

ACTION REQUEST FORM

DATE: January 21, 2009
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on UDO Text Amendment proposed by City County Planning and Inspections staff

SUMMARY OF INFORMATION:

UDO Text Amendment proposed by City County Planning and Inspections staff to amend various sections of the *Unified Development Ordinances* to provide non-substantive changes and clarifications throughout the ordinance (UDO-195).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-195
STAFF: [Kirk Ericson](#)

REQUEST

This UDO text amendment is proposed by City-County Planning and Inspections staff to amend various sections of the Unified Development Ordinances. The purpose of this amendment is to make non-substantive changes and corrections to errors, omissions, or ambiguities in the ordinance discovered by Planning and Inspections staff during the past year.

BACKGROUND

Since the adoption of the UDO, several clean-up text amendments have been presented to the Planning Board. These amendments address conflicts or practical difficulties discovered by City-County staff through daily use of the ordinance. The changes in this text amendment have been collected over the past ten months with the intent of being presented as one unified text amendment. These modifications do not substantively change the ordinance, but improve its clarity and remove conflicting or outdated regulatory language.

ANALYSIS

This text amendment consists of 12 separate sections, each of which is described below:

Section 1. Section 1 makes minor changes to the definitions section of the ordinance, including creating a definition for cross-parcel access easements.

Section 2. Section 2 removes conflicting language from the vested rights section of the ordinance.

Section 3 and 4. These sections remove the site plan submission requirement for the NSB and C Zoning Districts. The current site plan submission requirement for these districts is vague and does not specify when a site plan must be submitted or who is responsible for reviewing the site plan. Inspections staff have considered site plans which are required to obtain a building permit as satisfying this requirement, and as such staff recommends removing this unnecessary ordinance language.

Section 5. Section 5 amends table B.3.4 to reference the correct minimum setback requirements for the GB Zoning District. Minimum setback requirements for the GB District were eliminated earlier this year in UDO-187.

Section 6. Section 6 amends the section of the ordinance regulating combined driveway and access by requiring that any cross access easements between properties must be formally recorded.

Section 7. This Section modifies the bufferyard standards of the ordinance. These changes clarify that the bufferyard requirements of the ordinance apply to the construction of a new structure, and allow the Director of Inspections to approve bufferyards in locations other than the outer perimeter of a lot, where the intent of the bufferyard section is still met.

Section 8. This section adds language to the residential infill standards to address the determination of front setbacks for new infill structures where a primary structure only exists on one side of an infill lot, or where no structures exist within the same block as the infill lot. This section also clarifies that flag lots in GMA 2 must be approved through the Special-Use District Zoning process, regardless of lot size.

Section 9. Section 9 revises the sidewalk construction requirements of the UDO to place limits on the amount of sidewalk that can be required of developments requiring Planning Board or Elected Body approval. Currently, such developments can be required to construct sidewalks along all street frontages identified in the Winston-Salem Urban Area Sidewalk and Pedestrian Facilities Plan, regardless of the size of the proposed development. Staff believes this requirement may be overly burdensome for developments which have little impact, yet still require Planning Board or Elected Body approval.

Staff proposes applying the existing ordinance limits on sidewalk construction for nonresidential development and multifamily development not requiring approval by the Planning Board or Elected Body (Sidewalks are not required unless 10,000 square feet of new building construction is proposed, and no more than one linear foot of sidewalk per ten square feet of building area is required regardless of the amount of street frontage of the proposed development) to developments requiring approval by the Planning Board or Elected Body. The sidewalk construction requirements for nonresidential development and multifamily development not requiring approval by the Planning Board or Elected Body will remain the same.

Section 10. This section adds the correct cross-references for the amortization of signs to the Nonconforming Uses section of the ordinance.

Section 11. Section 11 eliminates the requirement for Special Use District Zoning petitions containing two or more zoning districts to be considered as two separate zoning petitions. Currently, General Use Zoning petitions requesting two or more zoning districts may be considered as one zoning petition. Staff believes the existing Special Use District requirement is unnecessarily burdensome and should be removed.

Section 12. Section 12 revises ordinance enforcement provisions for the City of Winston-Salem only. These changes are in response to a request made by City Council to the Inspections Division earlier this year, and required special enabling legislation from the State. These changes allow a person convicted of violating UDO provisions to be imprisoned for not more than 30 days. While the ordinance currently has provisions for both civil and criminal penalties, the City Attorney's office believes that specific ordinance language is necessary to enforce the criminal provisions of this ordinance. Additionally, the minimum number of days following the posting of a notice of violation before punishment can occur has been reduced from ten to five days. Language has also been added to the ordinance describing how a notice of violation may be posted on a property. No changes are proposed for the ordinance enforcement provisions for the Forsyth County zoning jurisdiction.

RECOMMENDATION

APPROVAL

Kirk Ericson presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST:

David O'Brien, 8118 Broad Street, P. O. Box 791, Rural Hall, NC 27045

- Mr. O'Brien expressed concerned over the legal meaning of several items, including:
 - Under Definitions, an addition for "Easement, Cross Parcel Access".

Nancy Gould, 195 Executive Park Blvd, Winston-Salem, NC 27103

- I am concerned about Section 12 which is about being able to put people in jail if they violate the zoning code and also changing the notice from 10 days to 5 days. If this is not already part of existing City code, this is a very substantive change.
- I would ask that you pull this out to make sure the public knows about it and is able to comment about it.

