

ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

Summary: This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a conditional use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for Conditional Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.

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5.1. GENERAL PROVISIONS.

5.1.1. APPLICABILITY.

The provisions of Article 5 are supplemental to the general provisions of the other Articles of the Unified Development Ordinances. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

5.1.2. CONFLICT WITH OTHER REGULATIONS.

If there is a conflict between standards of Article 5 and any other requirements of this Ordinance, the standards of this Article 5 shall control, except as set forth in section 5.1.3, below.

5.1.3. RELATIONSHIP TO USE TABLE.

The zoning district in which a particular use is permitted is controlled by Table 4.6-1, and in the event of any inconsistency between the provisions of this Article 5 and the Use Matrix (Table 4.6-1), the provisions of the Use Matrix shall control.

5.2. ACCESSORY USES AND STRUCTURES.

5.2.1. PERMITTED ACCESSORY USES AND STRUCTURES.

The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to the provision of § 5.3)	see Table 4.7-1 (see Article 4)
Garages or Carports (noncommercial)	All Zoning Districts.
Greenhouses (noncommercial)	All Residential Zoning Districts.
Home Occupations (subject to § 5.12)	All Residential Zoning Districts.
Off-Street Parking and Driveways	All districts.
Wireless Telecommunications Antennas or Tower (subject to § 5.21)	All Zoning Districts
Other Telecommunication Antennas or Tower	see Table 4.7-1 (see Article 4)
Satellite Dishes	All Zoning Districts
Signs (see Article 12)	All districts.
Storage Buildings (residential)	All districts.
Swimming Pools (subject to the provisions of § 5.2.5)	All Residential Zoning Districts.
Stables/Private (see § 5.4)	AG, RE, RL.
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts.
Nonresidential Accessory Structure (subject to 5.2.7)	All Zoning Districts
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to the location standards of Section 5.2.3)	All Zoning Districts.

5.2.2. ESTABLISHMENT. Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in section 5.2.3. Accessory buildings shall not be used for dwelling purposes, except as provided in Section 5.3.

5.2.3. LOCATION.

5.2.3.1. Accessory structures shall be required meet the setback standards for accessory structures as set forth in Table 4.7-1 *Dimensional and Density Standards*. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure shall be

located less than 36 inches from the exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

5.2.3.2. For residential lots not exceeding two (2) acres, detached accessory buildings shall not be located in the front yard. Detached accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the required rear yard and shall not be closer than five feet to any side or rear lot line or setback line.

5.2.3.3. For residential lots exceeding two (2) acres, detached accessory buildings may be located in the front yard but not closer than seventy-five feet (75') from the front property line/street right-of-way. Detached accessory buildings may be closer than the distance specified above if they are not visible from a public street.

5.2.3.4. Enclosed nonresidential accessory structures may only be located in the rear yard of a lot, behind the rear building line of the principle structure.

5.2.3.5. Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.

5.2.4. HEIGHT.

Accessory structures shall not exceed:

5.2.4.1. the standard height regulations of the zoning district as set forth in Table 4.7-1 where accessory structure is located within the buildable lot area;

5.2.4.1.1. fifteen (15) feet in height, where accessory structure is located within a principal structure setback yard.

5.2.4.1.2. the height of the principle structure(s) on the lot.

5.2.5. SWIMMING POOLS.

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any residential zoning district provided:

5.2.5.1. The swimming pool and incidental installations are located in other than the front yard.

5.2.5.2. If any pool contains at least four hundred fifty (450) square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a pool cover shall be provided and shall be installed whenever the pool is not in use.

5.2.5.3. The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

5.2.6. LIGHTING.

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon adjoining land.

5.2.7. ADDITIONAL STANDARDS FOR NONRESIDENTIAL ACCESSORY STRUCTURES

5.2.7.1. The size of enclosed nonresidential accessory structures is limited to thirty percent (30%) of the gross

floor area of the principle structure, not to exceed 1,000 square feet.

5.2.7.2. Only one nonresidential accessory structure may be established per lot.

5.2.7.3. Nonresidential accessory structures may not be used for retail sales or customer contact areas.

5.2.7.4. No temporary or permanent signs may be placed on nonresidential accessory structures.

5.2.7.5. Nonresidential accessory structures shall comply with all design standards set forth in the Ordinance, including the Commercial Design Standards and Landscaping and Buffering Standards.

5.2.8. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS.

The following uses/structures shall be exempt from the provisions of this Section:

5.2.8.1. Fencing and walls;

5.2.8.2. mailboxes;

5.2.8.3. plant materials;

5.2.8.4. any structure or improvement, once installed, is at grade or less than 1 feet above grade.

5.3. ACCESSORY DWELLINGS UNITS.

5.3.1. ZONING DISTRICTS.

Accessory Dwellings and Accessory Apartments are conditionally permitted in those zoning districts where such use is permitted in accordance with Table 4.6-1 (see Article 4).

5.3.2. HOUSING STANDARDS.

Accessory Dwellings must comply with all applicable local, State and Federal housing codes.

5.3.3. NUMBER.

Only one (1) Accessory Dwelling or Accessory Apartment shall be permitted per lot.

5.3.4. SIZE OF UNIT.

The Accessory Dwelling or Accessory Apartment shall not exceed fifty (50) percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

5.3.5. PLACEMENT OF THE ACCESSORY DWELLING ON THE LOT.

An Accessory Dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds ten (10) acres in size.

5.3.6. SETBACKS.

The Accessory Dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.

5.3.7. COMPATIBILITY.

The exterior of the Accessory Dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance. Manufactured homes shall not be pulled up to or attached to a primary residence and considered an Accessory Apartment or Accessory Dwelling Unit. Manufactured homes, as a principal or accessory dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.

5.3.8. PARKING.

Adequate off-street parking shall be provided for any vehicles owned by occupants of the Accessory Dwelling or Accessory Apartment.

5.3.9. UTILITIES.

Where there is no public sanitary sewer service to the Accessory Dwelling unit, County Health Department shall approve sanitary sewer services provided to such Accessory Dwelling unit prior to its construction.

5.3.10. OWNER-OCCUPIED RESTRICTION

Accessory dwelling units shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

5.4. ANIMAL REGULATIONS.

5.4.1. PURPOSE AND SCOPE.

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, or other similar household pets.

5.4.2. USE REGULATIONS.

The use of land for the keeping of agricultural animals of other livestock shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.4.3. AGRICULTURAL ANIMALS.

5.4.3.1. The provisions of this Section 5.4 shall not apply to the AG Agriculture District or to any bona fide farm within the extraterritorial jurisdiction (ETJ) in accordance with NC G.S. 160A-360. In addition to the provisions of this Section, the Animal Regulations of within the Town of Mount Pleasant Code of Ordinances apply.

5.4.3.2. No livestock shall be kept, maintained or stabled within any Residential Zoning District on any lot not exceeding two (2) acres.

