainder of the unexpired term.~~
  - (3) ~~Removal for Cause. — Any member of the Board of Adjustment may be removed for cause upon written charges and after a public hearing.~~
  - (4) ~~Alternates. — There shall be two (2) alternates appointed from the townspeople. The alternates shall serve in the absence of a regular member of the Board of Adjustment and shall have all the rights, privileges, and duties of the regular member he or she is replacing.~~
- (C) ~~Four-fifths ( 4/5 ) Vote Required — All members of the Board of Adjustment shall have equal rights, privileges, and duties in all matters that come before the Board of Adjustment no matter where they arise. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass judgment, or to grant a variance from the provisions of this Ordinance.~~
- (D) ~~Compensation — The per diem compensation of the members of the Board of Adjustment shall be fixed by the Elected Body.~~
- (E) ~~Rules and Procedures — The Board of Adjustment shall adopt rules and procedures as it deems necessary.~~

**10-2 — PLANNING BOARD**

- (A) ~~Creation and Designation — Pursuant to the authority contained in the General Statutes of the State of North Carolina (G.S. 160A-361), the Village Council of the Village of Clemmons created and established and hereby continues a Planning Board to be known as the Village Planning Board.~~
- (B) ~~Composition; Terms of Members; Compensation — The Village of Clemmons Planning Board shall be comprised of nine (9) members, who are residents of the Village, and who shall hold no other public office with the Village of Clemmons. The members of the Board shall be appointed by the Village Council. The terms of the members first appointed shall be three (3) for three (3) years, three (3) for two (2) years, and three (3) for one year. The terms of the successors in the office shall be for three (3) years. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term. Faithfully attending at least two thirds ( 2/3 ) of all meetings of the Planning Board during any fiscal year is considered a prerequisite for the maintenance of membership, and the Village Council may remove and replace any member continually delinquent in his or her duty to attend and for other just cause. Members of the Planning Board shall serve without compensation.~~
- (C) ~~Powers and Duties — The Village of Clemmons Planning Board shall have all such powers and shall perform all such duties as granted to them in the Ordinance creating the Planning Board adopted on June 19, 1989 and any other related duties that the Village Council may direct. All such powers and duties to be exercised in accordance with the rules and~~



~~regulations hereafter adopted by the Planning Board and to take effect upon the organization of such Board by the election of a Chairman and such other officers and employees as are authorized by the Village of Clemmons Ordinance 89-03, and from the adopting by the Planning Board of the necessary rules and regulations for the exercise of the powers and for the performance of duties created by the Village of Clemmons Ordinance 89-03.~~

Article X - Reserved

**Section 61. Chapter D, Article 1, Section 1 General Provisions and Administration is hereby amended as follows:**

**1. - GENERAL PROVISIONS AND ADMINISTRATION**

- (F) Penalties for Transferring Lots in Unapproved Subdivisions ... Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Village of Clemmons, thereafter subdivides the land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the *Subdivision Ordinances* and recorded in the office of the appropriate register of deeds, is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

~~Any owner or agent of any owner of land located within a subdivision controlled under any section of these regulations who transfers or sells land by reference to, or exhibition of, or by other use of a deeded parcel of land or parcel of land on a plat before the deed or plat has been approved by the Elected Body or Town Clerk in accordance with these regulations, shall forfeit and pay a penalty as provided by law for each lot which has been duly recorded or filed in the office of the Register of Deeds. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or remedies herein provided.~~

~~Any jurisdiction exercising subdivision authority may enjoin the transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the penalty by civil action in any court of competent jurisdiction.~~

- (I) Amendments...Before adopting, amending, or repealing any development regulation authorized by the *Subdivision Ordinances* the Elected Body shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time

not less than ten (10) days nor more than twenty-five (25) days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. See Chapter B Zoning Ordinances Article VI Administrative Provisions of the Clemmons Unified Development Ordinances. Before the adoption of any amendment to these ordinances, the Elected Body shall hold a public hearing. Notice of the public hearing by the Elected Body to amend the subdivision ordinance shall be given once a week for two (2) successive calendar weeks, the first notice being published at least ten (10) days prior to the date scheduled for the public hearing by the Elected Body. The required notice in the newspaper shall consist of a reference to the section(s) of the ordinances which will change and a general description of the proposed amendment.