WORK SESSION

During discussion by the Planning Board, the following points were made:

1. Charley Norton: This change (concerning enforcement) came about because the Council asked that the time be reduced which was done in State Legislation. State Legislation had increased the fee to \$500 and the timing had been reduced. We simply wanted to get what was in our ordinance in compliance with the State Legislation. It's not in our discretion. It's up to the courts.
2. Carol Eickmeyer: Since the Council asked for this, let's send this one forward.
3. Chris Murphy addressed Mr. O'Brien's concern about Section 1: There's always been a provision in the UDO that cross parcel access had to be shown from lot to lot, but there's never been anything in the ordinance that made it clear that in order to provide that, they needed to provide some type of cross-parcel easement that provided the on-going ability to cross from one property to another, even though it is needed when we are issuing permits. In order to clarify that, we wanted to add this section and therefore felt we needed a definition for cross-parcel access easement. It functions fine by taking out the phrase Mr. O'Brien had a problem with where it reads, "An easement that allows ingress and egress for vehicles and pedestrians from one zoning lot or parcel to another."

4. Chairman King reviewed the changes suggested by the Planning Board:
 - Delete the wording "either prescribed or blanket."
 - Leave Section 12.

5. Clarence Lambe questioned the use of the term "fee simple" and asked if a title search was performed to verify that. Glynis Jordan explained that this came from the Tax Assessor's Office and is simply acknowledging a situation and enabling a person to get a plat signed. Mr. Lambe expressed concern at Planning staff rendering an opinion on a title without the benefit of a title search. What does "vacation of easement" mean? Ms. Jordan responded that it means "to do away with an easement". Mr. Lambe noted that someone else may have a different opinion as to what it means. In summary, he doesn't believe we should be requiring surveyors, closing attorneys, or especially Planning staff to render legal opinions as to the status of titles, whether it's the underlying land or the easement listed on the plat.

MOTION: Wesley Curtis moved approval of the zoning text amendment with the said changes of Item #1, the wording "either prescribed or blanket." being deleted.

SECOND: Jerry Clark

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

UDO-195
AN ORDINANCE PROPOSED BY
CITY-COUNTY PLANNING AND INSPECTIONS STAFF
AMENDING AND CLARIFYING VARIOUS PROVISIONS
OF THE *UNIFIED DEVELOPMENT ORDINANCES*

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter A, Article II – Definitions is hereby amended as follows:

Chapter A - Definitions Ordinance

Article II – Definitions

CANOPY. (F) A structure, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building.

EASEMENT, CROSS-PARCEL ACCESS. An easement that allows ingress and egress for vehicles and pedestrians from one zoning lot or parcel to another.

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

- (A) Subdivision Exempted by State Law or Court Judgment. A subdivision in which all lots must comply with the dimensional requirements ~~of~~ of the *Zoning Ordinance* or any other applicable local or State land regulatory ordinances and meet any one of the following criteria:
- (1) The combination or recombination of portions of previously subdivided and recorded lots does not increase the total number of lots;
 - (2) Land is divided into parcels greater than ten (10) acres and no street right-of-way dedication is involved;
 - (3) The public acquires by purchase strips of land for the widening or opening of streets (these subdivisions are not required to comply with the dimensional requirements of the *Zoning Ordinance*);
 - (4) A tract in single ownership whose entire area is no greater than two (2) acres is divided into not more than three (3) lots, where no public or private street right-of-way dedication is involved; or,

- (5) Lots are created by or pursuant to an order or judgment of a court of competent jurisdiction.

Section 2. Chapter B, Article I – Purpose and Authority is hereby amended as follows:

Chapter B - Zoning Ordinance

Article I - Purpose and Authority

1-5 COMPLIANCE

1-5.2 VESTED RIGHTS

(5) Duration.

- (a) A right which has been vested as provided for in this section shall remain vested for a period of two (2) years.
- (b) ~~A right which has been vested as provided for in this section shall remain vested for a period of five (5) years.~~ Reserved
- (c) This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approving authority at the time the amendment or modification is approved. Following approval or approval with conditions of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.
- (d) Upon issuance of a building permit, the expiration provisions of the applicable General Statutes 160A-418 or 153A-358 and the revocation provision of General Statutes 160A-422 or 153A-362 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding. **(F)**

Upon issuance of a building permit, the expiration provisions of General Statutes 160A-418 and the revocation provision of General Statutes 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a vested right under this section is outstanding. **(W)**

- (e) Upon the expiration or termination of the vested right in accordance with this Section B.1-5.2, the site specific development plan shall be subject to all current *Unified Development Ordinances* (UDO) regulations or other applicable requirements of law relating to the development of the site.

Section 3. Chapter B, Article II – Zoning Districts, *Official Zoning Maps*, and Uses is hereby amended as follows:

Chapter B - Zoning Ordinance

Article II - Zoning Districts, *Official Zoning Maps*, and Uses

2-1 ZONING DISTRICTS

2-1.3 COMMERCIAL ZONING DISTRICTS - PURPOSE STATEMENTS AND REGULATIONS

(H) NSB Neighborhood Shopping Center Business District.

- (1) **Purpose.** The NSB District is intended to provide for the development of integrated, self-contained shopping and service centers designed to meet the daily retail and service needs of residents in the surrounding area. The district is designed to be compatible with adjacent residential areas by limiting uses and access drives, and by providing substantial setbacks and landscape buffers. The district is intended for application on sites with good road access in GMAs 1, 2 and 3 and Metro Activity Centers. Development in GMA 4 should be considered only where there is a demonstrated need for retail and service uses. The establishment of a neighborhood shopping center district does not establish justification for future commercial zoning in the area.