5.4.3.3. On parcels of two (2) acres or more and as set forth in Table 4.6-1 (see Article 4), certain livestock shall be permitted subject to the following provisions:

5.4.3.3.1. All buildings or structures (excluding fences) used to house livestock shall be located so that they are no closer than one-hundred fifty feet (150') from a dwelling unit. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.

5.4.3.3.2. Not more than one (1) Animal Unit shall be shall be kept, maintained or stabled per six thousand (6,000) square feet of land.

5.5. ANIMAL BOARDING/STORAGE USES.

5.5.1. APPLICABILITY.

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal Boarding/Storage Uses shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.5.2. CRITERIA.

5.5.2.1. Facilities for the boarding of all dogs and other household pets shall conform to the following:

5.5.2.1.1. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

5.5.2.1.2. Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.

5.5.2.2. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.

5.5.2.3. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

5.6. MOTOR VEHICLE SALES OR RENTAL.

5.6.1. APPLICABILITY.

The provisions of this Section shall apply to any Automobile Sales or Rental establishment as allowed by Table 4.6-1 (see Article 4).

5.6.2. ACCESSORY USES.

In addition to the accessory uses set forth in § 5.2.1 of this Article, the following accessory uses are permitted for any Automobile Sales Establishment:

5.6.2.1. Sales, office, parts, service, storage, and body shop facilities accessory to new Automobile Sales Establishments.

5.6.2.2. Storage, body shop, washing, fueling, painting facilities, and air quality certification.

5.6.2.3. Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two years from the date approved by the Town . The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two-year period but not yet complete.

5.6.3. DISPLAY AREA.

5.6.3.1. The outdoor vehicle display area shall not exceed 60,000 square feet of continuous paved surface.

5.6.3.2. For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 7) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than twelve (12) or more than eighteen (18) feet in width for every one-hundred fifty (150) feet in buffer yard length.

5.6.3.3. No vehicles may be displayed or stored on or within required buffer yards, including required street yards.

5.6.3.4. Paved areas reserved for the storage or display of vehicles for sale shall not be required to be striped for individual vehicle spaces. However, off-street parking for employees and patrons shall be required to conform to the design provisions of Article 8.

5.7. BED AND BREAKFAST INNS.

5.7.1. LOCATION.

Bed and breakfast inns shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:

5.7.1.1. a Historic Preservation Overlay District or;

5.7.1.2. on a parcel with frontage on a major or minor thoroughfare or;

5.7.1.3. within a PUD Planned Unit Development.

5.7.2. STRUCTURE.

A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

5.7.3. APPROVAL CRITERIA.

5.7.3.1. Off-Street Parking. See Table 8.1-3.

5.7.3.2. Receptions/Private Parties. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Conditional Use Permit or Site Plan application.

5.7.3.3. Room Rental. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

5.7.3.4. Guest Rooms. All guest rooms shall be located within the principal structure.

5.7.3.5. Meals. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Conditional Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.

5.7.3.6. Accessory Uses. Accessory uses associated with a bed and breakfast inn include those as set forth in § 5.2.1.

5.7.3.7. Area Regulations. Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

5.7.3.8. Maximum Number of Guest Units. The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.

5.7.3.9. Landscaping and Buffering. See Article 7.

5.7.3.10. Lighting. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.8. CAMPGROUNDS.

5.8.1. CRITERIA.

This section applies to Campgrounds as permitted by Table 4.6-1 (see Article 4) and subject to the following standards:

5.8.1.1. Campgrounds shall not be used as permanent residences except for one (1) owner or manager and up to three (3) permanent maintenance personnel.

5.8.1.2. Towed vehicles within the Campground shall not exceed eight feet (8') in width.

5.8.1.3. No person, other than the owner or operator shall stay in any Campground more than ninety (90) days per calendar year.

5.8.1.4. Camp sites shall be a minimum of one thousand two hundred fifty (1,250) square feet and at least twenty-five feet (25') in width.

5.8.1.5. Camp sites shall be spaced so that there is at least: ten feet (10') between sites; eight (8') feet from the interior roadways; fifty feet (50') from exterior roadways; and fifteen (15') feet from property lines.

5.8.1.6. Parking spaces and interior roadways shall be paved or treated to reduce dust.

5.8.1.7. Sewage facilities, if provided, shall be connected to a public sewer collection and treatment system, unless alternative systems are permitted by state law.

5.8.1.8. All utilities shall be located underground.

5.8.1.9. At least one public telephone shall be provided.

5.8.1.10. Walkways to concentrated activity areas (such as bathhouse, restrooms, etc.) within the campground area shall be at least four feet (4') wide with an all-weather surface.

5.8.1.11. All unpaved areas within the campground must have vegetative ground cover which is adequate to prevent erosion and blowing dust.

5.8.1.12. One tree of a species identified in the Suggested Plant List shall be provided for each two camping spaces. Such trees shall be located in front of those spaces. The Applicant shall comply with the Tree Protection and Preservation requirements of the Landscaping Standards.

5.8.1.13. All trash collection areas shall be completely screened from view at any public right-of-way or property line.

5.8.1.14. Adjoining residential zoned or developed areas shall be screened by a minimum Class "C" buffer yard as described in Landscaping Standards of this Ordinance.

5.8.1.15. Each campground shall provide at least one full-time attendant.

5.9. CEMETERIES and CREMATORIES.

5.9.1. APPLICABILITY.

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

5.9.2. CRITERIA.

5.9.2.1. Pursuant to NCGS § 90-210.43, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.

5.9.2.2. Minimum setback for all structures, excluding gatehouses, is one hundred (100) feet from any exterior property line. Gatehouses shall be excluded from any minimum building setback.

5.9.2.3. Minimum setback for any grave or burial plot is fifty (50) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.

5.10. CONVENIENCE STORES (with or without Gasoline sales).

5.10.1. APPLICABILITY.

The provisions of this Section shall apply to Convenience Stores and Gas Stations as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.10.2. ACCESSORY USES.

5.10.2.1. The following uses shall be considered accessory to Convenience Stores or Gas Stations:

5.10.2.1.1. Car washes.

5.10.2.1.2. Gasoline pumps and canopies.

5.10.2.1.3. Automatic teller machines (ATM's).

5.10.2.1.4. Restaurants located within the Primary Building.

5.10.2.2. Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and rental of video tapes and video cassette recorders.

5.10.3. APPROVAL CRITERIA

5.10.3.1. Location.

5.10.3.1.1. Principal Structure - The site shall have frontage on a thoroughfare or collector road.

5.10.3.1.2. Service Equipment – No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.

5.10.3.2. Maximum Square Footage for Principal Structure.

5.10.3.2.1. In C-2 District: No maximum.

5.10.3.2.2. In all other districts that allow convenience stores: 2,000 leasable square feet for enclosed structure.

5.10.3.3. Lighting.

All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the convenience store is located, and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.11. HAZARDOUS WASTE FACILITIES.