- (J) Denial of Subdivision...The approving authority making the denial shall give written notice to the landowner that is the subject of the determination and to the party who sought the determination, if different from the landowner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner. The reason(s) for the denial of any subdivision controlled under any section of these regulations shall be stated to the owner or the owner's agent by either Planning staff, the Planning Board, or the Elected Body, whichever is the approving authority.
- (K) Appeal of Planning Staff Denial of Subdivision...The decision whether to approve or deny a preliminary or final subdivision plat is administrative and may be appealed to the Board of Adjustment. Appeal requirements shall be the same requirements specified in Chapter B Zoning Ordinances Article VI Administrative Provisions of the Clemmons Unified Development Ordinances. The denial of any subdivision controlled under any section of these regulations by Planning staff as an administrative decision may be appealed to the Planning Board. The appeal request must be submitted to the Planning staff by the filing deadline of the next meeting of the Planning Board. Application requirements include a survey or drawing to scale of the appeal request, a letter explaining the reasons for the appeal request, and a fee of fifty dollars (\$50.00), payable to the City of Winston Salem. If the application is complete, the appeal request will be placed on the next meeting of the Planning Board. The Planning staff will present a report and recommendation on the appeal request to the Planning Board at the meeting. The owner or owner's agent shall have a total of twelve (12) minutes to present the appeal request and the reasons for such request to the Planning Board. If the appeal request is denied, the Planning Board shall state the reasons under which the appeal request is approved. The Planning Board may require conditions of approval as deemed necessary.
- (M) Platting Exception for Financing/Refinancing ..For the purposes of financing or refinancing development projects, it is sometimes necessary to subdivide a previously approved project (for a use other than single family residential) originally location on a single zoning lot into two (2) or more units under different ownership. The Director of Planning/Plat Review Officer may approve such a subdivision without respect to the

minimum dimensional, parking, landscaping, buffering, and density requirements otherwise specified in the Unified Development Ordinances for newly subdivided lot(s); provided the following findings have been satisfied:

- (1) The subdivision is located within a development project that has been previously approved by the appropriate Elected Body, Planning Board, or is part of a common plan of development approved through the issuance of a zoning permit by the Zoning Officer ~~by the Inspections Division~~;

**Section 62. Chapter D, Article 2, Section 2 Subdivisions Exempted by State Law or Court Judgements is hereby amended as follows:**

**2. - SUBDIVISIONS EXEMPTED BY STATE LAW OR COURT JUDGMENTS.**

(A) Definition...A subdivision exempted by State law or court judgments is a division of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following definitions:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the local government as shown in its subdivision regulations;
- (2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors. The transfer of pieces of property between developed lots where the transfer of property does not create a substandard lot or any setback violations on either lot. (These subdivisions are not required to comply with the size and area requirements of the *Zoning Ordinance*, nor the provisions in Sections D.2(B) and (C)).
- (4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no public or private street right-of-way dedication is involved and where the resultant lots equal or exceed the standards of the local government, as shown in its subdivision regulations; or,
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes ~~The creation of lots by or pursuant to an order or judgment of a court of competent jurisdiction.~~

(B) Approval Process...A subdivision exempted by State law or court judgments shall be presented to Planning staff at least five ~~three (3)~~ working days prior to offering any portion

for recording in the office of the Register of Deeds. Additional information may be needed by Planning staff to evaluate the proposed subdivision to see if the subdivision meets the requirements of this section. Once the additional information is received by Planning staff, the ~~five~~ ~~three~~ (5) ~~working~~ day review period will begin. If the subdivision complies with this section, Planning staff shall provide the approval in writing on the face of the deed or plat. Once the deed or plat has been approved, the owner or owner's agent may record the deed or plat in the office of the Register of Deeds.