(2) General Dimensional Requirements - NSB.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks ²				Maximum Impervious Surface Cover (%)	Maximum Height (ft)
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side			
						Interior Side (ft)	Street (ft)		
NSB	-- ¹	250 ¹	4	40	40	40	20	75	40

- For outparcels with internal access to the property provided, the minimum lot size is twenty thousand (20,000) square feet; the required minimum lot width is reduced to one hundred (100) feet; and the interior rear and side yard requirements are deleted, except that any side yard provided adjacent to an interior lot line shall not be less than twelve (12) feet. Negative access along external roads must be provided and on record.
- Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.

(3) Supplementary District Requirements.

- (a) ~~Site Plan.~~ A site plan must be submitted for any development within the district in conformance with the site plan requirements of Section B.7. Reserved.

- (b) Site Size. The minimum site size shall be four (4) acres, and the maximum site size shall be fifteen (15) acres.
- (c) Building Square Footage. Total building square footage shall be at least thirty-five thousand (35,000) square feet and not more than one hundred thousand (100,000) square feet.
- (d) Access.
 - (i) Site Access. The site shall have direct access to a major or minor thoroughfare.
 - (ii) Internal Access. All uses shall access only internally to the site.
 - (iii) Access Driveways. The location and number of driveways shall be limited to assure safe access and circulation and to promote compatibility with surrounding residential areas. In reviewing site plans, the following conditions may be required by the Director of Planning or the Assistant City Manager for Public Works of the City of Winston-Salem (W) or the North Carolina Department of Transportation (F).
 - [A] Turn Lanes and Signals. Ingress turn lanes and traffic signals provided at all access driveways.
 - [B] Pedestrian Access. Safe pedestrian access from adjacent residential areas.

Other site plan requirements related to access include the following:

- [C] Width of Driveways. Access driveways meeting City or State standards.
- [D] Driveway Alignment. Access driveways shall be aligned with other existing and planned intersections and/or streets, including, but not limited to, streets identified in the *Transportation Plan*.
- [E] Minimum Number of Driveways. A minimum of two (2) access driveways shall be provided unless approved by the City or the State.
- [F] Maximum Number of Driveways. No more than two (2) access driveways per road frontage shall be permitted, unless approved by the City or the State. The City or the State may approve up to a total of three (3) access driveways per road frontage.

- [G] Parking Aisles. Parking spaces shall not be located along the first forty (40) feet of the access driveway aisles.
- [H] Pedestrian Access. Safe pedestrian access shall be provided internally.
- (iv) Bus Shelters. Sites on current or planned Winston-Salem Transit Authority bus routes shall provide at least one bus shelter, as determined by the Winston-Salem Transit Authority.
- (e) Right-of-Way Dedication. Land shall be dedicated for public right-of-way to meet projected needs for roads shown on the *Transportation Plan*, or for other roads as determined by the City, Town, or North Carolina Department of Transportation.
- (f) Alternative Parking Allowance. Up to ten percent (10%) of the required parking spaces may be unmarked and used for open space purposes during off peak hours, according to the provisions of Section 3-3.5(K).
- (g) Loading Areas/Docks. Loading areas and docks are considered part of the principal structure and shall meet building setback requirements.
- (h) Stormwater Management. In the City of Winston-Salem, a stormwater management plan shall be submitted to and approved by the City Engineering Department. Outside the City of Winston-Salem, the developer shall demonstrate adequate provision for control of stormwater runoff.
- (i) Signs. Signs shall meet the requirements of Section B.3-2.
- (j) Motor Vehicle Storage Yard. A motor vehicle storage yard with a maximum enclosed storage area of three thousand (3,000) square feet shall be permitted as an accessory use to a motor vehicle repair service. Such yard shall meet all use conditions applicable to motor vehicle storage yards (Section B.2-5.55).
- (k) Other Department Requirements. All site plan requirements of departments reviewing the project shall be met.

Section 4. Chapter B, Article II – Zoning Districts, *Official Zoning Maps*, and Uses is hereby amended as follows:

Chapter B - Zoning Ordinance

Article II - Zoning Districts, *Official Zoning Maps*, and Uses

2-1 ZONING DISTRICTS

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

(B) C Campus District

(1) Purpose. The C District is intended to accommodate medium to large-sized public, semi-public, and institutional uses which have a major land use impact or traffic generation potential upon surrounding uses. The district is intended to accommodate larger, more intensive public and institutional uses which have extensive service areas and are centrally located.

(2) General Dimensional Requirements - C.

Zoning District	Minimum Zoning Lot		Minimum Contiguous Site Area (ac)	Minimum Setbacks ¹				Maximum Impervious Surface Cover (%)	Maximum Height (ft) ^{2,3}
	Area (sf)	Width (ft)		Front (ft)	Rear (ft)	Side			
						Interior Side (ft)	Street (ft)		
C	20,000	100	20	20	20	20	20	70 ⁴	40/75 or 60/unlimited

- Whenever a lot in a nonresidential district other than the NB or NO Districts shares a common boundary line with a lot in a residential district (except RM-U), YR, AG, or H District with no intervening street or highway, the lot in the nonresidential district shall have a required setback along the shared boundary line of not less than forty (40) feet or shall have the required setback for the nonresidential district, whichever is greater.
- In GMAs 1 and 2, there is no height limit unless adjacent to property zoned RS, RM (except RM-U), YR, AG, or H. Height of structure above sixty (60) feet may be increased by one foot for each foot of additional setback beyond the minimum forty (40) foot required, if adjacent to property zoned RS, RM (except RM-U), or H. If structure is set back at least one hundred twenty (120) feet from property zoned RS, RM (except RM-U), YR, AG or H, there is no height limit.
- In GMAs 3, 4 and 5, the maximum height is forty (40) feet. However, the maximum permitted height of any structure may be increased by one (1) foot for every additional five (5) feet of setback beyond the minimum setbacks required, up to a maximum building height of seventy-five (75) feet.
- There is no impervious surface coverage limit in GMAs 1 and 2.