5.11.1. PURPOSE AND INTENT.

The purpose and intent of this Section is to provide supplementary guidance and standards for the issuance of conditional use permits for hazardous waste facilities. State law restricts the extent to which local zoning may regulate hazardous waste facilities, the General Assembly recognizes that the reasonable concerns of local governments may be considered. NCGS §§ 130B-3, 130B-4.

5.11.2. ZONING DISTRICTS.

To the extent not preempted by NCGS § 130A-293, hazardous waste facilities shall be permitted only in the zoning districts indicated in Table 4.6-1 (See Article 4).

5.11.3. CRITERIA.

Consistent with NCGS § 130B-20, no zoning compliance permit shall be approved until a conditional use permit application has been filed. Prior to the filing of any application for a zoning compliance permit, the site designation review committee established pursuant to NCGS § 130B-9 and 4 NCAC § 18.0305 shall examine the criteria for issuance of a conditional use permit and shall submit its recommendation to the North Carolina Hazardous Waste Management Commission. No conditional use permit or zoning compliance permit shall be issued unless the applicant complies in all respects to the above-referenced regulations.

5.12. HOME OCCUPATIONS.

5.12.1. PURPOSE.

5.12.1.1. A home occupation is permitted as an accessory use in the districts shown in Table 4.6-1 (see Article 4) and in the PUD Districts. The purpose of the home occupation regulations and performance standards are:

5.12.1.1.1. to establish criteria for operation of home occupations in dwelling units within residential districts;

5.12.1.1.2. to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;

5.12.1.1.3. to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

5.12.1.1.4. to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;

5.12.1.1.5. to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;

5.12.1.1.6. to enable the fair and consistent enforcement of these home occupation regulations; and

5.12.1.1.7. to promote and protect the public health, safety and general welfare.

5.12.1.1.8. No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

5.12.2. LIST OF HOME OCCUPATIONS.

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

5.12.2.1. Accounting, bookkeeping

5.12.2.2. Appraisal

5.12.2.3. Legal services

5.12.2.4. Real estate sales

5.12.2.5. Insurance sales

5.12.2.6. Childcare (see § 5.16)

5.12.2.7. Drafting services

5.12.2.8. Tailoring (dressmaking, alterations, etc.) services

- 5.12.2.9. Engineering, architecture and landscape architecture
- 5.12.2.10. Financial planning & investment services
- 5.12.2.11. Fine arts studio (creation of individual works only, no mass production)
- 5.12.2.12. Interior decoration (no studio permitted)
- 5.12.2.13. Mail order business (order taking only, no stock in trade)
- 5.12.2.14. Musical instruction, voice or instrument
- 5.12.2.15. Tutoring
- 5.12.2.16. Office work
- 5.12.2.17. Similar, low impact endeavor as determined by the Administrator
- 5.12.2.18. Lawn Care Services

5.12.3. PERFORMANCE STANDARDS.

Home occupations are authorized if they comply with the performance standards set forth in Table 5.12-1. A check mark “ü ” indicates that the performance standard applies in the applicable district.

5.12.4. HOME OCCUPATIONS NOT PERMITTED.

The following Uses shall not be permitted as home occupations in Residential Zoning Districts: medical/dental office, motor vehicle repair or similar uses, temporary or permanent motor vehicle display for purposes of sale or lease, restoration or conversion, engine repair, furniture refinishing, gymnastic facilities, studios or outdoor recreation activities, medical/cosmetic facilities for animals including animal care or boarding facilities, machine shop/metal working, retail sales, commercial food preparation and catering, contractors shops, mortuaries, medical procedures, body piercing and/or painting, tattoos, or any type of physical or psycho-therapy, or any other use not allowed in accordance with § 5.12.2.

5.12.5. RURAL HOME OCCUPATIONS.

5.12.5.1. The following home occupations shall be permitted in the AG (Agriculture) zoning district in addition to those specified in § 5.12.2 herein:

- 5.12.5.1.1. Auto repair work.
- 5.12.5.1.2. Contractor’s and trade shops, indoor operations only, including electrical, plumbing, and mechanical.
- 5.12.5.1.3. Machine welding shops.

5.12.5.2. All home occupations permitted in the AG (Agriculture) District shall comply with the criteria of Table 5.12-1 inconsistent with this section. In the event of an inconsistency between Table 5.12-1 and the provisions of this § 5.12.5.2.

5.12.5.3. Outdoor storage shall comply with the following standards:

5.12.5.3.1. Storage shall be limited to materials related to the business and shall not involve any hazardous materials;

5.12.5.3.2. Outdoor storage areas shall comply with § 6.6 of this Ordinance and shall not occupy an area of land exceeding eighty (80) square feet.

5.12.5.3.3. Materials shall not be stacked to a height exceeding four (4) feet and shall not be visible from the public right-of-way or an adjacent lot or parcel zoned or occupied for residential use. Any screening required to comply with this subsection shall be accomplished by using wood or masonry fencing or a vegetative hedge.

5.12.5.4. Where a home occupation is conducted in an accessory building, such accessory building shall not exceed the lesser of the following:

5.12.5.4.1. The square footage of the footprint of the dwelling, or

5.12.5.4.2. Two thousand (2,000) square feet.

5.12.5.5. Nonresident employees may work in the home occupation as follows:

5.12.5.5.1. Up to 1,000 square feet of floor area - one nonresidential employee

5.12.5.5.2. 1,000 and over square feet of floor area - two nonresident employees

For the purpose of this subsection, “floor area” refers to the gross floor area of the entire Dwelling Unit, and not the floor area devoted to the Home Occupation.

5.12.5.6. The rural home occupation shall not create any smoke, odors, dust, or noise at a level discernable at any of its lot lines.

5.12.5.7. The minimum lot size shall be two (2) acres. In no event shall a home occupation be established on a lot which is nonconforming as to the minimum lot size.

5.12.6. EXEMPT HOME OCCUPATIONS.

No Home Occupation Permit shall be required for the home occupations listed below, provided that they comply with all applicable home occupation regulations and standards of this Section, and provided further, that all persons engaged in such activities reside on the premises and the following conditions are satisfied:

5.12.6.1. artists, sculptors, composers not selling their artistic product to the public on the premises;

5.12.6.2. craft work, such as jewelry-making and pottery with no sales permitted on the premises;

5.12.6.3. home offices with no client visits to the home permitted;

5.12.6.4. telephone answering and message services.

5.12.7. UNSAFE HOME OCCUPATIONS.

If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures, but in the

event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to § 1.6 of this Ordinance.