(C) Application Requirements...The following are the application requirements for approval of subdivisions exempted by State law or court judgments:

- ~~(1) Preliminary Review Original deed for the property completely executed and ready for recording in the office of the Register of Deeds; or final plat (final plats require a review by Planning staff in accordance with Section D.4(H)(4)).~~
- ~~(2) Survey map of the lot(s) prepared by a surveyor licensed to practice Land Surveying in the State of North Carolina. No separate survey is required if a final plat is submitted.~~
- ~~(3) Application fee as adopted by the Elected Body per deed or plat payable to the City of Winston-Salem. Fee shall be paid to Planning staff after the deed or plat has been reviewed and approved.~~

(1) Preliminary Review

- (a) Four (4) paper print copies of the proposed final plat shall be submitted to the Planning Director for preliminary review by Planning staff at least five (5) working days prior to the desired recording date.
- (b) After the preliminary review, Planning staff will return to the applicant a copy of the proposed plat with any changes marked along with any other information needed to approve the final plat (final plats require a review by Planning staff in accordance with Section D.4(H)(4)).
- (c) The applicant shall return the marked copy to Planning Staff when the final plat is brought in for recording to ensure all necessary corrections have been made.
- (d) Verification that all necessary corrections have been made and stamping and signing of the verified final plat shall occur within on working day.

(2) Final Plat

- (a) Two (2) archival mylar copies of the final plat shall be submitted for approval to the Planning Staff.
- (b) The final plat shall contain all the changes, corrections, and information required by Planning staff and shall conform to all the requirements of these regulations and any other recording requirements of local or State law.

(3) Application Fee...Application fee as adopted by the Elected Body payable to the Village of Clemmons shall be paid prior to Planning staff signing the final plat.

**Section 63. Chapter D, Article 3, Section 3 Minor Subdivisions is hereby amended as follows:**

**3. - MINOR SUBDIVISIONS**

- (A) Definition .... A minor subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development, whether immediate or future. All lots must comply with the lot size and area requirements of the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:
- (1) Is a division of land where the entire area is greater than two (2) acres into not more than a total of three (3) lots, where no street right-of-way dedication is involved (see exception for industrial and commercial subdivisions in Section D.5(C));
  - (2) Is created by a private access easement established in compliance with the *Zoning Ordinance* and consists of no more than a total of three (3) lots per tract which do not front on a public street (see exception for industrial and commercial subdivisions in Section D.5(C)); or,
  - (3) Is created by lots all of which front on an existing public street, provided that the subdivision would not impair ingress and egress to or from the rear or side of the subject tract or any adjacent property. All lots which front on a public street shall not be included in the provisions of Section D.3(A)(2). Lots which are approved must front on a public street with right-of-way which meets the standards of the North Carolina Department of Transportation and/or the applicable jurisdiction. Any portion of the lot lying within the required public street right-of-way must be quitclaimed, conveyed, and dedicated as public right-of-way before receiving Planning staff approval. The Planning staff can only require the dedication of standard right-of-way. Additional right-of-way for future widening of roads cannot be required.
- (4) Only a plat is required for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
- (a) The tract or parcel to be divided is not exempted under Section D.2(A)(2).
  - (b) No part of the tract or parcel to be divided has been divided under this subsection in the ten (10) years prior to division.
  - (c) The entire area of the trace or parcel to be divided is greater than five (5) acres.
  - (d) After division, no more than three (3) lots result from the division.

(e) After division, all resultant lots comply with all of the following:

- (i) All lot dimension size requirements of the applicable land-use regulation, if any.
- (ii) The use of the lots is in conformity with the applicable zoning requirements, if any.
- (iii) A permanent means of ingress and egress is recorded for each lot through a private access easement in compliance with the Unified Development Ordinances.

(B) Standards for Approval...The following are the standards for the approval of minor subdivisions:

(1) Minor subdivisions may be approved provided that the subdivision:

- (a) Does not violate any adopted plan, policy, or Ordinance of Clemmons;
- (b) Does not create any new public streets;
- (c) Does not block or impede the extension of a public street located within a subdivision recorded on a final plat in the office of the Register of Deeds or a public street shown on a preliminary subdivision plat which is on file in the office of the Village of Clemmons Planning Department unless such extension is determined by staff to be unnecessary under one or more of the following circumstances:
  - (i) The road cannot physically be extended due to topography based on the current Village or state standards;
  - (ii) The road cannot be logically extended due to the current lotting patterns;
  - (iii) The road cannot be logically extended due to stub street placement that does not allow the extension on the adjoining tract to reasonably develop both sides of the street;
  - (iviii) If staff determines improvements at the end of the street are needed, staff may require a standard or temporary turnaround in accordance with the North Carolina Department of Transportation (NCDOT), or other appropriate jurisdiction requirements;