(3) Supplementary District Requirements.

- ~~Site Plan.~~ A site plan must be submitted for any development within the district in conformance with the site plan requirements of Section B.7. Reserved.
- Access. Vehicular access onto a major or minor thoroughfare or onto a road improved to necessary standards as determined by the Director of Public Works for the City of Winston-Salem or the North Carolina Department of Transportation.
- Automatic Teller Machine. Automatic teller machines shall be permitted as an accessory use.

Section 5. Chapter B, Article III – Other Development Standards is hereby amended as follows:

Chapter B - Zoning Ordinance

Article III - Other Development Standards

3-1 DIMENSIONAL REQUIREMENTS

Table B.3.4

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

Section 6. Chapter B, Article III – Other Development Standards is hereby amended as follows:

Chapter B - Zoning Ordinance

Article III - Other Development Standards

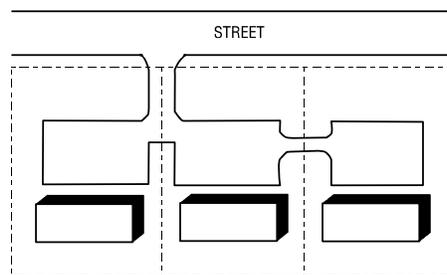
3-3 PARKING, STACKING, AND LOADING AREAS

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.
UDO-195 January 2009 WS

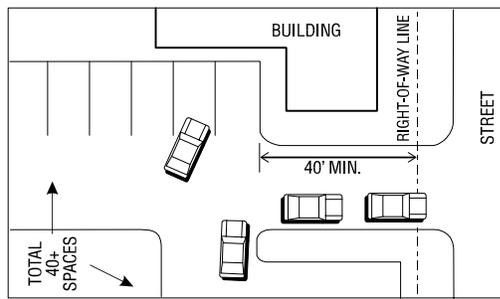
3-3.3 DESIGN STANDARDS FOR PARKING AREAS

(E) Driveways

- (1) **Approvals.** Except for individual single family dwellings, the design and location of all entrance or exit driveways to parking or loading areas of any use from a public street or highway shall be approved by the appropriate jurisdiction as provided herein. Within the zoning jurisdiction of the City of Winston-Salem the Director of Public Works shall approve all driveways prior to the issuance of a zoning or building permit. For all driveways outside the zoning jurisdiction of the City of Winston-Salem, the District Engineer for the North Carolina Department of Transportation shall approve all driveway designs and locations prior to the issuance of a zoning or building permit.
- (2) **Combined Driveways and Access.** The owners of adjoining properties are encouraged to provide combined driveways and connections whenever practical. See Section B.3-3.5(L) for the incentive to provide combined driveways and connections. Any cross-parcel access shall be formalized through the recordation of an easement.



- (3) **Dimensional Requirements for Access Drives.** Internal circulation driveways and access drives that do not provide direct access to parking spaces shall be a minimum of twenty (20) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic unless otherwise specified by the Director of Inspections. Residential uses containing six (6) or fewer dwelling units or having parking areas designed and clearly marked for one-way traffic shall have access drives a minimum of twelve (12) feet in width.
- (4) **Driveways for Large Parking Areas (One Hundred [100] or More Spaces).** For each zoning lot containing parking areas with one hundred (100) or more required spaces, a minimum forty (40) foot deep unobstructed driveway shall be provided from the right-of-way line to a traffic aisle or access to a parking space to accommodate the ingress and egress of at least two (2) vehicles without interference to parking maneuvers or access drives, unless:



- (a) Frontage Road Access. Internal access to the parking area is provided by a private frontage road which parallels the public street, provided no parking is provided along the access drive or frontage road and a minimum forty (40) foot distance without left turn movements is provided along the access drive;
- (b) Spaces per Driveway Ratio. The ratio of parking spaces to driveway access points does not exceed 100:1, where multiple driveways provide access to the zoning lot; or,
- (c) Other Stacking Area. Adequate unobstructed off-street stacking area to accommodate two (2) vehicles is otherwise provided.

Section 7. Chapter B, Article III – Other Development Standards is hereby amended as follows:

Chapter B - Zoning Ordinance

Article III - Other Development Standards

3-5 BUFFERYARD STANDARDS

3-5.1 GENERAL REQUIREMENTS

- (A) **Purpose**
 Bufferyard standards are designed to provide visual and functional separation between different land uses to:
 - (1) Reduce potential nuisances, such as glare, dirt, noise, unsightly views, and other adverse impacts;
 - (2) Safeguard property values and preserve the character and integrity of the community; and,
 - (3) Protect the health, safety, and welfare of the public.
- (B) **Applicability**
 Every use, change of use, construction of a new structure, or expansion of a structure or land hereafter established shall meet the bufferyard requirements of this section, except for the following:
 - (1) Single family, duplex, or twin home uses;
 - (2) Development or redevelopment in the CB or CI Districts;

- (3) Between component parts of a planned residential development or MU-S District; or,
- (4) Where no bufferyard requirement is shown in Table B.3.13.