5.12.8. EXPIRATION OF HOME OCCUPATION PERMIT.

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

**Table 5.12-1
Home Occupation Performance Standards by Zoning District**

PERFORMANCE STANDARDS	AG	All other districts
The use shall be clearly incidental and secondary to residential occupancy.	ü	ü
The use shall be conducted entirely within the interior of the residence.		ü
The use shall not change the residential character of the dwelling.	ü	ü
The use shall conform with applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.	ü	ü
A full-time resident operator shall be employed.	ü	ü
Obtain permits before operating home occupation, except those exempted under § 5.12.7.	ü	ü
No more than one (1) non-resident employee shall be permitted.		ü
Not more than 6 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.	ü	ü
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation	ü	ü
Music, ¹ art, craft or similar lessons: (12 or fewer clients per day)	ü	ü
Childcare (maximum of 6 or fewer children); see § 5.16	ü	ü
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation	ü	ü
Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials	ü	ü

TOWN OF MOUNT PLEASANT UNIFIED DEVELOPMENT ORDINANCE

Article 5

PERFORMANCE STANDARDS	AG	All other districts
Parking shall be provided only in driveway and shall not create hazards or street congestion	ü	ü
Outside storage of heavy equipment or material shall be prohibited.		ü
No more than three (3) commercial vehicles are to be stored on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned by persons residing on the premises.		ü
Mechanized equipment shall be used only in a completely enclosed building		ü
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.	ü	ü
Deliveries and pickups shall be those normally associated with residential services and shall a. not block traffic circulation b. occur only between 8:00 a.m. and 8:00 p.m. Monday-Saturday	ü	ü
Accessory Buildings shall not be used for home occupation purposes.		ü

¹ provided all electronically amplified sound is not audible from adjacent properties or public streets.

5.13. JUNKYARDS/SALVAGE YARDS.

5.13.1 APPLICABILITY.

5.13.1.1 Any Junkyard or Salvage Yard with outdoor storage.

5.13.1.2 Any Industrial or Extractive Use involving outdoor storage of junk as a Primary Use or an Accessory Use.

5.13.1.3 The use of land for the outdoor storage of junk or salvage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.13.2 CRITERIA.

5.13.2.1 No conditional use permit or building permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS § 136-144 (i) and:

5.13.2.2 Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.

5.13.2.3 No yard or storage lot shall be placed or maintained within a required yard setback.

5.13.2.4 All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six (6) feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the state of North Carolina and the Town of Mount Pleasant such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

5.14. DEMOLITION LANDFILLS

5.14.1. APPLICABILITY.

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294(4)a. NCGS § 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”

{Note: NCGS § 130A-301.2 expires on June 30, 2001. These provisions are consistent with those requirements. The Solid Waste Management Division of DENR repealed its application and operational rules (formerly 15A NCAC 13B.0506 and 13B.0507 for demolition landfills on January 4, 1993.)}

5.14.2. USE REGULATIONS.

The use of land for a demolition landfill shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.14.3. CRITERIA.

5.14.3.1. The disposal area of a demolition landfill shall not exceed one (1) acre.

5.14.3.2. The disposal area shall not exceed five (5) feet above average grade in height.

5.14.3.3. The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.

5.14.3.4. The landfill shall be located at least one-quarter mile from any other landfill of any type.

5.14.3.5. The perimeter of the landfill shall be at least 50 feet from the property boundary.

5.14.3.6. The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.

5.14.3.7. The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

5.14.3.8. The landfill shall comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

5.14.3.9. The applicant shall comply with the siting criteria set forth in 15A NCAC § 13B.0564. After the expiration of NCGS § 130A-301.2, the requirements of 15A NCAC § 13B.0564 shall supersede any standards in this Section 7.20 to the extent permitted by state law.

5.14.3.10. Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

5.14.3.11. The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.

5.14.3.12. No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

5.14.4. APPROVAL PROCESS.

5.14.4.1. Zoning Clearance and Town Board Approval. No demolition landfill shall be established until a zoning clearance permit is obtained from the Administrator.

5.14.4.2. Duration of Permit. A zoning clearance shall be effective for a twelve-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project. The Administrator shall renew the zoning clearance if a written finding is made that the construction project is ongoing.

5.14.4.3. Application Requirements. The following information must be submitted at the time of application for such permit:

5.14.4.3.1. Survey. A survey showing the exact location of the proposed demolition landfill within the entire project.

5.14.4.3.2. Contents of Landfill. A statement detailing all contents of the landfill.

5.14.4.3.3. Reclamation of Landfill Area. A statement detailing the plans for reclaiming the landfill at the end of its use.

5.14.4.3.4. Future Building Plans. A statement describing plans for future building, if any, on the landfill site.

5.14.5. CLOSURE.

5.14.5.1. Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a survey plat of the property that meets the requirements of NCGS § 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Administrator at the same time that the certified copy of the notice required by § 7.20.4.2 of this section is filed with the Administrator.

5.14.5.2. Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the Register of Deeds of Cabarrus County a notice that a landfill for the disposal of demolition debris has been located on the land. Where state law requires an identical notice, compliance with the state requirements shall constitute compliance with this Section. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat required by § 5.14.4.1 is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the North Carolina General Statutes. The Register of Deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by § 5.14.5.1 of this section, with the Administrator. Unless a filing fee is required for DENR, the owner shall pay a filing fee to the Administrator within 15 days after the notice is recorded.

5.14.5.3. The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

5.15. MINI-WAREHOUSE/SELF-SERVICE STORAGE.

5.15.1. PURPOSE.

This Section sets standards for the establishment and maintenance of safe and attractive mini-warehouse developments that will remain a long-term asset to the community. The use of land for mini-warehousing/self-service storage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.15.2. MINIMUM/MAXIMUM LOT SIZES.

5.15.2.1 Minimum lot size - one (1) acre.

5.15.2.2 Maximum lot size – none in the AG and RE Districts. All other districts have a maximum lot size of three (3) acres.

5.15.3. BUILDING HEIGHT.

5.15.3.1. Except as allowed in § 5.15.3.2, building height shall not exceed one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of 10 feet, which may include a maximum of eight feet with an additional two feet to accommodate a garage-type sliding or roll up door.

5.15.3.2. In the C-2 district, height maximums are governed by the standard allowances as set forth in Article 4, § 4.7.

5.14.6. LANDSCAPING AND BUFFERING.

5.15.3.3. A type “B” buffer yard as prescribed in Article 7 shall be provided around the perimeter of the mini-warehouse development.

5.15.3.4. Signs or other advertising mediums shall not be placed within the buffer yard.

5.15.3.5. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 7.

5.15.4. ON-SITE MANAGER OR SECURITY SYSTEM REQUIRED.

No facility herein provided for shall be used or maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.

5.15.5. COMMERCIAL ACTIVITY PROHIBITED.

It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units or other accessory uses as listed in Section 5.15.12, or to permit same to occur upon any area designated as a storage warehouse.

5.15.6. RESIDENTIAL USE PROHIBITED.

No portion of any Mini-Warehouse/self-service storage shall be used, on a temporary or permanent basis, as a dwelling.

5.15.7. REPAIR OF AUTOS, BOATS, MOTORS, AND FURNITURE PROHIBITED; STORAGE OF FLAMMABLE LIQUIDS PROHIBITED.

Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse rental contracts shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.

5.15.8. LIGHTING.

All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.15.9. OUTSIDE STORAGE.

No outside storage shall be permitted except the storage of recreational vehicles per § 5.15.11.4.

5.15.10. ACCESSIBILITY.

Vehicular ingress-egress shall provide for safe access by customers and emergency vehicles.