**Section 64. Chapter D, Article 4, Section 4 Major Subdivisions is hereby amended as follows:**

#### 4. - MAJOR SUBDIVISIONS

(C) Approval Process for Preliminary Subdivision Approval...The following is the process for preliminary subdivision approval:

- (5) The Elected Body may approve a preliminary subdivision plat as submitted by the applicant, approve the subdivision with conditions as authorized in Chapter B Zoning Ordinance Article VI Administrative Provisions and Article IX Authorities and Enforcement Section B.6—1.3(A)(1) and as recommended by the staff or added and/or revised by the Elected Body at the meeting, or deny the subdivision. If the conditions on the subdivision are accepted by the applicant, they shall become binding on the development of the subdivision. If the conditions of approval are accepted by the owner or owner's agent, the subdivision shall be approved. Otherwise, the subdivision shall be denied. Failure to comply with any conditions of approval set by the Elected Body shall result in the preliminary subdivision approval becoming null and void.

(a) Power Lines Exemption...Conditions shall not require a developer or builder to bury power lines meeting all of the following criteria:

- (i) The power lines existed above ground at the time of first approval of a plat or development plan by the Elected Body, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
- (ii) The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

(H) Recording Final Plats...The final or record subdivision plat shall be prepared and submitted to Planning staff by the owner or owner's agent and recorded in the office of the Register of Deeds within two (2) years after the approval of the preliminary subdivision plat by the Elected Body, or an extension of preliminary subdivision approval as provided in Section D.4(E) or a revised preliminary subdivision approval as provided for in Section D.4(F) must be granted. Plat(s) will be signed by Town Clerk when all the following requirements have been met:

- (1) Conformance of Final Plat...The final plat shall conform to the preliminary subdivision plat and the conditions as approved by the Elected Body, the recording requirements of State law and shall meet the requirements as listed in Chapter 1235, 1959 Session Laws (G.S. 47-30 as amended) General Assembly of North Carolina.
- (2) Required Information and Certifications...Final plats will not be signed by Town Clerk until all of the following information or certifications are received, if applicable:
  - (a) Street and Utilities Improvements...No final plat shall be approved by Planning staff until compliance with the requirements of the Infrastructure Development Standards developed by the Village of Clemmons Public Works Department has been certified to the Planning staff by the Director of Public Works or the District Engineer of the North Carolina Department of Transportation.

(i) Plat Recordation: Residential (Single Family; Duplex; Twin Home; and Multifamily\*)

[C] Detailed estimate plus twenty-five percent (25%) ~~ten percent (10%)~~ of incomplete infrastructure, based on approved plans in [i] above, prepared by the design engineer and approved by the Director of Public Works.

(ii) Plat Recordation: Nonresidential

[B] Detailed estimate plus twenty-five percent (25%) ~~ten percent (10%)~~, for incomplete infrastructure construction, based on approved infrastructure construction plans in [i] above prepared by the design engineer and approved by the Director of Public Works, and

(v) ~~Reserved. The bond shall be satisfactory to the attorney of the jurisdiction as valid, sufficient and enforceable. Such surety shall be conditioned upon the performance of all work necessary to make the specified improvements within a stipulated period not to exceed two (2) years from the date of the surety. Such surety shall provide that an action may be instituted by the jurisdiction for breach of any term(s) or condition(s) upon failure of the principal to perform the obligation(s) in all respects within one year from the end of the stipulated period during which the work required is to be performed. A bond, an irrevocable letter of credit issued by a bank in a form approved by the attorney of the jurisdiction or a deposit of funds in escrow may be accepted under the same terms and conditions applicable to sureties. The bond, letter of credit, or deposit may be released by the jurisdiction when the specified improvements covered by the bond have been completed and approved by the Director of Public Works as being in accordance with the jurisdiction's standards and specifications. Notwithstanding the above requirements, if a development is financed in whole or in part through aid from the Federal Housing Authority or another agency of the federal or State governments, and said federal or State agency requires the filing of performance and payment bonds to insure completion of the specified improvements in accordance with approved plans, the filing of said performance and payment bonds is to be accepted in lieu of the sureties described above, so long as the local jurisdiction is named as a beneficiary of the surety posted.~~