3-5.2 DETERMINATION OF BUFFERYARD

(A) Procedure

The type of bufferyard required shall be determined as follows:

- (1) Identify the Zoning Type for the Proposed Project and all adjacent properties, excluding properties across a public right-of-way. The zoning types are defined as follows for the purposes of this section only.
 - (a) Single Family Residential (SFR) Zoning Types. Single family residential zoning types include the H, YR, AG, all RS Districts (including RSQ).
 - (b) Multifamily Residential (MFR) Zoning Types. Multifamily residential zoning types include all RM Districts and the MH District where a manufactured housing development is involved.
 - (c) Low Intensity Commercial (LIC) Zoning Types. Low intensity commercial zoning types include the LO, PB, LB, IP, and C Districts.
 - (d) High Intensity Commercial (HIC) Zoning Types. High intensity commercial zoning types include the CPO, GO, NSB, HB, GB, CB, and MU-S Districts.
 - (e) Industrial (IND) Zoning Types. Industrial zoning types include the LI, CPI, GI, and CI Districts and certain uses which require outdoor storage, have high trip generation rates, or have the potential for nuisance to adjacent properties due to noise, light and glare, or typical hours of operations. The following list of specific uses identified in Table B.2.6 shall be classified as industrial zoning types for bufferyard purposes.
 - (i) Banking and Financial Services, with Drive-Through Facilities;
 - (ii) Car Wash;
 - (iii) Convenience Store with Gasoline Sales;
 - (iv) Implement Sales and Service;
 - (v) Kennels, Outdoor **(F)** (See Section B.2-5.39.1(B));
 - (vi) Outdoor Display Retail;
 - (vii) Motor Vehicle Repair and Maintenance;
 - (viii) Motor Vehicle Storage Yard;
 - (ix) ~~Outdoor Display Retail~~; Reserved
 - (x) Recreational Vehicle Park;
 - (xi) Recreation Services, Outdoor;
 - (xii) Restaurants (With Drive-Through Service);
 - (xiii) Storage and Salvage Yard; and,
 - (xiv) Dirt Storage Sites (See Section B.2-5.27(E)).

3-5.3 BUFFERYARD LOCATION AND DESIGN REQUIREMENTS

(A) Location of Bufferyards

- (1) **Location.** Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, with the following exceptions:
 - (a) On Adjacent Property. All or part of the bufferyard may be located on adjacent property within a permanent easement dedicated for such purpose with approval of the Director of Inspections.
 - (b) Portion of Site Proposed for Development. If only a portion of a site is proposed for development, the required bufferyard may be located at the limit of construction perimeter with approval of the Director of Inspections.
 - (c) Topographic Irregularities. Where topographic irregularities require a different location to meet the intent of this section, the location of the bufferyard may be varied with approval of the Director of Inspections.
 - (d) Slope Ratios. Required bufferyard plantings shall not be installed on cut or fill slopes with slope ratios greater than two (2) to one (2:1).
 - (e) Intent. Where the intent of the bufferyard section is met by locating the bufferyard in a location other than the outer perimeter of a lot or parcel, upon approval of the Director of Inspections.
- (2) **Cut Slope.** Where bufferyards include any part of a cut slope greater than ten (10) feet in height, grading for such cut slope shall not encroach closer than ten (10) feet to the property line.
- (3) **Rights-of-way and Streets.** Bufferyards shall not be located on any portion of an existing, dedicated, or proposed right-of-way, or a private street.
- (4) **Existing Easement Within Bufferyard.** Where an existing easement that prohibits bufferyard-type plantings is partially or wholly within a required bufferyard, the developer shall design the bufferyard to meet the planting limitation of the easement and/or site. Such design may necessitate choosing a bufferyard with more land area and fewer required plantings (or a different species) or locating the bufferyard in a manner that satisfies the intent of the bufferyard requirements as determined by the Director of Inspections.

Section 8. Chapter B, Article III – Other Development Standards is hereby amended as follows:

Chapter B - Zoning Ordinance

Article III - Other Development Standards

3-8 SUPPLEMENTARY STANDARDS FOR RESIDENTIAL DEVELOPMENT IN GMA 2 (W)

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.
UDO-195 January 2009 WS

3-8.1 SINGLE FAMILY DEVELOPMENT ON SCATTERED SITES

(A) **REQUIREMENTS FOR NEW SINGLE FAMILY STRUCTURES.** Newly constructed single family infill structures shall meet the following requirements:

(1) **Front Setback**

- (a) **Structures With a Single Road Frontage.** The front setback of an infill structure shall be determined by averaging the street facing setbacks of the primary structures nearest to each side of the infill lot within the same block. The front setback of the new infill structure shall be no closer to the front property line than ninety (90) percent of the average of the street facing setbacks of the nearest structures on each side of the infill lot. Where a primary structure only exists on one side of an infill lot, the setback of this structure shall be averaged with the minimum UDO setback standards of the underlying zoning district to determine the average setback. The front setback of the new infill structure shall be no closer to the front property line than ninety (90) percent of this average. Where no structures exist within a block, the minimum UDO setback standards shall be met and the averaging provision shall not be applied.
- (b) **Structures on Corner Lots.** Street facing setbacks on corner lots shall not be less than ninety (90) percent of the street facing setback of the nearest structure on one side of the infill structure within the same block, and shall meet the minimum ordinance setback requirement on the other side of the infill structure. Where no structures exist within a block, the minimum UDO setback standards shall be met.