5.15.11. OFF-STREET PARKING STANDARDS.

5.15.11.1. Location of Customer Parking. Parking shall be provided by parking/driving lanes adjacent to the buildings.

5.15.11.2. Interior Travel Lanes. Interior travel lanes shall have a minimum width of twelve (12) feet and shall provide a nine (9) foot wide parking lane. Lanes serving storage units on each side shall provide a nine (9) foot parking lane for each side.

5.15.11.3. Off-street Parking. One parking space is required for every 200 storage units with a minimum of two spaces required. The parking spaces shall be provided adjacent to the manager's office.

5.15.11.4. Vehicular Storage. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage.

5.15.11.5. Interior Travel Lanes. Interior travel lands shall have a minimum width of twelve feet for one-way and twenty-four feet for two-way travel lanes.

5.15.12. ACCESSORY USES.

Sales of customary equipment and supplies, such as hand trucks, tape, packaging materials, boxes, etc. are permitted through the main office only.

5.16. CHILDCARE FACILITIES.

5.16.1 APPLICABILITY.

The provisions of this Section apply to any:

- Childcare Center.
- Childcare as a Home Occupation. (see § 5.12)

5.16. 2 PERMIT APPLICATION.

5.16.2.1 The following shall be submitted with the application for a zoning compliance permit or certificate of zoning compliance:

5.16.2.2 A copy of the N.C. state license issued to the facility.

5.16.2.3 Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).

5.16.2.4 Such areas shall be located not less than one-thousand (1,000) feet from any Hazardous Waste Facility; and shall be enclosed with a fence, with a minimum height of five (5) feet.

5.16.3 ACCESS AND LOADING/ UNLOADING.

5.16.3.1 This provision of this § 5.16.3 shall not apply to Childcare Facilities as Home Occupations.

5.16.3.2 Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children. Standards for access and off-street parking/loading are set forth in Article 8 of this Ordinance.

5.16.3.3 The use shall front a street classified as a collector or a thoroughfare.

5.17. RESIDENTIAL CARE FACILITIES.

5.17.1. APPLICABILITY.

The provisions of this Section apply to any Nursing Home or Residential Care Facility. The Provisions of this section shall not apply to a Family Care Home as defined in Appendix A.

The use of land for a residential care facility shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.17.2. STATE LICENSING.

Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for the operation of such a facility.

5.17.3. LOCATION.

No residential care facility shall be located within one thousand (1,000) feet from any Hazardous Waste Facility.

5.17.4. SECURITY FENCING.

Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.

5.18. PRIVATE CLUBS.

5.18.1. PURPOSE.

Regulations for private clubs are developed to establish consistent guidelines covering review of such uses, which because of their nature, may be objectionable to nearby residential uses. Special regulations and review of individual cases are necessary to determine if these establishments are located in areas where traffic and noise impacts are minimized. It is not the purpose of these regulations to regulate activities controlled by the North Carolina Alcoholic Beverage Control Commission pursuant to NCGS § 18B-901.

5.18.2. APPLICABILITY.

The provisions of this section shall apply to any private club to the extent not preempted by NCGS § 18B-901. Private clubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel.

The use of land for a private club shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.18.3. SPACING REQUIREMENTS.

No private club shall be established within 1,000 feet of any of the following:

5.18.3.1 any Residential Zoning District, any Elementary School, Middle School, or High School;

5.18.3.2 any Child Care Center or Child Care Facility;

5.18.3.3 any Religious Institution;

5.18.3.4 any other existing private club.

5.18.4. REVIEW AND APPROVAL.

In addition to the requirements of Appendix B to this Ordinance, an Application for Development Approval for a private club shall include a Floor Plan of the Building or Structure in which the private club is located. Said Floor Plan shall delineate separately the areas of the Building Structure which are used for dispensing of food and beverages, entertainment, and dancing.

5.19. QUARRYING AND MINING USES.

5.19.1. PURPOSE.

To establish consistent guidelines covering review of applications for mining and quarrying operations where an approved site plan is considered necessary to protect any adjacent residential property from smoke, dust, and noise, and to minimize the effect of scarification of the landscape.

5.19.2. APPLICABILITY.

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.19.3. COMPLIANCE WITH STATE REGULATIONS.

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS § 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

5.19.4. REVIEW AND APPROVAL.

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a conditional use permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix C of this Ordinance.

5.19.5. SETBACKS.

Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.

5.19.6. BARRIER REQUIRED.

5.19.6.1. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features or any combination of the above. Existing vegetation may also be considered in accordance with Section 7.4.4.4 of this Ordinance. The barrier shall be constructed so as to block the view of the mining and quarrying operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Board of Adjustments, through the issuance of a Conditional Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 7.

5.19.6.2. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

5.19.7. EXEMPTIONS.

5.19.7.1. Earth moving activity disturbing less than one acre of land shall be exempt from the provisions of this Section.

5.19.7.2. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed.

5.19.7.3. Borrow pits are exempt from the provisions of this Section.

5.20. SEXUALLY ORIENTED BUSINESSES.

5.20.1. PURPOSE & FINDINGS.

5.20.1.1. The Town Board of the Town of Mount Pleasant finds that this Ordinance is necessary in order to protect the Town from the potential secondary effects of sexually oriented businesses including crime, the protection of the Town's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the Town's neighborhoods and the Town's commercial districts, the protection of the Town's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this Town as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The Town recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meecker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986); (9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

5.20.1.2. The Town Board believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.

5.20.1.2.1. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;

5.20.1.2.2. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;

5.20.1.2.3. Sexually oriented businesses should be located in specific areas of the Town which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the Town and sexually oriented business operators with respect to potential adult use sites.

5.20.1.2.4. The image of the Town as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;

5.20.1.2.5. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

5.20.1.2.6. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of sexually oriented

businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the Town ; and

5.20.1.2.7. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

5.20.1.3. The Town Board recognizes and relies on the findings set forth in the 1986 N.C. Attorney General’s Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.

5.20.1.4. The Town Board finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

5.20.1.4.1. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as “performers”) have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;

5.20.1.4.2. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;

5.20.1.4.3. Evidence indicates that performers at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;

5.20.1.4.4. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the Town has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.

5.20.1.5. The Town Board has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:

5.20.1.5.1. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;

5.20.1.5.2. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and

5.20.1.5.3. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.

5.20.1.6. It is not the intent of the Town Board in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the Town .

5.20.1.7. The Town Board desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the Town and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated

with the development and operation of sexually oriented businesses.

5.20.1.8. The Town Board and Planning and Zoning Board have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.

5.20.1.9. These regulations are authorized by NCGS § 160A-181.1.

5.20.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

Adult Bookstore - A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Establishment - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

Adult Live Entertainment Business - Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult Motion Picture Theater - An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.

Adult Mini-Motion Picture Theater - An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

Massage - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage Business - Any establishment or business wherein massage is practiced including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage Therapy offices shall be excluded from these provisions provided the applicant is a licensed therapist by the State of North Carolina.