**Section 65. Chapter D, Article 6 Annotation of Exceptions for Final Plats is hereby amended as follows:**

**6. ~~ANNOTATION OF EXCEPTIONS FOR FINAL PLATS~~**

~~—— List of Exceptions for Final Plat Approvals. ....The following is a list of statements any one of which may be used when recording a final plat that is not a regulated subdivision of land as defined by these adopted regulations. The most applicable of these statements must appear on the map when it is filed with the Register of Deeds. Said final plat shall be signed by the Town Clerk. Application requirements for these final plats are the same as in Section D.4(H)(4).~~

(A) ~~This is not a regulated subdivision of land. The purpose of this plat is to show a utility easement only, and no new property boundary is shown.~~

~~Signed Town Clerk~~



~~(B) This is not a regulated subdivision of land. All parcels shown are included in an estate which has not been described by deed or plat, and no new roads are involved.~~

~~Signed Town Clerk~~

~~(C) This is not a regulated subdivision of land. The purpose of this plat is to show a parcel of land, said parcel being the remainder of a larger tract and said parcel having been created by the acquisition of a part of the larger tract for a public purpose by a governmental agency.~~

~~Signed Town Clerk~~

~~(D) This is not a regulated subdivision of land. The purpose of this map is to show the public acquisition by purchase of strips of land for the widening or opening of streets.~~

~~Signed Town Clerk~~

~~(E) This is not a regulated subdivision of land. The purpose of this map is to show a parcel of land and a building or buildings located upon said parcel and each building contains one or more condominium units for sale in accordance with State law.~~

~~Signed Town Clerk~~

## **6. PERFORMANCE GUARANTEES**

Purpose...To assure compliance with *this Ordinance* and other development regulation requirements, *this Ordinance* has provided for performance guarantees to assure successful completion of required improvements. For purposes of this section, all of the following apply with respect to performance guarantees:

(A) Type...The type of performance guarantee shall be at the election of the developer. The term "performance guarantee" means any of the following forms of guarantee:

(1) Surety bond issued by any company authorized to do business in this State.

(2) Letter of credit issued by any financial institution licensed to do business in this State.

(3) Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(B) Duration...The duration of the performance guarantee shall initially be one (1) year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one (1) year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

(C) Extension...A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Village of Clemmons, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in Section D.6.(E) and shall include the total cost of all incomplete improvements.

(D) Release...The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Village of Clemmons that the improvements for which the performance guarantee is being required are complete. The Village of Clemmons shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to Village of Clemmons acceptance. When required improvements that are secured by a bond are completed to the specifications of the Village of Clemmons, or are accepted by the Village of Clemmons, if subject to its acceptance, upon request by the developer, the Village of Clemmons shall timely provide written acknowledgement that the required improvements have been completed.

(E) Amount...The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The Village of Clemmons may determine the amount of the performance guarantee or use a cost estimate determined by the developer. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated. The amount of any extension of any performance guarantee shall be determined according to the procedures for determining the initial guarantee and shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(1) Timing...The Village of Clemmons, at its discretion, may require the performance guarantee to be posted either at the time the plat is recorded or at a time subsequent to plat recordation.

(F) Coverage...The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(G) Legal responsibilities...No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in the proceeds of any such performance guarantee other than the following:

(1) The Village of Clemmons to whom the performance guarantee is provided.

(2) The developer at whose request or for whose benefit the performance guarantee is given.

(3) The person or entity issuing or providing the performance guarantee at the request of or for the benefit of the developer.

(H) Multiple guarantees...The developer shall have the option to post one type of a performance guarantee as provided for in Section D.6 Performance Guarantees in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

(I) Exclusion...Performance guarantees associated with erosion control and stormwater control measures are not subject to the provisions of this section.

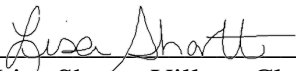
**Section 66. This ordinance shall be effective upon adoption**

Approval this 28<sup>th</sup> day of June, 2021.



John L. Wait, Mayor

Attest:



Lisa Shortt, Village Clerk