(2) **Garages**

- (a) Attached garages with vehicular garage doors opening towards the street shall not comprise more than 50% of the total width of the front building wall of the infill structure.
- (b) Attached garages with vehicular garage doors opening towards the street shall be setback a minimum of five (5) feet from the front building wall of the structure, except where an existing primary structure on either side of the subject lot has an attached garage with vehicular garage doors opening towards the street and which projects at least five (5) feet toward the street from the front building wall. Notwithstanding the foregoing, all garages with vehicular garage doors opening towards the street shall be set back no less than twenty (20) feet from public rights-of-way or private access easements.

(3) **Parking**

- (a) Parking areas orienting towards the street shall extend at least twenty (20) feet from public rights-of-way or private access easements.

(4) Structures on Narrow Interior Lots

- (a)** A Single-Family dwelling which has a depth greater than one hundred and fifty (150) percent of the width of its street facing building wall, and which is located on a lot less than sixty-five (65) feet wide shall meet the following requirements unless approved in accordance with Section 3-8.1(A)(4)(b):

 - (i)** The primary entrance to a Single-Family dwelling shall be located on its street-facing building wall.
 - (ii)** At least fifteen (15) percent of the area of the street facing building wall shall be comprised of doors and/or windows, excluding garage doors.
- (b) Alternative Compliance.** A Single-Family dwelling which does not meet the requirements of Section B.3-8.1(A)(4)(a) shall require a Special-Use District rezoning. Additional site plan review items demonstrating the character of the proposed development, including building elevations and cross sections, may be required by Planning staff, the Planning Board or Elected Body.

(B) REQUIREMENTS FOR ADDITIONS TO EXISTING SINGLE FAMILY STRUCTURES. Additions to existing single family structures shall meet the following requirements:

(1) Front Setback

- (a)** Method of Setback Calculation. A one-time front setback reduction is allowed for existing single family structures in GMA 2. The front setback of this building expansion shall be no closer to the front property line than eighty (80) percent of the existing front setback of the structure. Street facing setbacks of existing structures on corner lots shall be no closer to the street than eighty (80) percent of the existing street facing setback of the corresponding side of the existing structure. Where this method of setback calculation is used, building expansions shall not extend beyond the minimum UDO setback standards of the underlying zoning district.
- (b)** Alternative Method of Setback Calculation. Alternatively, front setback may be calculated by averaging the street facing setbacks of the primary structures nearest to each side of the subject property within the same block. The new front setback of the subject property shall be no closer to the front property line than eighty (80) percent of the average of the street facing setbacks of the nearest structures on each side of the structure within the same block. Where a primary structure only exists on one side of the subject property, the front setback of that property shall be averaged with the minimum UDO setback standards of the underlying zoning district to determine average setback. The new front

setback of the subject property shall be no closer to the front property line than eighty (80) percent of this average. Where no structures exist within a block, this alternative method of setback calculation shall not apply.

Street facing setbacks of corner lots shall be no closer to the property line than eighty (80) percent of the street facing setback of the nearest structure on that side of the subject property within the same block. Where no structures exist within a block, this alternative method of setback calculation shall not apply.

3-8.2 SUBDIVISIONS

(A) Residential Subdivisions less than five (5) acres in size are subject to the standards of Section B.3-8.1(A), with the exception of standards regulating street facing setbacks on corner lots, which shall meet the standards of Section B.3-8.2(A)(1). Subdivisions which do not meet the requirements of Section B.3-8.1 but meet the intent of the ordinance may be approved through a Special-Use District rezoning.

(1) **Street Facing Setbacks on Corner Lots.** The following setback requirements shall apply to newly subdivided corner lots.

(a) The street facing setback of a newly subdivided corner lot shall be no less than ninety (90) percent of the street facing setback of the nearest structure on that side of the subject property within the same block. Where no structures exist within a block, the minimum UDO setback standards shall be met.

(b) A variance to these setback standards may be granted by the Board of Adjustment where the size, shape, configuration, or topographic features of an existing lot makes development according to the aforementioned standard impracticable.

~~(2) **Flag Lots.** Flag lots as described in Chapter D of the ordinance shall require approval through a Special-Use District rezoning.~~

~~(3) **Lots Being Served by a Private Access Easement.** Lots that do not have public road frontage and will be served by a private access easement shall require approval through a Special-Use District rezoning.~~

(B) **FLAG LOTS.** Flag lots as described in Chapter D of the ordinance shall require approval through a Special-Use District rezoning.

(C) **LOTS BEING SERVED BY A PRIVATE ACCESS EASEMENT.** Lots that do not have public road frontage and will be served by a private access easement shall require approval through a Special-Use District rezoning.