Sexually Oriented Business – Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in NCGS § 14-202.10. A “Sexually-Oriented Business” includes any Adult Establishment as defined in this Section.

Sexually Oriented Devices - Without limitation any artificial or simulated specified anatomical area or other device or

paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas - Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

Specified Sexual Activities - Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touchings of human genitals, pubic regions, buttocks, or female breasts.

5.20.3. APPLICABILITY.

The provisions of this Section apply to any Sexually-Oriented Business/Adult Establishments. The use of land for a sexually-oriented business or adult establishment shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.20.4. LOCATIONAL STANDARDS.

5.20.4.1. No sexually-oriented business shall be located within two thousand (2,000) feet of any other sexually-oriented business.

5.20.4.2. No sexually-oriented business shall be located within two thousand (2,000) feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.

5.20.4.3. No sexually-oriented business shall be located within two thousand (2,000) feet of any Residential Zoning District.

5.20.5. SIGNS AND DISPLAYS.

5.20.5.1. Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

5.21. WIRELESS TELECOMMUNICATIONS TOWERS.

5.21.1. PURPOSE.

The purpose of this Section 5.21 is to:

- 5.21.1.1.** protect residential areas and land uses from potential adverse impacts of towers and antennas;
- 5.21.1.2.** encourage the location of towers in non-residential and less developed areas;
- 5.21.1.3.** strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- 5.21.1.4.** encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- 5.21.1.5.** encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- 5.21.1.6.** enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- 5.21.1.7.** consider the public’s health and safety in regard to communication towers; and
- 5.21.1.8.** avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

5.21.2. DEFINITIONS.

The words, terms and phrases shall have the meanings assigned below provided, however, that any words, terms or phrases not defined herein shall have the meaning assigned in Appendix A to this Ordinance:

ACCESSORY EQUIPMENT STRUCTURE. A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless telecommunication tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

ALTERNATIVE TOWER STRUCTURE - Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA. Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omnidirectional “whip” antenna.

ANTENNA, STEALTH. Wireless telecommunication antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

BASE TRANSCEIVER STATION. Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers, and signal processing hardware, typically contained in a small building or cabinet.

COMMUNICATIONS TOWER. A tower, which supports communication (broadcast, receiving, or relay) equipment,

utilized by commercial, government or other public and quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission (FCC).

SATELLITE DISH ANTENNAE OR SATELLITE DISH. A parabolic antennae designed to receive electromagnetic transmissions from a satellite.

TOWER. Any ground-mounted, pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts, to which a telecommunications antenna is attached or affixed.

TOWER, LATTICE. Three- or -four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.

TOWER, MONOPOLE. Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

WIRELESS TELECOMMUNICATION SERVICES (WTS). Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services for non-commercial entities in the amateur radio service, public safety radio services, or licenses assigned to non-profit organizations such as the Red Cross, Civil Air Patrol, or other military affiliated radio services that are licenses by the Federal Communications Commissions.

5.21.3. APPLICABILITY.

The provisions of section 5.21 apply to any new Wireless Telecommunications Tower or Antenna, except as provided below. The use of land for wireless telecommunication service antenna or tower shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.21.4. GENERAL GUIDELINES and REQUIREMENTS.

5.21.4.1. PRINCIPAL OR ACCESSORY USE. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

5.21.4.2. LOT SIZE. In the event that a tower or antenna is installed and/or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to; including but not limited to: setback, lot-coverage, and other such requirements.

5.21.4.3. INVENTORY OF EXISTING SITES. Each applicant for an antenna and/or tower shall provide to the Administrator with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Mount Pleasant,, Cabarrus County, the City of Kannapolis, the Town of Harrisburg, the Town of Midland or the City of Concord. Said information shall include specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build out plan for all other proposed wireless communications facilities within the Town. The Administrator may share such information with other applicants applying for administrative approvals or conditional use permits under this Ordinance or with other organizations seeking to locate antennas within the jurisdiction of this Ordinance provided, however that the Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

5.21.4.4. AESTHETICS.

5.21.4.4.1. Towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

5.21.4.4.2. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the tower or antenna site.

5.21.4.4.3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

5.21.4.5. LIGHTS. No tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC, or the Town . This restriction against lights shall not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

5.21.4.6. STATE OR FEDERAL REQUIREMENTS. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

5.21.4.7. BUILDING CODES; SAFETY STANDARDS. To ensure the structural integrity of towers and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

5.21.4.8. FALL ZONE. No tower or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any tower or antenna, not located a distance equal to the height of the tower plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the tower is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

5.21.4.9. ESSENTIAL SERVICES. Wireless telecommunications towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

5.21.4.10. SIGNS. Signs on a tower, or on any portion of the premises leased for wireless communication use, shall be limited to those needed to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

5.21.5. PERMIT REQUIREMENTS.

5.21.5.1. No wireless telecommunications tower or antenna shall be erected or established unless and until a Zoning Clearance permit has been issued pursuant to § 3.2.6 of this Ordinance.

5.21.5.2. A Stealth Antennae which does not exceed sixty-five (65) feet in height is permitted as of right,

notwithstanding any provisions of the Use Matrix which requires a Conditional Use Permit. This provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.

5.21.5.3. In addition to the procedures, standards and criteria set forth in § 3.5 of this Ordinance, conditional use permits for towers and antennas shall be issued in accordance with the following provisions:

5.21.5.3.1. Towers or antennas sixty-five (65) feet or more from the average ground level shall require a conditional use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.

5.21.5.3.2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.

5.21.5.4. INFORMATION REQUIRED. In addition to any other information required pursuant to § 3.5 of this Ordinance, applications for conditional use permits for towers shall include the following information:

5.21.5.4.1. A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed tower and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.

5.21.5.4.2. The setback distance between the proposed tower and the adjacent property line pursuant to Table 5.21-1.

5.21.5.4.3. The availability of suitable existing towers, other structures, or alternative technology.

5.21.5.4.4. The separation distance from other towers pursuant to Table 5.21-2 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

5.21.5.4.5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.

5.21.5.4.6. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

5.21.5.4.7. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

5.21.5.4.8. A description of the feasible alternative location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

5.21.5.4.9. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

5.21.6. APPROVAL CRITERIA

5.21.6.1. LOCATION. All non-stealth and stealth towers and mounted antennas are permitted by right or as a conditional use as listed in Table 4.6-1 in § 4.6.

5.21.6.2. FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS FOR TOWERS. In determining whether to issue a conditional use permit, the Board of Adjustments shall consider, in addition to any other

standards in this Ordinance governing conditional use permits, the following factors:

5.21.6.2.1. Height of the proposed tower;

5.21.6.2.2. Proximity of the tower to residential structures and residentially zoned district boundaries;

5.21.6.2.3. Nature of uses on adjacent and nearby properties;

5.21.6.2.4. Surrounding topography;

5.21.6.2.5. Surrounding tree coverage and vegetation;

5.21.6.2.6. Design of the tower, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;

5.21.6.2.7. Proposed ingress and egress; and

5.21.6.2.8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the construction of new towers or structures.