Section 9. Chapter B, Article III – Other Development Standards is hereby amended as follows:

Chapter B - Zoning Ordinance

Article III - Other Development Standards

3-13 STREET STANDARDS GOVERNING VEHICLE AND PEDESTRIAN CIRCULATION (W)

(A) Pedestrian Transit and Bicycle Mobility

(2) Sidewalk Requirement for Planning Board or Elected Body Approvals

- (a) The following requirements shall apply to single family residential and non-residential preliminary subdivision approvals, Planning Board Review items, and Special Use District Zoning items pursuant to Section B.6-1.3 and Section B.6-2.2 in Winston-Salem and unincorporated areas of Forsyth County identified as outside *Legacy GMA5*. **(W)**

The following requirements shall apply to single family residential and nonresidential preliminary subdivision approvals, Planning Board Review items, pursuant to Section B.6-1.3 and Special Use District Zoning items pursuant to Section B-6.2.2 in the unincorporated areas of Forsyth County identified as outside *Legacy GMA5*. Also, the following requirements shall apply in portions of Legacy GMA 5 that are located within the town limits of incorporated municipalities under Forsyth County zoning and subdivision jurisdiction and are otherwise not exempt from sidewalks as specified in Section B.3-13(C)(d) of this Ordinance. **(F)**

- (i) Unless the Planning Board or Elected Body approves an alternate walkway location, a conventional sidewalk shall be provided within the right-of-way along all new public streets with required curb and gutter as shown in the table below in accordance with the Winston-Salem Infrastructure Development Standards or NCDOT standards as applicable.

Cul-de-sac	One Side
Local Street	One Side
Collector	One Side
Minor Thoroughfare	Both sides

- (ii) Sidewalks shall also be required along existing streets where subdivisions, Planning Board Review items, or Special Use District Zoning items abut streets proposed for sidewalks as identified in the adopted Winston-Salem Urban Area Sidewalk and Pedestrian Facilities Plan, subject to the limitations of Section B.3-13(A)(3)(a)(i)[B] and Section B.3-13(A)(3)(a)(i)[C]. **(W)**

- (iii) Except for sidewalks as required on approved site plans, additional sidewalks in accordance with this section shall not be required for properties with vested site plans in accordance with Section B.1-5.2.
- (iv) Exemptions. Sidewalks are not required in locations where curb and gutter is not required for new public streets.

This subsection (a) shall not apply to developments approved prior to January 1, 2006 ~~(W)~~/March 12, 2007 ~~(F)~~.

(b) Alternate Sidewalk Requirement.

- (i) A pedestrian walkway may be provided outside the right-of-way within a public access easement when the Planning Board or Elected Body determines the walkway will have the same functionality as a conventional sidewalk required in Section B.3-13(A)(2).
- (ii) A pedestrian walkway may be provided outside the right-of-way within a public access easement when the Planning Board or Elected Body determines that the construction of a conventional sidewalk within the right-of-way is impractical due to impending road widening or other physical limitations.
- (iii) A developer may propose a sidewalk layout which varies from the strict application of the provisions of Section B.3-13(A)(2) in order to accommodate the unique character of the site or to utilize innovative design. Alternative compliance may be granted by the Planning Board or Elected Body only upon a finding that the proposed alternative fulfills the intent of sidewalks to provide a logical and functional pedestrian network as well as or better than would strict compliance with the requirements of this ordinance.

(3) Sidewalk Requirements for Nonresidential Developments and Other Multifamily Developments not requiring approval by the Planning Board or Elected Body ~~(W)~~

- (a) Sidewalks shall be required for all nonresidential developments and multifamily developments not subject to approval by the Planning Board or Elected Body and where located along streets identified on the adopted Winston-Salem Urban Area Sidewalk and Pedestrian Facilities Plan, subject to the following criteria or exceptions.
 - (i) Sidewalks shall be required along the entire frontage of the property under the following circumstances:
 - [A] New construction sites.

[B] On existing developed zoning lots, construction of 10,000 sf or more gross square feet in new buildings or additions of 10,000 sf or more gross square feet to existing buildings on existing developed zoning lots.

[C] In all situations where sidewalks are required the developer shall be obligated to build no more than one (1) linear foot of sidewalk per ten (10) square feet of gross building area. The location of sidewalks shall be determined through the construction permitting process in accordance with the adopted Winston-Salem Urban Area Sidewalk and Pedestrian Facilities Plan.

Section 10. Chapter B, Article V – Nonconforming Situations is hereby amended as follows:

Chapter B - Zoning Ordinance

Article V - Nonconforming Situations

5-2 NONCONFORMING USES

5-2.9 AMORTIZATION OF NONCONFORMING USES

- (A) For (F – Forsyth), see Sections B.3-2.1(H) and (I) and for (W – Winston-Salem), see Sections B.3-2.1(K) and (L) for the amortization schedule of nonconforming signs.

Section 11. Chapter B, Article VI – Administration and Amendments is hereby amended as follows:

Chapter B - Zoning Ordinance

Article VI - Administration and Amendments

6-2 Ordinance Amendments: Zoning Text and Official Zoning Maps

6-2.2 SPECIAL USE DISTRICTS

(A) **Requirements**

All requirements of general use zoning shall be met. If the petitioner elects to petition for special use district zoning, the petition must specify the actual use(s) intended, one or more of the permitted uses listed in Table B.2.6 for the entire tract or any part or parts thereof, for the property specified in the petition, and the proposed use(s) must be a use(s) permitted in the corresponding general use district. ~~If the petitioner petitions for two (2) or more special use districts, the petitioner shall submit a separate petition for each district.~~ The Elected Body, in considering whether to approve or disapprove each special use district petition, shall do so on the basis of the specific use(s) requested.

Section 12. Chapter B, Article IX – Enforcement is hereby amended as follows:

Chapter B - Zoning Ordinance

Article IX - Enforcement

9-1 VIOLATIONS AND PENALTIES (W)

The following enforcement procedures may be undertaken by the Director of Inspections to enforce provisions of this Ordinance.