5.21.6.3. AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if conditional use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

5.21.6.3.1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

5.21.6.3.2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

5.21.6.3.3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

5.21.6.3.4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

5.21.6.3.5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.

5.21.6.3.6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

5.21.6.3.7. The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

5.21.6.4. SEPARATION. Towers shall be separated a distance, as measured from the base, equal to at least the minimum standards established in Table 5.21-2 from any preexisting towers. The separation distances shall be

measured by drawing or following a straight line between the base of the preexisting tower and the base location, pursuant to a site plan, of the proposed tower.

5.21.6.5. SECURITY FENCING. Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, constructed of block or masonry or wood material, and shall be equipped in such a manner as to deter climbing.

5.21.6.6. LANDSCAPING. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Administrator may waive these requirements in locations where the view of the tower base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

5.21.6.7. THIRD PARTY TECHNICAL REVIEW. In the event a dispute arises as to whether a permittee has exercised good faith in demonstrating the lack of suitability of existing towers, other structures or alternative technology to be used as specified in section 5.21.6, the Administrator, per the direction of the Planning and Zoning Board, may require the applicant to obtain a third party technical study at the applicants expense.

5.21.7. BUILDINGS OR OTHER EQUIPMENT STORAGE.

5.21.7.1. ACCESSORY EQUIPMENT STRUCTURES. The equipment cabinets and other support structures used in association with towers or antennas shall comply with the following provisions:

5.21.7.1.1. Equipment cabinets and/or other structures shall comply with all applicable building codes.

5.21.7.1.2. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

5.21.7.2. LOCATION OF ACCESSORY EQUIPMENT STRUCTURES. Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially zoned property.

5.21.8. CO-LOCATION.

5.21.8.1. GOOD FAITH. Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities and sites where feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

5.21.8.2. THIRD PARTY TECHNICAL REVIEW. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users on the proposed tower or structure, the Administrator may require the applicant to obtain a third party technical study at the applicants expense. The Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

5.21.8.3. EXCEPTIONS. No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

5.21.8.4. VIOLATION; PENALTY. Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

5.21.9. REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

5.21.9.1. Any antenna or tower that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the antenna or tower within ninety (90) days of receipt of notice from the Board of Adjustment notifying the owner of such abandonment. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna for the prescribed period. “Physically remove” shall include, but not be limited to:

5.21.9.1.1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.

5.21.9.1.2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

5.21.9.1.3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

5.21.9.2. AUTHORITY TO REMOVE AND REQUIRE BOND. A performance bond shall be set for 1.25 times the estimated cost of removal of all towers, antennas, and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

5.21.10. NONCONFORMING USES.

5.21.10.1. NO EXPANSION OF NONCONFORMING USE. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

5.21.10.2. PREEXISTING TOWERS. Preexisting towers constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

5.21.10.3. REBUILDING DAMAGED OR DESTROYED NONCONFORMING TOWERS OR ANTENNAS. Notwithstanding this Section, bona fide nonconforming towers or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the tower onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

Table 5.21-1 Separation Requirements from Adjacent Property Lines	
Single-family or duplex residential units [1]	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary plat approval which is not expired [2]	200 feet or 300% of tower height, whichever is greater
Vacant unplatted residentially zoned land [3]	200 feet or 300% of tower height, whichever is greater
Existing multi-family residential units greater than duplex units	200 feet or 300% of tower height, whichever is greater
Non-residentially zoned lands or non-residential uses in B-1, O-I, CC, C-1, C-2, CD, I-1, and I-2	None, only setbacks apply
[1] Includes modular homes and mobile homes used for living purposes. [2] Separation measured from base of tower to closest building setback line. [3] Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan and any multi-family residentially zoned land greater than a duplex.	

Table 5.21-2 Separation Distances Between Towers		
	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet in height	750 feet	750 feet

5.22 TEMPORARY USES.

5.22.1. PURPOSE & APPLICABILITY

The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Planning Department is required pursuant to Section 3.2 of this Ordinance. Temporary Use Permits shall not be required for non-profit organization fundraisers or individual vendors at Town-sponsored special events or individual vendors for which a Temporary Use Permit has been issued under Section 5.22.7.

5.22.2. APPROVAL CRITERIA.

All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified in sections 5.22.3 through 5.22.6 below.

5.22.2.1. COMPATIBILITY WITH/EFFECT ON SURROUNDING AREA. The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.

5.22.2.2. LOCATION (PERMISSION REQUIRED). The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

5.22.2.3. TRAFFIC. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

5.22.2.4. PARKING AND ACCESS. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

5.22.2.5. PROPERTY LINE SETBACKS. Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this section shall not apply to the CC district.

5.22.2.6. SIGNS. Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. See Article 12 for specific standards for signs.

5.22.2.7. NUMBER PER PARCEL. Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time.

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS. The period of time an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on that parcel shall be at least three (3) months. This

restriction shall not apply to real estate development and constructed related temporary uses as set forth in section 5.22.4.

5.22.3. TEMPORARY RETAIL SALES USES.

5.22.3.1. FIREWORKS STANDS. Limited to only non-residential zones for a period of time not to exceed 45 days. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

5.22.3.2. SEASONAL SALE OF AGRICULTURAL PRODUCTS (including Christmas Trees). Temporary Use Permits are required for all Roadside Stands in non-residential zoning districts. Such sales are limited to a period of time not to exceed four (4) consecutive months per calendar year. A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet. The structure must be portable and completely removed at the end of the period.

5.22.3.3. FOOD VENDORS. The sale of food and/or beverages from a stand, motor vehicle, tent, cart, or person may be allowed in the C-1, C-2, and I-1 zoning districts, and shall be limited to a period not to exceed ninety (90) days per calendar year per lot of record. Food vendors shall be subject to applicable Health Department requirements.

5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.

5.22.4.1. CONTRACTORS OFFICE AND EQUIPMENT/STORAGE SHEDS. Accessory to a Construction Project (Residential or Non-Residential). Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one year as and if approved by the Administrator. A construction trailer may be used for a contractor's office or for the contractor's storage of equipment or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of a Certificate of Occupancy or completion of the construction project, whichever occurs first.

5.22.4.2. REAL ESTATE OFFICE IN A CONSTRUCTION TRAILER OR TEMPORARY MODULAR UNIT. Temporary structures, such as construction trailers or temporary modular units, may be used as real estate sales offices in any new construction project for the sale of unites within that project only. Such a temporary use may be allowed in all zoning districts. The permit shall be valid until the project is completed or for a period of two (2) years from the time of the recording of the most recent final plat.

5.22.4.3. REAL ESTATE OFFICE IN A MODEL HOME. Accessory to Construction of a New Residential Development. Limited to a period of time not to exceed one year with the option of an extension of up to one year as and if approved by the Administrator. The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

5.22.4.4. SINGLE FAMILY DWELLING IN TEMPORARY STRUCTURE. During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

5.22.4.5. NO RECREATIONAL VEHICLES. No Recreational Vehicles shall be permitted as a Temporary Use or Structure.

5.22.5. AMUSEMENT ENTERPRISES.

Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district for a period not to exceed twenty-one (21) days within any calendar quarter. This classification excludes events conducted in a permanent entertainment facility.

5.22.6. RELIGIOUS EVENTS.

5.22.6.1 Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district for a period not to exceed fifteen (15) days.

5.22.6.2 Religious events in a tent or other temporary structure may be allowed in any residential zoning district for a period not to exceed fifteen (15) days, provided that the property on which the temporary use is going to be operated is owned by the same religious institution requesting the temporary use.

5.22.7. PROMOTIONAL ACTIVITIES IN BUSINESS AND COMMERCIAL ZONES INVOLVING THE DISPLAY OF GOODS AND MERCHANDISE.

Such activities may be conducted outside for a period of not more than two (2) consecutive days. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. A Temporary Use Permit for promotional activities may be issued up to 12 times during any calendar year, for a maximum of 24 days per calendar year.

5.22.8. SPECIAL EVENTS AND ACTIVITIES.

Special events and activities conducted on public property such as school sites and public parks shall be exempt from the provisions of this Section of the Ordinance but must comply with any guidelines, regulations and permitting process required by the authorizing agency (*e.g.* School District or a Parks and Recreation Department).

5.22.9. SIMILAR AND COMPATIBLE USES NOT SPECIFIED.

If a particular temporary use is listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a “similar and compatible use”. Similar and compatible uses not specified are those uses which are similar and compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Planning and Zoning Board in accordance with Sect. 3.8 of this Ordinance.

5.23 MANUFACTURED/MODULAR HOME AND STORAGE BUILDING SALES

5.23.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land designed for the display and sale of bulky items including manufactured homes, modular homes, and/or enclosed storage (accessory) buildings and boats.

5.23.2 CRITERIA.

5.23.2.1 Site Plan Requirements. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.

5.23.2.2 Setbacks. All display pads shall be located at least thirty (30) feet from any property line or public street right of way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district.

5.23.2.3 Type of Manufactured Home. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

5.23.2.4 Required Paving. All travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage, repair areas, and display pads for all model manufactured or modular homes and storage buildings may be gravel.

5.23.2.5 Storage and Repair Areas. Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts and accessories shall also be screened from off-site views.

5.23.2.6 Sidewalks. Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections from the parking area to each displayed item (pad) and the office.

5.23.2.7 Signs. Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.

5.23.2.8 Display Pads. All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120% of the structure's footprint. Display pads may be gravel.

5.23.2.9 Manufactured or Modular Home Display Areas. A minimum separation of at least ten (10) feet shall be maintained between display pads. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

5.23.2.10 Storage Building Display Areas. A minimum separation of at least five (5) feet shall be maintained between display pads.

5.23.2.11 Landscaping Requirements. In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one ornamental tree or shade tree, two medium shrubs and six small shrubs per display pad. The location of the plantings shall be determined by the Administrator but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped. No display area may be entirely paved.

5.24 RECEPTION, BANQUET, & EVENTS FACILITIES.

5.24.1. LOCATION.

Reception, Banquet, and Events Facilities shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:

5.24.1.1. Lot Size. The lot shall be a minimum size of five (5) acres.

5.24.1.2. Access. The parcel must have frontage on a major or minor thoroughfare.

5.24.2. CRITERIA FOR FACILITIES WITHIN A RESIDENTIAL STRUCTURE

5.24.2.1 Appearance. A residential structure that is used for a reception, banquet, or event facility shall not be altered in any way that changes its general residential appearance.

5.24.2.2. Off-Street Parking. Two (2) parking spaces for owner/operator, plus one for every four persons of permitted occupancy. No on-street parking is permitted.

5.24.2.3. Noise Control. All activities and event occurring on the property of the reception center shall meet the required noise control ordinance as stated in Section 91.01 of the Town of Mt. Pleasant Code of Ordinances.

5.25 BEACH BINGO ESTABLISHMENTS

5.25.1 APPLICABILITY

The provisions of this Section apply to any Beach Bingo establishment permitted as a conditional use as allowed by Table 4.6-1 (See Article 4) and subject to the provisions below.

5.25.2 APPROVAL CRITERIA

5.25.2.1 Location

Beach Bingo establishments shall be located no closer than 100 feet from the closest school, daycare facility or religious institution.

5.25.2.2 Parking

Beach Bingo establishments shall have one parking space for every 3 seats as referenced in Table 8.1-6 Off Street Vehicular Parking Space and Bicycle Space Requirements.

5.25.2.3 Entry Sign

5.25.2.3.1 The Beach Bingo establishment entrance shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are prohibited from entering the premises, except for use of restrooms and separate rooms for recreation or entertainment. This sign shall comply with the Sign Standards in Article 12 of the Mt. Pleasant UDO.

5.25.2.3.2 The Beach Bingo establishment entrance shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are prohibited from entering the premises, except for use of restrooms and separate rooms for recreation or entertainment. This sign shall comply with the Sign Standards in Article 12 of the Mt. Pleasant UDO.

5.25.2.4 Outdoor Storage

Storage of merchandise, displays, equipment, devices or other items in open areas of the site for over 24 hours shall not be allowed.

5.25.2.5 Lighting

All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the Beach Bingo Establishment is located. Lighting and glare must be deflected, shaded and focus away from any adjoining residential property. All outdoor lighting shall comply with the Outdoor Lighting Ordinance in Appendix F of the Mt. Pleasant UDO.

5.25.2.6 Hours of Operation

The hours of operation of Beach Bingo games shall be restricted to 12:00 p.m. to 12:00 a.m. on Sunday; and 10:00 a.m. to 12:00 a.m. Monday through Saturday.

5.25.2.7 Amplified Sound

No loudspeakers or sound equipment shall be used by a Beach Bingo Establishment for the amplification of sound to a level discernible by the public beyond the walls of the building or portion of the building in which such use is conducted or which violates Chapter 6, Section 8-6001 and Section 8-6002 of the Town of Mt. Pleasant Code of Ordinances.

5.25.2.8 Age Requirement

It is unlawful to permit patrons or employees under the age of 21 in a structure occupied by a gaming facility, except for restrooms or rooms for recreation or entertainment.

5.25.3 APPLICATION PROCEDURE

5.25.3.1 Conditional Use Permit Application

Any new Beach Bingo Establishments or expanding existing Beach Bingo Establishments shall submit an application for a Conditional Use Permit as illustrated in Figure 3.5-1 of the Mt. Pleasant UDO.

5.25.3.2 Site Plan Review

Any new Beach Bingo Establishments or expanding existing Beach Bingo establishments shall undergo a Major Site Plan Review in accordance with Section 3.6, Site Plan Review as illustrated in Figure 3.6-2. The Site Plan submittal shall comply with Appendix B, Section B.4, Major Site Plans of the Mt. Pleasant UDO.