9-1.1 CRIMINAL PENALTIES

Any person, firm, or corporation violating any provisions of this Ordinance shall be guilty of a Class 3 misdemeanor. Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00); or imprisoned not more than 30 days except that no such violation shall be punishable until the expiration of ~~ten (10)~~ five (5) days after notice shall have been issued by the Director of Inspections and served upon such violator. Each and every day beyond the initial ~~ten (10)~~ five (5) day notice period during which such violation continues shall be deemed a separate offense.

9-1.2 CIVIL PENALTIES

(A) Assessment of Civil Penalties

In addition to criminal penalties, any person, firm, or corporation violating any provisions of this Ordinance shall be subject to a civil penalty of one hundred dollars (\$100.00) to be recovered by the jurisdiction in a civil action in the nature of a debt. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation by the Director of Inspections. Failure to correct the violation within ~~ten (10)~~ five (5) days of the date of service of the notice, or the end of the period of any extension, will result in the assessment of a civil penalty or other enforcement action. For good cause determined by the Director of Inspections, the correction period may be extended by him. Each day of continuing violation shall constitute a separate violation.

(B) Referral to Attorneys

If payment is not received within thirty (30) days after written demand for payment is made, the Director of Inspections may refer the matter to the jurisdiction's Attorney who is authorized to institute a civil action in the name of the jurisdiction in the appropriate division of the General Court of Justice for recovery of the penalty.

9-1.3 INJUNCTIVE OR OTHER RELIEF

(A) Referral to Attorney

In addition to other remedies provided by law, whenever the Director of Inspections has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, the Director of Inspections may refer the matter to the jurisdiction's Attorney.

(B) Other Appropriate Action

The jurisdiction's Attorney, on behalf of the jurisdiction, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

9-1.4 NOTICE

A notice of violation shall be served by personal service or by registered or certified mail in conjunction with regular mail and posting of the property. If the regular mail is not returned within ten (10) days of its mailing, and the registered or certified mail is returned or refused or unclaimed, service by regular mail shall be deemed sufficient. If regular mail is used, a notice of violation shall be posted in a conspicuous place on the premises in violation.

9-1 VIOLATIONS AND PENALTIES (F)

The following enforcement procedures may be undertaken by the Director of Inspections to enforce provisions of this Ordinance.

9-1.1 CRIMINAL PENALTIES

Any person, firm, or corporation violating any provisions of this Ordinance shall be guilty of a Class 3 misdemeanor. Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00), except that no such violation shall be punishable until the expiration of ten (10) days after notice shall have been issued by the Director of Inspections and served upon such violator. Each and every day beyond the initial ten (10) day notice period during which such violation continues shall be deemed a separate offense.

9-1.2 CIVIL PENALTIES

(A) Assessment of Civil Penalties

In addition to criminal penalties, any person, firm, or corporation violating any provisions of this Ordinance shall be subject to a civil penalty of one hundred dollars (\$100.00) to be recovered by the jurisdiction in a civil action in the nature of a debt. No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation by the Director of Inspections. Failure to correct the violation within ten (10) days of the date of service of the notice, or the end of the period of any extension, will result in the assessment of a civil penalty or other enforcement action. For good cause determined by the Director of Inspections, the correction period may be extended by him. Each day of continuing violation shall constitute a separate violation.

(B) Referral to Attorneys

If payment is not received within thirty (30) days after written demand for payment is made, the Director of Inspections may refer the matter to the jurisdiction's Attorney who is authorized to institute a civil action in the name of the jurisdiction in the appropriate division of the General Court of Justice for recovery of the penalty.

9-1.3 INJUNCTIVE OR OTHER RELIEF

(A) Referral to Attorney

In addition to other remedies provided by law, whenever the Director of Inspections has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, the Director of Inspections may refer the matter to the jurisdiction's Attorney.

(B) Other Appropriate Action

The jurisdiction's Attorney, on behalf of the jurisdiction, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

9-2 SPECIAL USE DISTRICT PERMIT (W)

Any violation of a condition or other provision shown on the face of a site plan adopted as part of a special use district permit issued by the Elected Body shall be a violation of this Ordinance. Where the Director of Inspections determines that any term or condition of a special use district permit is not adhered to, he shall notify the petitioner or successor in interest of his findings in writing. The petitioner shall have ~~ten (10)~~ five (5) days unless the Director of Inspections determines that a longer period of time is reasonably necessary to correct the violation. In the event that any violation is not corrected or abated within the ~~ten (10)~~ five (5) days or the specified period, all development shall cease and all government permits granted pursuant thereto, such as but not necessarily limited to, a building permit, shall be revoked. The Director of Planning shall determine the proper procedure to amend the site plan, including a formal site plan amendment or a staff change pursuant to Section B.6-2.

9-2 SPECIAL USE DISTRICT PERMIT (F)

Any violation of a condition or other provision shown on the face of a site plan adopted as part of a special use district permit issued by the Elected Body shall be a violation of this Ordinance. Where the Director of Inspections determines that any term or condition of a special use district permit is not adhered to, he shall notify the petitioner or successor in interest of his findings in writing. The petitioner shall have ten (10) days unless the Director of Inspections determines that a longer period of time is reasonably necessary to correct the violation. In the event that any violation is not corrected or abated within the ten (10) days or the specified period, all development shall cease and all government permits granted pursuant thereto, such as but not necessarily limited to, a building permit, shall be revoked. The Director of Planning shall determine the proper procedure to amend the site plan, including a formal site plan amendment or a staff change pursuant to Section B.6-2.

Section 13. This ordinance shall be effective upon adoption.